

**ASSOCIATION
BETWEEN
THE EUROPEAN UNION
AND TURKEY**

The Association Council

**Brussels, 29 January 2021
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COVER NOTE

From:	Mr Denis REDONNET, Deputy-Director General for Trade, European Commission
date of receipt:	28 January 2021
To:	President of the EU-Turkey Association Council
Subject:	Anti-dumping proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey

Excellency,

I have the honour to inform you that the Commission has reached a preliminary determination of dumping and related injury caused to the Union industry and established that the interest of the Union calls for intervention with regard to imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey.

In accordance with Article 46 of Decision No 1/95 of the EC-Turkey Association Council of 22 December 1995 on implementing the final phase of the Customs Union, I wish to inform the Customs Union Joint Committee that the European Commission has thus decided to impose provisional anti-dumping measures in the form of anti-dumping duties on the imports under investigation.

Attached you will find a copy of the relevant Regulation published today in the Official Journal of the European Union.

Yours sincerely,

Denis REDONNET
Deputy Director General

Encl.: Commission Implementing Regulation from the *Official Journal of the European Union*

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2021/9

of 6 January 2021

imposing a provisional anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 14 May 2020, the European Commission (the Commission) initiated an anti-dumping investigation with regard to imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel (HRFS or the product under investigation) originating in Turkey (the country concerned) on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council (the basic Regulation). It published a Notice of Initiation in the *Official Journal of the European Union* ⁽²⁾ (the Notice of Initiation).
- (2) The Commission initiated the investigation following a complaint lodged on 31 March 2020 by Eurofer (the complainant) on behalf of Union producers representing more than 25 % of the total Union production of the product under investigation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.
- (3) On 12 June 2020, the Commission initiated an anti-subsidy investigation with regard to imports of the same product originating in Turkey and commenced a separate investigation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽³⁾.

1.2. Registration

- (4) Following a request by the complainant supported by the required evidence, the Commission made imports of the product concerned subject to registration by Commission Implementing Regulation (EU) 2020/1686 ⁽⁴⁾ (the registration Regulation) under Article 14(5) of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Notice of initiation of an anti-dumping proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey. OJ C 166, 14.5.2020, p. 9.

⁽³⁾ Notice of initiation of an anti-subsidy proceeding concerning imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey. OJ C 197, 12.6.2020, p. 4.

⁽⁴⁾ Commission Implementing Regulation (EU) 2020/1686 of 12 November 2020 making imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey subject to registration. OJ L 379, 13.11.2020, p. 47.

1.3. Interested parties

- (5) 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 Turkish authorities, known importers, users, as well as associations known to be concerned by the initiation of the investigation and invited them to participate.
- (6) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. The Commission held hearings with several users and with representatives of the Turkish exporting producers at initiation stage.

1.4. Sampling

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

1.4.1. Sampling of Union producers

- (8) 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 Union sales volumes reported by the Union producers in the context of the pre-initiation standing assessment analysis, taking also into account their geographical location. This sample consisted of three Union producers, located in three different Member States, which accounted for ca. 34 % of the estimated total Union production and over 40 % of the Union sales volume of the producers that came forward. The Commission invited interested parties to comment on the provisional sample.
- (9) Only the exporting producer Çolakoğlu Metalurji A.Ş. ('Colakoglu') submitted comments within the deadline. Colakoglu claimed that the proposed sample of Union producers is not representative because (i) the companies included in the sample do not represent the largest volume of production nor the largest volume of sales in the Union; (ii) the proposed sample is too small; (iii) it does not ensure a geographical spread; and (iv) the sample is deliberately including "parties that were already in a seemingly unsatisfactory situation due to external circumstances." Colakoglu thus proposed adding ArcelorMittal Spain, ArcelorMittal Belgium and Acciaieria Arvedi SPA in Italy to the sample.
- (10) With regard to the first claim, as mentioned in the note to the file t120.003571, the Commission based its sample on the largest volumes of product and sales in the Union. The fact that certain other producers had high maximum values in the volume provided in ranges in the open version of their standing replies does not mean that they effectively produced and/or sold more.
- (11) Secondly, the Commission considers that a sample which accounts for ca. 34 % of the estimated total Union production and over 40 % of the Union sales volume of the producers that came forward is sufficiently representative. The examples provided by Colakoglu of cases where the Commission decided to sample more parties fell under a framework where the Commission could afford longer deadlines. Having more Union producers under the sample would be unduly burdensome and would prevent completion of the investigation in good time.
- (12) Thirdly, the Commission considered that the sample represents a good geographical spread as the three sampled parties are located in three different Member States.
- (13) Finally, Colakoglu's last claim was not backed by evidence. As explained above, the criteria used for selecting the sample were the volumes of production and sales in the Union as well as geographical representativity.
- (14) In view of the above considerations, the Commission considered Colakoglu's comments on the representativeness of the sample unwarranted. The provisional sample consisting of three Union producers was thus considered to be representative of the Union industry and was confirmed as the final sample.

1.4.2. Sampling of importers

- (15) 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.
- (16) One unrelated importer provided the requested information and agreed to be included in the sample. In view of the low number of replies, the Commission decided that sampling was not necessary. No comments were made to this decision.

1.4.3. Sampling of exporting producers in Turkey

- (17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in Turkey to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of Turkey to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (18) Five exporting producers in the country concerned 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 three company groups on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned, were consulted on the selection of the sample. No comments were made.

1.5. Individual examination

- (19) One Turkish exporting producer that returned the sampling form had requested individual examination under Article 17(3) of the basic Regulation. On the day of initiation, the Commission made the questionnaire for exporting producers available online ^(*). In addition, when announcing the sample, the Commission informed the non-sampled exporting producers that they were required to provide reply to this questionnaire if they wished to be examined individually. However, the company originally requesting individual examination did not provide a questionnaire reply. Therefore, no individual examination was granted.

1.6. Replies to the questionnaire

- (20) The Commission sent a questionnaire to the complainant and requested the three sampled Union producers, the unrelated importer that returned a sampling form plus another importer that came forward, several users and the three sampled exporting producers in Turkey to fill in the relevant questionnaires made available online ^(*).
- (21) Furthermore, since the complainant provided sufficient evidence of raw material distortions in Turkey with regard to the product under investigation, the Commission sent an additional questionnaire to the Government of Turkey (GOT) concerning this matter.
- (22) Questionnaire replies were received from the three sampled Union producers, the complainant, the user Marcegaglia Carbon Steel S.P.A., the user San Polo Lamiera S.P.A., four users within the Network Steel group, the unrelated importer Network Steel S.L., the three sampled exporting producers and the GOT.

1.7. Verification visits

- (23) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at provisional stage.

^(*) This questionnaire as well as those for the Union producers, importers and users are available at https://tmda.ec.europa.eu/tdi/case_detail.cfm?id=2458

^(*) *Ibid.*

- (24) The Commission sought all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. The Commission carried out remote crosschecks (RCC) of the following companies/ parties:

Union producers and their association

- ThyssenKrupp Steel Europe AG, Duisburg, Germany
- Tata Steel IJmuiden BV, Velsen-Noord, the Netherlands
- ArcelorMittal Méditerranée SAS, Fos-sur-Mer, France ⁽⁷⁾
- ArcelorMittal France, Dunkerque, France
- Eurofer, Brussels, Belgium

Importers

- Network Steel S.L., Madrid, Spain

Exporting producers in Turkey and their related traders

- Habaş Sınai Ve Tibbi Gazlar İstihsal Endüstrisi A.Ş. (Habaş)
 - Çolakoğlu Metalurji A.Ş. and its related trader Çolakoğlu Dış Ticaret A.Ş. (Cotas) (together referred to as 'Çolakoğlu')
 - Ereğli Demir ve Çelik Fabrikaları T.A.S. (Erdemir); İskenderun Demir ve Çelik A.Ş. (İsdemir); and the related service centre Erdemir Çelik Servis Merkezi San. ve Tic. A.Ş. (Ersem) (together referred to as 'Erdemir group')
- (25) With regard to the provisions of Articles 7(2a) and 7(2b) of the basic Regulation, a consultation with the GOT took place via video conference.
- (26) Following the RCC of the Erdemir group, given certain shortcomings of the information on transport costs provided by the group, the Commission decided to replace these costs with facts available pursuant to Article 18(1) of the basic Regulation, as explained in recitals (56) to (59)(59) below.

1.8. Investigation period and period considered

- (27) The investigation of dumping and injury covered the period from 1 January 2019 to 31 December 2019 (the investigation period' or 'the IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2016 to the end of the investigation period (the period considered).

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

- (28) The product concerned is certain flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated, originating in Turkey, currently falling under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 00, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225 19 10 90), 7225 30 90, ex 7225 40 60 (TARIC code 7225 40 60 90), 7225 40 90, ex 7226 19 10 (TARIC code 7226 19 10 90), 7226 91 91 and 7226 91 99. The CN and TARIC codes are given for information only.

- (29) The following products are excluded from the product concerned:

- (i) products of stainless steel and grain-oriented silicon electrical steel;
- (ii) products of tool steel and high-speed steel;

⁽⁷⁾ ArcelorMittal Méditerranée and ArcelorMittal France are two different legal entities representing HRFs production of ArcelorMittal in France. Therefore, they each have their separate audited and fiscal accounts.

- (iii) products, not in coils, without patterns in relief, of a thickness exceeding 10 mm and of a width of 600 mm or more; and
 - (iv) products, not in coils, without patterns in relief, of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more.
- (30) HRPS is used in a wide range of applications in many economic sectors including construction, shipbuilding and energy. It is used for example in the production of agricultural equipment, armour steel, construction and building components, domestic appliances and electrical goods, automotive etc.

2.2. Like product

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

2.3. Claims regarding product scope

- (33) A manufacturer of forklifts and components for forklift-trucks and construction machines requested the exclusion of hot-rolled long bar steel products from the product under investigation (*). The Commission noted that hot-rolled long bar steel products fall outside the scope of this investigation because a 6-12m long hot-rolled bar is a long product and not a flat steel product.

3. DUMPING

3.1. Preliminary remarks

- (34) Three companies were sampled, of which one was a group.
- (35) All of Habas' domestic and export sales to the Union were direct sales to unrelated customers.
- (36) Colakoglu sold on the domestic market directly to unrelated customers, while all of Colakoglu's exports of the product concerned to the Union in the IP were done through a related company, Cotas, located in Turkey.
- (37) Erdemir Group consisted of three companies directly involved in the investigation: exporting producers Erdemir and Isdemir, and service centre Ersem. Both Erdemir and Isdemir produced the product under investigation, sold it on the domestic market and exported it to the Union and to third countries in the IP. Ersem purchased the product under investigation from Erdemir and/or Isdemir, resold it on the domestic market with or without further processing (such as cutting and slitting coils into sheets and strips).

3.2. Normal value

- (38) The Commission first examined whether the total volume of domestic sales of the like product for each sampled exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of the like product are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.
- (39) On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.

(*) Submission of 19 June 2020, case number t20.004238

- (40) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales.
- (41) The Commission then examined whether the domestic sales by each sampled exporting producer on the domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (42) For one of the three sampled exporters, all the domestic sales of the product types identical or comparable with those exported to the Union in the IP were representative. For the other two sampled exporters, for some product types that were exported to the Union during the IP there were either no domestic sales at all, or the domestic sales of that product type were below 5 % in volume and thus not representative.
- (43) The Commission next defined the proportion of profitable sales to independent customers on the domestic market as compared to the total sales to independent customers on the domestic market for each product type during the investigation period. This was done in order to decide whether the Commission could disregard unprofitable domestic sales as being not in the ordinary course of trade for the calculation of the normal value of each product type, in accordance with Article 2(4) of the basic Regulation.
- (44) The normal value is based on the actual domestic price per product type of all domestic sales of that product type during the IP, irrespective of whether those domestic sales are profitable or not, if:
- (a) the volume of profitable domestic sales of that product type, sold at a net sales price equal to or above the calculated unit cost of production, represented more than 80 % of the total domestic sales volume of that product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (45) On the other hand, the normal value is based on the actual domestic price per product type of only the profitable domestic sales of that product type during the IP, if:
- (a) the volume of profitable domestic sales of that product type represents 80 % or less of the total domestic sales volume of that product type; or
 - (b) the weighted average sales price of that product type is below the unit cost of production.
- (46) The analysis of domestic sales of the three sampled exporters showed that 17 % to 100 % of all domestic sales per product type during the IP were profitable, and that the weighted average sales price was higher than the weighted average unit cost of production. Accordingly, depending on the product type, the normal value was calculated as a weighted average of the prices of all domestic sales during the IP in the situation described in recital (44), or as a weighted average of the profitable sales only in the situation described in recital (45).
- (47) When a product type was not sold in representative quantities or not sold at all on the domestic market as provided for in Article 2(2) of the basic Regulation, and when there were no or insufficient sales of a product type of the like product in the ordinary course of trade, the Commission constructed the normal value in accordance with Article 2 (3) and (6) of the basic Regulation.
- (48) For the product types with no or insufficient domestic sales of the like product in the ordinary course of trade, normal value was constructed by adding the following to the weighted average cost of production of the like product of the sampled exporting producers during the IP:
- (a) the weighted average selling, general and administrative (SG&A) expenses incurred by the sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the IP; and
 - (b) the weighted average profit realised by the sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the IP.

- (49) For the product types not sold in representative quantities on the domestic market, the weighted average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.3. Export price

- (50) The sampled exporting producers exported to the Union either directly to independent customers or through related companies acting as traders, as described in recitals (34) to (37) above.
- (51) Two sampled exporting producers exported the product concerned directly to independent customers in the Union during the IP. Therefore, their export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation. The third sampled exporting producer exported the product concerned to the Union exclusively through a related company located in Turkey.

3.4. Comparison

- (52) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (53) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling, loading and ancillary costs, credit costs, and commissions.
- (54) One exporting producer exported the product concerned to the Union through a related company located in Turkey acting as a trader, with whom it claimed to constitute a single economic entity. The Commission recalled that under EU case law, a single economic entity exists where a producer entrusts tasks normally falling within the responsibilities of an internal sales department to a distribution company for its products which it controls economically. However, the investigation revealed that the related trader did not fulfil these criteria, as it did not represent the exclusive sales channel nor the exclusive export sales channel of the producer, who exported both the product concerned and other products directly to third countries' markets, as well as other products to the Union during the IP. For these reasons, the claim was rejected.
- (55) As a consequence, to establish an export price ex-works of that exporting producer, the export price was adjusted pursuant to Article 2(10)(i) of the basic Regulation. Thus, the Commission deducted from the export price the SG&A costs of the related trader that was found not to form a single economic entity with the exporting producer, and a profit equal to the profit of an unrelated importer in the Union established on the basis of the information on the file of this investigation as well as the findings of a previous investigation on imports of products similar to the product under investigation ⁽⁹⁾.
- (56) During the RCC of one sampled exporting producer, the Commission found that the company had omitted important information with regard to its transport costs incurred for sales of the product concerned on the domestic market. Therefore, the Commission was not able to assess whether the transport costs claimed as an adjustment to the normal value were reported correctly.
- (57) With a letter dated 1 December 2020, the Commission informed the respective company of its intention to apply Article 18 of the basic Regulation concerning those transport costs. The Commission also informed the GDT through a Note Verbale. The company submitted comments and supporting documents on 8 December 2020, stating that the Commission correctly captured the checks carried out during the RCC in the sensitive version of the

⁽⁹⁾ Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Serbia. OJ L 258, 6.10.2017, p. 24, recital (569).

RCC report shared with the company. The company, however, argued that the RCC report failed to mention any misleading information provided or any information refused to be provided by the company. Furthermore, the company submitted that the application of the provisions of Article 18 of the basic Regulation was not warranted in the situation at hand and provided a number of arguments supporting that claim. In its comments of 14 December 2020, the GOT raised similar arguments as the company concerned, and mentioned previous WTO case law with regard to the use of Article 18 to substantiate its opinion that the criteria to apply facts available were not met in the present case.

- (58) In this respect, the Commission recalled that the purpose of an RCC report is to capture the events and facts of the remote crosscheck and not to present conclusions. Therefore, the Commission considered that the RCC report was complete even if it did not mention that the Commission considered certain information as misleading. Furthermore, the supporting documents submitted by the company did not present any new information that would substantially change the situation. Finally, the company submitted a number of arguments solely in the sensitive version of its comments since those arguments concerned confidential, company specific information. Those claims are addressed in the company specific provisional disclosure.
- (59) None of the information or arguments submitted by the company or the GOT as mentioned in recital (57) above was of such nature that it would revert the decision of the Commission. Consequently, the Commission confirmed its intention to treat the information on transport costs incurred by the company on domestic sales of the product under investigation in line with the provisions of Article 18 of the basic Regulation at the provisional stage of the investigation.
- (60) Two sampled exporting producers made a claim under Article 2(10)(b) of the basic Regulation for a duty drawback adjustment, arguing that the existence of a duty drawback scheme for certain input materials in the country concerned implies that all their domestic sales would incorporate an indirect tax compared to the export sales.
- (61) The complainant submitted comments opposing the claim.
- (62) In Turkey, an import duty applies on slabs and steel scrap, which are both inputs in the manufacture of HRF5. However, under the inward processing regime (IPR), domestic producers are exempted from the payment of such duty if the imported slabs/steel scrap are used to produce finished products that are finally exported. The two sampled exporters claimed that the amount of duties they would have paid if the finished HRF5 were sold domestically instead of exported should be taken into account for the purpose of fair comparison of the normal value and the export price.
- (63) However, the investigation showed that none of the two sampled exporters paid any import duty during the IP, as they fulfilled the export commitment linked to each IPR permit, thus the duty drawback adjustment claimed only represented a theoretic cost. For this reason, the claim was considered unfounded and therefore rejected.
- (64) Two sampled exporting producers requested the Commission to use a monthly or quarterly method to establish their individual dumping margins. They claimed that this approach is justified by two main reasons: (i) the fluctuations in the cost of production, and (ii) the depreciation of the Turkish lira over the IP.
- (65) With regard to the first argument, the two companies claimed that there were significant variations in the price of raw materials during the IP, which in turn resulted in significant variation in their monthly/quarterly cost of production. Therefore, calculating their dumping margin on a standard average annual basis would lead to domestic sales at the beginning and at the end of the IP becoming loss-making even though these were made above their actual costs.
- (66) With regard to the second argument, the two companies claimed that the IP was characterised by significant fluctuations in Turkey's inflation rate, particularly during the first half, and that the Turkish lira significantly devalued over the course of the IP.

- (67) The complainant submitted comments arguing that the request for a monthly or quarterly dumping calculation is not justified in the present case. As regards to costs fluctuation, it argued that the variation in quarterly cost of production was not significant since costs in the first, third and fourth quarter were all within a 10 % difference from each other, and moreover, costs fluctuations are part of normal business operations. As regards to the level of inflation in Turkey, the complainant argued that the two companies only looked at inflation in the first half of the IP, whereas the average inflation rate in Turkey in 2019 i.e. the IP was 15 %, which is not definable as "hyperinflation" and not such as to justify a monthly or quarterly calculation of dumping.
- (68) The Commission analysed the claims of the exporting producers and determined that: (i) the fluctuation in monthly/quarterly cost of production affected mainly one quarter of the IP, while the sales of the product concerned took place throughout the whole IP, and that the overall costs fluctuation was not so significant as to justify a quarterly calculation of dumping; (ii) the average inflation rate (15 %⁽¹⁹⁾) and devaluation of the Turkish lira (less than 20 % mainly in the second quarter⁽²⁰⁾) in the IP were not of such magnitude as to justify deviating from the Commission's consistent practice to calculate dumping margin on an annual basis. Therefore, the request for a monthly or quarterly calculation of dumping was rejected.

3.5. Dumping margins

- (69) For the sampled exporting producers, the Commission compared the weighted average normal value of each product type of the like product with the weighted average export price of the corresponding product type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (70) On this basis, the provisional weighted average dumping margins expressed as a percentage of the cost, insurance and freight (CIF) Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin
Habaş Sınai Ve Tibbi Gazlar İstihsal Endüstrisi A.Ş.	4,8 %
Erdemir group — Ereğli Demir ve Çelik Fabrikaları T.A.S. - İskenderun Demir ve Çelik A.Ş.	5,4 %
Çolakoğlu Metalurji A.Ş.	7,6 %

- (71) For the two cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the three sampled exporting producers.
- (72) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample, Ağır Haddencilik A.Ş. and Borçelik Çelik Sanayii Ticaret A.Ş., is 5,9 %.
- (73) For all other exporting producers in Turkey, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as a proportion of the total export volume – as reported in Eurostat import statistics – from the country concerned to the Union.

⁽¹⁹⁾ Available at <https://data.worldbank.org/indicator/FP.CPI.TOTL.ZG?end=2019&locations=TR&start=1960&view=chart> (last viewed 11 December 2020).

⁽²⁰⁾ Available at http://www.ecb.europa.eu/stats/policy_and_exchange_rates/euro_reference_exchange_rates/html/eurofreq-ref-graph-try.en.html (last viewed 11 December 2020).

- (74) The level of cooperation in this case is high because the imports of the cooperating exporting producers constituted around 87 % of the total exports to the Union during the IP. Therefore, the Commission decided to determine the residual dumping margin at the level of the sampled exporting producer with the highest dumping margin.

4. INJURY

4.1. Definition of the Union industry and Union production

- (75) During the investigation period in the Union, the like product was manufactured by 22 known producers belonging to 14 groups. These producers constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (76) The total Union production during the investigation period was established at around 74.6 million tonnes, including production for the captive market. The Commission established the figure on the basis of all the available information concerning the Union industry, namely the remotely cross-checked questionnaire replies received from Eurofer and the sampled Union producers.
- (77) As indicated in recital (8), three Union producers were selected in the sample representing ca. 34 % of the total Union production of the like product.

4.2. Determination of the relevant Union market

- (78) To establish whether the Union industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Union industry, the Commission examined whether and to what extent the subsequent use of the Union industry's production (i.e. captive or non-captive) of the like product had to be taken into account in the analysis.
- (79) The Union industry is to a significant degree vertically integrated. HRF5 is regarded as an intermediate material for the production of various value added downstream products, namely cold rolled products. The Commission found that 52 % of the total Union producers' production was destined for captive use.
- (80) The distinction between captive and free market is relevant for the injury analysis in this case. In the captive market the product concerned is regarded as a primary material for the production of various value added downstream products and transfer prices are set within the groups according to various price policies. By contrast, production destined for free market sale is in direct competition with imports of the product concerned and is sold at free market prices.
- (81) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire activity of HRF5 and determined whether the production was destined for captive use or for the free market.
- (82) The Commission analysed separately data related to the free and the captive markets and examined certain economic indicators relating to the Union industry on the basis of data for the free market. These indicators are: sales volume and sales prices on the Union market, market share, growth, export volume and prices, profitability, return on investment and cash flow. Where possible and justified, the findings of the examination were compared with the data for the captive market in order to provide a complete picture of the situation of the Union industry.
- (83) However, other economic indicators could only be meaningfully examined by referring to the whole HRF5 activity, including the captive use of the Union industry. These are: production, production capacity, capacity utilisation, investments, stocks, employment, productivity, wages and ability to raise capital. They depend on the whole activity, whether the production is captive or sold on the free market.

4.3. Union consumption

4.3.1. Free market consumption in the Union

- (84) The Commission established the Union consumption on the basis of: (a) Eurofer data concerning the Union industry's sales of the like product to unrelated customers in the Union, cross-checked with the sales volumes reported by the sampled Union producers; and (b) imports of the product under investigation from all third countries as reported in Eurostat.
- (85) The Union consumption on the free market during the period considered developed as follows:

Table 1

Free market consumption on the Union market (tonnes)

	2016	2017	2018	IP
Union consumption on the free market	35 507 255	34 704 015	36 593 172	35 157 748
Index	100	98	103	99

Source: Eurofer, sampled Union producers and Eurostat

- (86) Between 2016 and 2018, the free market consumption went up by 3 % but it consequently went down. Overall, consumption in the free market dropped by 1 % over the period considered.

4.3.2. Captive consumption on the Union market

- (87) The Commission established the Union captive consumption on the basis of the captive use of all known producers in the Union. On this basis, the Union captive consumption over the period considered developed as follows:

Table 2

Captive consumption on the Union market (tonnes)

	2016	2017	2018	IP
Captive Union consumption	45 706 179	46 957 017	46 552 480	42 675 368
Index	100	103	102	93

Source: Eurofer and sampled Union producers

- (88) Captive market consumption went up slightly until 2018, after which it decreased. Overall captive consumption dropped by 7 percentage points during the period considered.

4.3.3. Overall consumption

- (89) Overall consumption – the sum of captive and free market consumption – evolved as follows during the period considered:

Table 3

Overall consumption (free and captive market) (tonnes)

	2016	2017	2018	IP
Overall Union consumption	81 213 434	81 661 032	83 145 652	77 833 116

<i>Index</i>	100	101	102	96
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Source: Eurofer, sampled Union producers and Eurostat

- (90) The above table shows that overall consumption went up slightly in 2017 and 2018 but dropped by 4 % overall as compared to 2016. Captive consumption represented almost 55 % of overall consumption in the investigation period.

4.4. Imports from Turkey

4.4.1. Volume and market share of the imports from Turkey

- (91) The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established by comparing the volume of imports with the Union free market consumption.
- (92) Imports from Turkey developed as follows:

Table 4

Import volume and market share

	2016	2017	2018	IP
Volume of imports from Turkey (tonnes)	999 732	1 836 513	2 830 548	2 843 116
<i>Index</i>	100	184	283	284
Market share on free market	2,8 %	5,3 %	7,7 %	8,1 %
<i>Index</i>	100	188	275	287

Source: Eurofer, sampled Union producers and Eurostat

- (93) Imports from Turkey increased by 184 % over the period considered, almost trebling their share on the free market which increased from 2,8 % in 2016 to 8,1 % in the investigation period.

4.4.2. Prices of the imports from Turkey and price undercutting

- (94) The Commission established the prices of imports on the basis of Eurostat data. The weighted average price of imports from Turkey developed as follows:

Table 5

Import prices (EUR/tonne)

	2016	2017	2018	IP
Turkey	363	490	539	493
<i>Index</i>	100	135	148	136

Source: Eurostat

- (95) The average prices of the imports from Turkey increased from 363 EUR/tonne in 2016 to 493 EUR/tonne during the investigation period, an increase by 36 %. The average price of the imports went up notably in 2017 but also in 2018 due to a significant increase in the price of the main raw materials, in particular scrap but also iron ore and coke. The difference between the prices of the dumped imports and the Union industry's prices during the investigation period, as reflected in Table 10, was significant (7,5 %).

- (96) The Commission determined the price undercutting during the investigation period by comparing:
- (a) the weighted average prices per product type of the imports from the sampled Turkish producers to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for post-importation costs; and
 - (b) the corresponding 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.
- (97) 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' theoretical turnover during the investigation period.
- (98) On the basis of the above, the dumped imports of the sampled exporting producers showed weighted average undercutting margins between 1,3 % and 2,9 %. The bulk of HRFS is very price-sensitive and competition is largely based on price. In addition, prices are known in the market and one sampled producer declared during the RCC that a small price difference will make the buyer switch suppliers. In such context, the undercutting margins are considered significant.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (99) 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.
- (100) As mentioned in recital (8), sampling was used for the determination of possible injury suffered by the Union industry.
- (101) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data from the questionnaire reply of Eurofer relating to all Union producers, cross-checked where necessary with the questionnaire replies from the three sampled Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the three sampled Union producers. Both sets of data were cross-checked remotely and found to be representative of the economic situation of the Union industry.
- (102) 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.
- (103) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments and ability to raise capital.
- (104) The complainant requested the Commission to start the analysis of injury trends as of 2017 on the grounds that 2016 (the first year of the period considered in this investigation) was an "unrepresentative year" since the Union industry was found to be injured by dumped and subsidised imports from several origins. Indeed, following an investigation with an investigation period covering the first half of 2016, definitive anti-dumping measures on

imports of HRF5 from Brazil, Iran, Russia and Ukraine were imposed in October 2017 ⁽¹⁴⁾. In addition, anti-dumping measures and countervailing duties against China were imposed in April and June 2017 respectively ⁽¹⁵⁾. The Commission decided to present the data at this stage pursuant to its normal practice and therefore included 2016. However, the Commission notes that the assessment of the evolution of the injury indicators was examined bearing in mind that the Union industry's situation was indeed still affected by the mentioned dumped and subsidised imports in 2016 and clearly showed signs of recovery following the imposition of definitive anti-dumping and countervailing measures against those imports in 2017.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2016	2017	2018	IP
Production volume (tonnes)	77 715 486	80 720 236	79 489 096	74 635 884
Index	100	104	102	96
Production capacity (tonnes)	92 948 209	94 639 237	95 741 308	96 051 969
Index	100	102	103	103
Capacity utilisation	84 %	85 %	83 %	78 %
Index	100	102	99	93

Source: Eurofer, sampled Union producers and Eurostat

- (106) During the period considered, the Union industry's production volume decreased by 4 %, or approximately 3 million tonnes, while the production capacity increased by 3 %, roughly the same volume as the drop in production. Consequently, the capacity utilisation decreased by 7 %, from 84 % in 2016 to 78 % in the investigation period.
- (107) The capacity utilisation concerns HRF5 overall, including production for captive use. The increase in production and capacity between 2016 and 2017 reflects the improvement of the Union market conditions as a result of anti-dumping measures against imports from Ukraine, Russia, Iran and Brazil. In the second part of the period considered, capacity increases are rather the result of increased efficiencies and debottlenecking.

⁽¹⁴⁾ Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat product of iron, non-alloy or other alloy steel originating in Serbia (OJ L258, 6.10.2017, p. 24).

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 92, 6.4.2017, p. 68); Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17).

4.5.2.2. Sales volume and market share

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

Table 7

Free market sales volume and market share

	2016	2017	2018	IP
Union industry sales (tonnes)	27 017 986	27 811 745	28 438 028	27 670 198
<i>Index</i>	100	103	105	102
Market share	76,1 %	80,1 %	77,7 %	78,7 %
<i>Index</i>	100	105	102	103

Source: Eurofer, sampled Union producers and Eurostat

- (109) The Union industry's sales volume on the free market increased by 2 % over the period considered and its market share by 3 %, from 76,1 % in 2016 to 78,7 % in the investigation period. The increase in market share between 2018 and 2019 (the investigation period) is explained by the fact that, whereas the total volume of the free market decreased, an important number of transactions previously considered as captive became transactions in the free market due to the disinvestment mentioned in recital (150). Thus, as mentioned in recital (111), captive sales decreased whereas the market share of the Union producers on the free market increased because of the change in the structure of the Union producers.

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

Table 8

Captive volume and market share

	2016	2017	2018	IP
Captive Union market volume (tonnes)	45 706 179	46 957 017	46 552 480	42 675 368
<i>Index</i>	100	103	102	93
Total production of Union industry (tonnes)	77 715 486	80 720 236	79 489 096	74 635 884
<i>Index</i>	100	104	102	96
Share of captive market over the total Union production	59 %	58 %	59 %	57 %
<i>Index</i>	100	99	100	97

Source: Eurofer, sampled Union producers and Eurostat

- (111) The captive market of the Union industry (composed of HRF5 kept by the Union industry for downstream use) in the Union decreased by 7 %, or about 3 million tonnes, over the period considered. The Union industry's captive market share (expressed as a percentage of total Union production) decreased by 3 % during the investigation period, from 59 % to 57 %. The reason was the decrease in demand of downstream products and the sales of production lines consuming the product under investigation (see recital (150)).

4.5.2.3. Growth

- (112) The above figures in respect of production, sales volume and market share all show a strongly decreasing trend as from 2017, against a slight increase in free market consumption over the same period. The Union industry only grew, and very modestly, if 2016, a year in which it had been found injured by dumped imports from other countries, is taken as a starting point.

4.5.2.4. Employment and productivity

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

Table 9

Employment and productivity

	2016	2017	2018	IP
Number of employees	39 144	43 963	40 299	39 178
Index	100	112	103	100
Productivity (tonnes per staff)	1 985	1 836	1 973	1 905
Index	100	92	99	96

Source: Eurofer and sampled Union producers

- (114) The level of Union industry employment related to the production of HRFS fluctuated over the period considered but remained stable overall. In view of the decrease in production, productivity of the Union industry's workforce, measured as tonnes per employee produced per year, decreased by 4 % over the period considered.

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

- (115) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from Turkey.
- (116) HRFS has already been subject to anti-dumping investigations. In 2016, the situation of the Union industry was still significantly affected by dumped imports from Brazil, Iran, Russia and Ukraine. Definitive anti-dumping measures on imports from these countries were imposed in October 2017 ⁽¹⁴⁾. Anti-dumping measures against China were imposed in April 2017, which were followed by countervailing duties as of June 2017 ⁽¹⁵⁾.
- (117) As mentioned in recital (104), the Union industry's situation was indeed still affected by the mentioned dumping practices in 2016 and clearly showed signs of recovery following the imposition of definitive anti-dumping measures against those imports in 2017. As to the rest of the period considered, recovery was on-going as shown, among other factors, by healthier profitability levels (as demonstrated below), but came to a stop in 2019.

⁽¹⁴⁾ See footnote 13.

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 92, 6.4.2017, p. 68); Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17).

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

- (118) 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 10

Sales prices and cost of production in the Union

	2016	2017	2018	IP
Average unit sales price on free market (EUR/ tonne)	391	531	574	533
<i>Index</i>	100	136	147	136
Unit cost of production (EUR/ tonne)	413	497	540	560
<i>Index</i>	100	121	131	136

Source: Sampled Union producers

- (119) Average unit sales prices increased significantly in 2017 as compared to 2016. Indeed, whereas sales prices in the Union were severely depressed in 2016 ⁽¹⁴⁾ by massively dumped imports from Brazil, Iran, Russia and Ukraine, the Union industry could restore its sales prices to normal levels after anti-dumping measures had been imposed against the mentioned imports in 2017 ⁽¹⁵⁾. The sales prices in 2017 and 2018 also could account for the sharp increase in raw material costs, in particular the cost of iron ore and coke, which resulted in a very strong increase in the Union industry's cost of production in 2018, i.e. by 31 % as compared to 2016.
- (120) In the investigation period, however, the sales prices of the Union industry fell by over 7 %, from 574 EUR/tonne in 2018 to 533 EUR/tonne, while its cost of production increased by 3,7 %, from 540 EUR/tonne in 2018 to 560 EUR/tonne in the investigation period. Therefore, whereas in 2017 and 2018 the Union industry had been able to pass on the cost increases which it incurred to its customers and remain profitable, it could no longer do so in the investigation period.
- (121) Because the bulk of the product concerned is very price sensitive, the Union producers had to follow the strong price decrease offered to the markets by the Turkish exporting producers and significantly reduce sales prices, in spite of increasing costs, with a view to maintain capacity utilisation and market shares.

4.5.3.2. Labour costs

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

Table 11

Average labour costs per employee

	2016	2017	2018	IP
(EUR)	74 295	78 101	79 241	83 187
<i>Index</i>	100	106	107	112

Source: Sampled Union producers

⁽¹⁴⁾ See, inter alia, table 7 and recital (339) of the Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat product of iron, non-alloy or other alloy steel originating in Serbia (OJ L258, 6.10.2017, p. 24).

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/1795 (see footnote 4 above).

- (123) During the period considered, the average labour costs per employee went up by 12 %. This shows that Union producers were not able to lower labour costs, despite the deteriorating market circumstances during the investigation period.

4.5.3.3. Inventories

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

Table 12

Inventories

	2016	2017	2018	IP
Closing stocks (tonnes)	1 033 364	1 207 363	843 448	862 918
<i>Index</i>	100	117	82	84
Closing stocks as a percentage of production	5,1 %	5,7 %	4,2 %	4,4 %
<i>Index</i>	100	110	81	85

Source: Sampled Union producers

- (125) During the period considered the level of closing stocks decreased by 16 %. Most types of the like product are produced by the Union industry based on specific orders of the users. Therefore, stocks are not considered to be an important injury indicator in this case. This is also confirmed by analysing the evolution of the closing stocks as a percentage of production. As can be seen above, this indicator remained relatively stable over the period considered at around 5 % of the production volume

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

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

Table 13

Profitability, cash flow, investments and return on investments

	2016	2017	2018	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	-3,6 %	6,8 %	6,8 %	-6,0 %
<i>Index</i>	-100	190	190	-170
Cash flow (EUR)	-140 233 455	441 133 402	621 258 785	-308 384 431
<i>Index</i>	-100	315	443	-220
Investments (EUR)	144 626 230	234 309 366	210 822 274	156 161 956
<i>Index</i>	100	162	146	108
Return on investments	-3,1 %	9,7 %	10,2 %	-13,0 %
<i>Index</i>	-100	317	331	-424

Source: Sampled Union producers

- (127) 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.
- (128) Profitability developed negatively over the period considered, despite the initial increase of profits in 2017 and 2018. As explained in recital (120), the sales prices of the Union industry fell in the investigation period, while its cost of production kept on increasing. In fact, in the investigation period the sales price of the Union industry fell to levels below its cost of production. Profitability went down from 6,8 % in 2018 to -6 % in the investigation period.
- (129) The net cash flow is the ability of the Union producers to self-finance their activities. Net cash flow evolved to a large extent in line with profitability and return on investments. It was positive from 2017 to 2018, with a peak in 2018, and turned negative in the investigation period, when profitability was at the lowest point in the period considered. The ability to raise capital was hindered by the drop in profits.
- (130) The return on investments is the profit (or loss) in percentage of the net book value of investments. It followed the same trend as the profitability.
- (131) The level of yearly investments increased over the period considered by 8 %, but shrank in 2019 to levels barely above those in 2016. In general, investments merely aimed at retaining the existing capacities and making due replacements of necessary production assets. There were also significant investments linked to health, safety and environmental matters.

4.5.4. Conclusion on injury

- (132) Although consumption in the free market slightly decreased during the period considered (-1 %), the Union industry's sales volumes in the free market increased by 2 % and its market share on the free market went from 76,1 % to 78,7 %. However, these small improvements in terms of sales volumes and market share can only be observed when compared with 2016, when the Union industry was suffering injury from dumping caused by imports from other countries. It is also noted that to the disinvestment mentioned in recital (150) entailed a cosmetic increase of free market sales. Yet, the Union industry's production output and capacity utilisation decreased respectively by 4 % and 7 % over the period considered. Between 2018 and 2019 there were more pronounced drops in production output and capacity utilisation, and sales in the free market also decreased. The Union industry grew as of 2017, recovering from the unfair imports subject to anti-dumping and anti-subsidy measures, but plunged during the investigation period.
- (133) The cost of production of the Union industry went up significantly during the period considered (+36 %), mainly because of a strong increase in the raw material prices.
- (134) The Union industry's sales prices increased more than costs in 2017 and 2018, which allowed Union producers to recover from previous injurious dumping practices and reach a profitability of 6,8 %. However, between 2018 and the investigation period the Union industry decreased its sales prices by on average 7 %, in spite of increasing costs (+4 %). This had a devastating effect on the Union industry's profitability, which dropped from +6,8 % in 2018 to -6 % in 2019.
- (135) Other financial indicators (cash flow, return on investments) followed a similar trend, especially during the investigation period, and consequently the level of investments decreased strongly in the investigation period as compared to the previous years.
- (136) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

- (137) In accordance with Article 3(6) of the basic Regulation, the Commission examined above whether the dumped imports from Turkey 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 Turkey was not attributed to the dumped imports. These factors are: imports from third countries, export performance of the Union industry, captive consumption, evolution of demand and raw material prices.

5.1. Effects of the dumped imports

- (138) Imports from Turkey almost tripled during the period considered, increasing from ca. 1 000 000 tonnes in 2016, representing a market share of 2,8 % to 2 843 000 tonnes in the investigation period, representing a market share of 8,1 % (see Table 4). These increasing imports were made at prices lower than those of the Union industry throughout the period considered. This strongly impacted the Union industry in the investigation period where, against a backdrop of increasing costs and against the price pressure exerted by the Turkish dumped imports it had to decrease its sales prices, which resulted in a very strong drop in profitability from +6,8 % to heavy losses (-6 % profitability), and the consequent deterioration of its financial indicators.
- (139) Several parties claimed that there was no correlation between Turkish imports and the injury suffered by the complainants. The Commission rejected the claim. The Commission acknowledged that in 2017 and 2018, taking advantage of relatively good market circumstances and of the fresh trade defence measures in place against five countries, the Union industry could make profits in spite of the increasing volume of imports from Turkey at low prices. However, it was in 2019 that the Union industry was driven to set its prices well below costs in order to keep its market share due to the price depression exerted by the Turkish imports at lower prices compared to 2018. There is thus a clear correlation between the dumped imports and the injury suffered by the Union industry.

5.2. Effects of other factors

5.2.1. Imports from third countries

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

Table 14

Imports from third countries

Country		year	year	year	IP
Russian Federation	Volume (tonnes)	2 026 321	744 941	1 618 946	1 407 644
	Index	100	37	80	69
	Market share	5,7 %	2,1 %	4,4 %	4,0 %
	Index	100	38	78	70
	Average price (EUR/tonne)	336	468	497	445
	Index	100	139	148	132
Serbia	Volume (tonnes)	348 619	465 158	733 711	860 952
	Index	100	133	210	247
	Market share	1,0 %	1,3 %	2,0 %	2,4 %
	Index	100	137	204	249
	Average price (EUR/tonne)	386	498	547	479
	Index	100	129	142	124

India	Volume (tonnes)	443 493	1 121 530	918 334	847 592
	<i>Index</i>	100	253	207	191
	Market share	1,2 %	3,2 %	2,5 %	2,4 %
	<i>Index</i>	100	259	201	193
	Average price (EUR/tonne)	404	493	533	464
	<i>Index</i>	100	122	132	115
Brazil	Volume (tonnes)	657 682	370 567	266 870	114 142
	<i>Index</i>	100	56	41	17
	Market share	1,9 %	1,1 %	0,7 %	0,3 %
	<i>Index</i>	100	58	39	18
	Average price (EUR/tonne)	363	494	531	485
	<i>Index</i>	100	136	146	134
Ukraine	Volume (tonnes)	1 080 094	609 792	131 958	106 866
	<i>Index</i>	100	56	12	10
	Market share	3,0 %	1,8 %	0,4 %	0,3 %
	<i>Index</i>	100	58	12	10
	Average price (EUR/tonne)	331	466	472	424
	<i>Index</i>	100	141	142	128
Iran	Volume (tonnes)	928 896	76 707	56 026	3 377
	<i>Index</i>	100	8	6	0
	Market share	2,6 %	0,2 %	0,2 %	0,0 %
	<i>Index</i>	100	80	6	0
	Average price (EUR/tonne)	305	428	489	504
	<i>Index</i>	100	140	160	165
China	Volume (tonnes)	1 031 310	8 511	636	538
	<i>Index</i>	100	1	0	0
	Market share	2,9 %	0,0 %	0,0 %	0,0 %
	<i>Index (EUR/tonne)</i>	100	1	0	0
	Average price	325	678	3 503	3 189
	<i>Index</i>	100	209	1 078	981
Other third countries	Volume (tonnes)	973 121	1 658 551	1 598 115	1 303 324
	<i>Index</i>	100	170	164	134
	Market share	2,7 %	4,8 %	4,4 %	3,7 %
	<i>Index</i>	100	174	159	135
	Average price (EUR/tonne)	385	495	562	526
	<i>Index</i>	100	129	146	136

Total of all third countries except Turkey	Volume (tonnes)	7 489 536	5 055 756	5 324 596	4 644 434	
	<i>Index</i>	100	68	71	62	
	Market share	21,1 %	14,6 %	14,6 %	13,2 %	
	<i>Index</i>	100	69	69	63	
	Average price (EUR/tonne)	345	487	531	478	
	<i>Index</i>	100	141	154	139	
	Source: Eurostat					

- (141) During the period considered, the market share of imports from all other countries decreased from 21,1 % to 13,2 %. The overall decrease of imports from countries other than Turkey is mainly due to the imposition of trade defence measures against imports from China, Brazil, Iran, Ukraine and Russia in 2017. Measures range from 8,1 % to 35,9 % for China (combined anti-dumping and countervailing duties) and from 17,6 to 96,5 EUR/tonne for the four other countries. Prices in the table above do not include such anti-dumping and countervailing duties.
- (142) After Turkey, the main exporting countries in the investigation period were Russia (subject to anti-dumping duties), Serbia and India.
- (143) Imports from Russia amounted to less than half of imports from Turkey in the investigation period. Moreover, prices of imports from Russia, after adding the anti-dumping duty applicable to such imports, were above prices of imports from Turkey, although sometimes lower than Union producers' selling prices. Consequently, the magnitude of the pressure of Russian imports, bearing in mind their market share, could overall not exert pressure on Union producers to the same extent as dumped imports from Turkey.
- (144) Imports from Serbia and India had a combined market share of 4,8 % in the investigation period (60 % of the market share of Turkey). Imports from Serbia increased by 147 % over the period considered whereas imports from India went up in 2017, but decreased by 25 % as from then. Average prices of imports from Serbia and India were below average prices of imports from Turkey, but no conclusion can be drawn as to whether these imports also undercut the Union industry prices, also in view of the unknown product mix of these imports ⁽¹⁴⁾. In any event, the magnitude of the pressure of these imports, bearing in mind their market share, could overall not exert pressure on Union producers to the same extent as dumped imports from Turkey.
- (145) Imports from the other countries were very small and made on average at higher prices than imports from Turkey.
- (146) On that basis, the Commission provisionally concluded that the impact of imports from other countries does not attenuate the causal link between dumped Turkish imports and material injury suffered by Union producers.

5.2.2. Export performance of the Union industry

- (147) The volume and prices of exports of the Union industry to unrelated parties developed over the period considered as follows:

Table 15

Export sales

	2016	2017	2018	IP
Export volume (tonnes)	1 597 262	1 550 220	1 434 739	1 872 411

⁽¹⁴⁾ It is noted that average Eurostat prices of imports from Turkey were 7,5 % below the Union industry sales price in the investigation period, while the type-by-type comparison conducted in this investigation resulted in much lower undercutting margins ranging between 1,3 % and 2,9 %.

<i>Index</i>	100	97	90	117
<i>Average price (Euro/tonne)</i>	382	502	554	465
<i>Index</i>	100	132	145	122

Source: Eurofer (volumes) and sampled Union producers (prices)

- (148) Union producers increased export volumes by 17 % over the period considered to slightly below 1.9 million tonnes in 2019. Exports are often made under long-term contracts and the investigation revealed that they mostly consist of a lower end product mix than sales in the Union. Nevertheless, in particular in the investigation period the exports by the Union industry could partly compensate for the sales volumes lost on the Union market and helped the Union producers to dilute fixed and other costs.
- (149) Overall, however, the volumes exported by the Union industry represented only ca. 7 % of its sales volume on the Union free market in the investigation period and on that basis, the Commission provisionally concluded that the impact of the export performance of the Union producers on the injury suffered by the Union industry was, if any, marginal.

5.2.3. Captive consumption

- (150) As shown in table 1 above, captive consumption fell by 7 % during the period considered. This drop took place mainly in the second part of the period considered and was partly due to the fact that one Union producer sold in 2019 a number of lines using the product under investigation to a non-related company⁽⁹⁾. In addition, during the period considered steel consumption in certain downstream sectors fell. The Commission was unable to quantify the fall in each of them.
- (151) On that basis, the Commission provisionally concluded that the role of the captive consumption evolution on the injury suffered by the Union industry, if any, was marginal.

5.2.4. Evolution of demand

- (152) As shown in table 2, free market consumption at the beginning and the end of the period considered was basically the same.
- (153) On that basis, the Commission provisionally concluded that the evolution of free market consumption could not have contributed to the injury suffered by the Union industry.

5.2.5. Raw material prices

- (154) As explained in section 4.5.3.1, the increase in raw materials prices was by far the main reason of the increase in the cost of production of Union producers over the period considered.
- (155) Per se, an increase in raw material prices is not a source of injury because it is generally accompanied by a subsequent price increase in selling prices. On that basis, the Commission provisionally concluded that the increase of raw material costs as such did not cause injury to the Union industry.

5.2.6. Other factors

- (156) Some parties mentioned other factors as a source of the injurious situation of the Union industry. A user linked lower profits to the world steel industry performance deterioration in 2019. Another user mentioned "overcapacity in all the products" as a cause, while also stating that the Union producers focus on specialties and that they are hit by weak demand in a sector in crisis, namely in the car sector.

⁽⁹⁾ https://ec.europa.eu/commission/presscorner/detail/en/IP_19_2169

- (157) The two first claims statements remained vague and unsupported. Thus, the Commission provisionally concluded that the world steel industry performance and overcapacities, if at all, did not materially contribute to the injury suffered by Union producers.
- (158) The Commission also found the last statement incorrect as Union producers serve all steel consuming sectors, not only the car sector. At this stage the Commission has no information regarding the size of the different steel consuming sectors in the different years covered by the period considered. However, as shown in section 5.2.4, overall free market consumption remained rather stable during the period considered. Thus it was provisionally concluded that the evolution of demand has not contributed to the injury to the Union industry.

5.3. Conclusion on causation

- (159) In light of the above considerations, the Commission provisionally established a causal link between the injury suffered by the Union industry and the dumped imports from Turkey. As a result of the Turkish dumping, the Union industry found itself, just after it had started recovering from previous dumping practices⁽²⁹⁾, again in a situation where it suffered injury due to dumped imports.
- (160) 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.
- (161) On the basis of the above, the Commission concluded at this stage that the dumped imports from Turkey caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury.

6. LEVEL OF MEASURES

- (162) 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 in accordance with Article 7(2) of the basic Regulation.

6.1. Underselling margin

- (163) The Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry in the absence of distortions under Article 7(2a) of the basic Regulation. In this case, the injury would be eliminated if the Union industry was able to cover its costs of production, including those costs resulting from multilateral environmental agreements, and protocols thereunder, to which the Union is a party, and of International Labour Organisation (ILO) Conventions listed in Annex Ia, and was able to obtain a reasonable profit (target profit).
- (164) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country concerned, the level of profitability needed to cover full costs and investments, research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.
- (165) The complainant considered that a reasonable target profit should range between 10 % and 15 %. The Turkish Steel Exporters' Association ÇİB deemed that range too high and proposed instead the target profits used by the Commission in the investigations concluded in 2017 for the same product, which were 7 % and 7,9 %. A sampled Union producer considered that the minimum target profit should not be less than the 7,9 % used in a previous investigation.
- (166) The Commission could not establish a profit margin on the basis of any of the years prior to the increase of imports from Turkey, as in those years the Union industry suffered an influx of dumped imports from other origins and therefore none of these years could qualify as a year with a normal competitive situation on the Union market. In view of that, the Commission considered the profitability reached in 2017. In 2017 the level of imports from

⁽²⁹⁾ For more details about previous investigations on this product, see section 4.5.2.5.

Turkey was already up by 1 million tonnes as compared to the previous year, however it would increase by another 1 million tonnes in 2018 and 2019. Moreover, in 2017 the Union industry was clearly in a much better situation than in the years before due to the imposition of the anti-dumping duties against imports of HRF5 originating in China, Brazil, Iran, Russia and Ukraine and the favourable market circumstances in that year. Therefore, in the absence of any other information, the Commission decided to provisionally use the average profit achieved over the year 2017 as basis for the target profit. That profit was 6,8 %.

- (167) In accordance with Article 7(2c) of the basic Regulation, the Commission assessed a claim made by two sampled Union producers on planned investments which were not implemented during the period considered. Based on the documentary evidence received, which could be reconciled with the companies' accounting systems, the Commission provisionally accepted these claims and added the corresponding amounts to the profit of those Union producers. The final target profit margins consequently ranged between 6,8 % and 8,0 %.
- (168) In accordance with Article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the submitted information, which was supported by the companies' reporting tools and forecasts, the Commission established a cost in a range between EUR 2/tonne and EUR 12/tonne, in addition to the actual cost of compliance with such conventions during the investigation period. This difference was added to the non-injurious price.
- (169) On this basis, the Commission calculated a non-injurious price of the like product for the Union industry by applying the above-mentioned target profit margin (see recital (167)) 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.
- (170) 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. The result of these calculations is shown in the table below.

Country	Company	Dumping margin	Underselling margin
Turkey	Çolakoğlu Metalurji A.Ş.	7,6 %	19,3 %
	Erdemir group: — Ereğli Demir ve Çelik Fabrikaları T.A.Ş. — İskenderun Demir ve Çelik A.Ş.	5,4 %	23,5 %
	Habaş Sınai Ve Tıbbi Gazlar İstihsal Endüstrisi A.Ş.	4,8 %	20,9 %
	Ağır Haddecilik A.Ş.	5,9 %	21,2 %
	Borçelik Çelik Sanayii Ticaret A.Ş.	5,9 %	21,2 %
	All other companies	7,6 %	23,5 %

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

- (171) As explained in the Notice of Initiation, the complainant provided the Commission sufficient evidence that there are raw material distortions in the country concerned regarding the product under investigation. Therefore, in accordance with Article 7(2a) of the basic Regulation, this investigation examined the alleged distortions to assess whether, if relevant, a duty lower than the margin of dumping would be sufficient to remove injury.
- (172) However, as the margins adequate to remove injury are higher than the dumping margins, the Commission considered that, at this stage, it was not necessary to address this aspect.

6.3. Conclusion

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

Country	Company	Provisional anti-dumping duty
Turkey	Çolakoğlu Metalurji A.Ş.	7,6 %
	Erdemir group: — Ereğli Demir ve Çelik Fabrikaları T.A.S. - İskenderun Demir ve Çelik A.Ş.	5,4 %
	Habaş Sınai Ve Tibbi Gazlar İstihsal Endüstrisi A.Ş.	4,8 %
	Ağır Haddecilik A.Ş.	5,9 %
	Borçelik Çelik Sanayii Ticaret A.Ş.	5,9 %
	All other companies	7,6 %

7. UNION INTEREST

- (174) The Commission examined whether, despite the determination of injurious dumping, the imposition of measures would not be against the Union interest in accordance with Article 21 of the basic Regulation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, users and consumers.

7.1. Interest of the Union industry

- (175) The Union industry is composed of more than 20 producers in 16 Member States and employs 39 178 people (see section 4.5.2.4). An overwhelming majority of Union producers supported the complaint. No producer opposed the initiation of the investigation.
- (176) As concluded in sections 4.5.4 and 5.3, the situation of the whole Union industry deteriorated as a result of dumped imports from Turkey. Injury was particularly material when it comes to the profitability of the sampled Union producers, which made significant losses during the investigation period.
- (177) Anti-dumping measures against imports from Turkey are expected to restore fair trade conditions on the Union market and enable the Union industry to obtain sustainable profitability levels for such a capital intensive industry. As a result, Union producers are expected to recover from the injurious situation, further invest and reach their different commitments, including social and environmental ones.

- (178) The non-imposition of measures would mean heavier losses within the Union industry, endanger its viability and probably lead to the closure production facilities and dismissals.
- (179) The Commission therefore concludes that the imposition of provisional measures would be in the interest of the Union industry.

7.2. Interest of unrelated importers

- (180) Although the Commission reached out to more than 20 potential importers of the product under investigation and relevant associations upon initiation, eventually only one unrelated importer submitted a questionnaire reply and co-operated during the investigation. That party, Network Steel S.L, employs less than 20 people. Its turnover related to HRFPS ranged between 50 and 80 million EUR in 2019. It accounted, during the investigation period, for 3,5 % to 5,2 % of imports of HRFPS from Turkey. Network Steel S.L is against the imposition of measures on the grounds that, in the Union, HRFPS is already heavily affected by the anti-dumping and anti-subsidy duties in force against China, and the anti-dumping duties against Brazil, Ukraine, Russia and Iran. It claimed that since the introduction of steel safeguard measures, due to the insufficient quotas and the deposit requirement when a quota reaches critical status, Union importers have to do with a reduced number of suppliers and constantly face the risk of shortage of supply, which makes their business activity more unpredictable and challenging.
- (181) Given the significance of Turkish imports in the HRFPS activities of Network Steel S.L., the Commission considered that the imposition of low anti-dumping measures might have an impact, although very limited, on its results should the party keep its current suppliers mix. As to the party's allegations of shortage of HRFPS, they are contradicted by the numerous supply sources of HRFPS (both in the Union and outside the Union, as further developed in section 7.3 below) and thus rejected.
- (182) In view of the minor share of imports represented by this sole cooperating unrelated importer, it is inappropriate to extend the findings with regard to Network Steel S.L. to unrelated importers of HRFPS as a whole. Nevertheless, in the abstract, the anti-dumping measures at the level established might negatively affect some unrelated importers. However such impact should not be significant overall and will highly depend on the importers' business model, the variety of their sources of supplies and the extent to which increased costs are passed on to their customers. Thus any negative impact of measures on unrelated importers as a whole is expected to be limited and not to outweigh the positive effect of measures on Union HRFPS producers.

7.3. Interest of users

- (183) Certain Union users are competing with, inter alia, the related companies of the Union producers on the downstream markets of the product under investigation. They use the product under investigation as a raw material for the manufacture of downstream products such as cold-rolled flat, coated steel, hollow sections, welded tubes and profiles in different qualities, and also use it as industrial output for a variety of applications, including construction, shipbuilding, gas containers and pressure vessels.
- (184) Four users related to Network Steel S.L. located in Portugal and Spain came forward and opposed the imposition of measures. As the body of these users' questionnaire replies is common to the one of Network Steel S.L., their claims have been dealt with in section 7.2 above.
- (185) The Consortium of Union users and importers of HRFPS (the Consortium)⁽¹⁴⁾, an 'ad-hoc' organisation formed for the purpose of defending the interest of certain users in this proceeding, submitted comments opposing to the imposition of duties arguing they would be detrimental to the interest of Union users⁽¹⁵⁾. In addition, two Union users (Marcegaglia Carbon Steel S.P.A. and San Paolo Lamiera S.P.A.) provided individual questionnaire replies. The arguments provided in these questionnaire replies were included in the submission made by the Consortium and they are therefore assessed jointly.

⁽¹⁴⁾ Individual members of the Consortium were granted anonymity (Document of 31 July 2020, save number t20.005357).

⁽¹⁵⁾ Submission by the Consortium of HRFPS users of 2 July 2020, save number t20.004517

- (186) First, the Consortium noted that save for a few exceptions, the major sources of supply of HRFS to the Union in recent years are currently subject to anti-dumping and/or countervailing duties ⁽¹³⁾. Against this background, the Consortium argued that Union users had no choice but to source HRFS from the remaining supplying third countries which were not affected by trade defence measures. Amongst them, Turkey was seen, allegedly, as the only exporting country capable to meet the demand of Union users. The Consortium claimed that imports from Turkey had simply filled the vacuum left by the main exporting countries caught by trade defence measures, and thus that the imposition of measures would inevitably close the Union market to the only stable and reliable source of supply currently available to Union users. The Consortium concluded that the imposition of anti-dumping measures would lead to a shortage of supply of HRFS in the Union and that it would thus be against the interest of Union independent users of HRFS.
- (187) In the first place, the objective of anti-dumping and countervailing duties is to restore a level playing field in the Union market, in this case, of HRFS. The Commission imposed measures on five countries as it had established that these countries were engaging in unfair trade practices and hence, causing or threatening to cause injury to the Union industry. The imposition of measures was deemed to be in the overall Union interest.
- (188) The Commission further observed that the information available in the file shows that the choices to buy HRFS outside the Union are not limited to Turkey. First, there are several countries that have consistently supplied to the Union market in the last years and that could increase further their presence in the Union market ⁽¹⁴⁾. Moreover, the Commission noted that there is production of HRFS in numerous countries worldwide, in addition to those currently supplying the Union market. In principle, these countries could have sufficient capacity available to, if the demand exists, enter the Union market, as it was already the case in the past, as acknowledged by an independent Union user in its questionnaire reply ⁽¹⁵⁾. The Commission also observed that the composition of the import mix in terms of origins has continuously evolved throughout the last years, adapting to the different needs and circumstances prevailing in the Union market, including regulatory actions such as the imposition of trade defence measures.
- (189) In this respect the Commission assessed the evolution of imports of HRFS into the Union by origin starting in a period prior to the surge of dumped imports (years 2013-2014) that lead to the adoption of anti-dumping measures, in 2016 ⁽¹⁶⁾ and 2017 respectively. The analysis showed that there have been consistently, on average, around ten exporting countries supplying most of HRFS to the Union market. The distribution of imports amongst them, including origins and share of imports, however varied throughout the years. In fact, in 2018 and despite the anti-dumping measures in place against five countries, imports increased by 18 % when compared to 2017, and were only slightly below 2016 levels, a year where there were nevertheless significant volumes of dumped imports entering the Union market, as established by the respective investigations at the time ⁽¹⁷⁾.
- (190) The availability and diversification of HRFS from different origins is further supported by the information supplied by certain users in their questionnaire reply. This information showed that they are able to substantially increase the purchases, in relevant volumes, from different origins from one year to the next, including from countries subject to anti-dumping measures, as well as to add new origins to their sources of supply ⁽¹⁸⁾. The questionnaire replies received from users also show a wide variety of sources of supply, including (mainly) the Union industry. Therefore this information confirms that the Union users are able to adapt to the circumstances in the market, and can adjust swiftly the sources of supply where necessary. Moreover, the Commission notes that there is no information in the file which would indicate that even if the volume of Turkish imports would substantially decrease as a result of anti-dumping measures, other exporting countries would be unable to fill their place in the market.

⁽¹³⁾ The countries subject to anti-dumping and/or countervailing measures are: Brazil, China, Iran, Russia and Ukraine.

⁽¹⁴⁾ These countries increased by over 1.5 million tonnes their imports of HRFS between the period prior to the imposition of anti-dumping measures, i.e. before 2016, and the investigation period.

⁽¹⁵⁾ Questionnaire reply (open version) of San Polo Lamiere, at p. 20 (22 June month 2020, save number 20.004293).

⁽¹⁶⁾ Provisional anti-dumping duties were imposed on Chinese imports on 7 October 2016; OJ L 272, 7.10.2016, p. 33.

⁽¹⁷⁾ Commission Implementing Regulation (EU) 2017/649 of 5 April 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China; OJ L 92, 6.4.2017, p. 68; and Commission Implementing Regulation (EU) 2017/1795 of 5 October 2017 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine and terminating the investigation on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Serbia; OJ L 258, 6.10.2017, p. 24.

⁽¹⁸⁾ Questionnaire reply (open version) Marcegaglia Carbon Steel S.P.A., table C 29 June 2020, save number t20.004420).

- (191) In addition to the sufficient availability of import sources, the Commission established in this investigation the existence of sizeable spare capacities amongst Union producers, which would be able to increase their volume of sales to independent users in the Union.
- (192) Lastly, the Commission also noted that as such, the imposition of anti-dumping measures does not mean that imports from the origin concerned will cease, or even that they will decrease in a meaningful way, but simply that they would be imported at fair prices. As acknowledged by the Consortium, the imposition of anti-dumping measures did not prevent Russian imports from entering the Union market in relevant amounts (it was the second largest exporting country in the investigation period), and imports from Brazil and Ukraine continued entering the Union market, albeit in smaller quantities. In view of the levels of dumping found, and the resulting level of anti-dumping duties, there is no reason to assume that imports from Turkey will stop once anti-dumping measures have been imposed.
- (193) In view of the above elements, the Commission therefore rejected the claims related to the alleged lack of alternative sources of supply available to Union users and importers and the related risk of shortage of supply if measures are imposed.
- (194) The Consortium further argued that the imposition of anti-dumping duties against imports from Turkey, “even a very low duty”, would disproportionately affect Union users, whose viability would in some cases be at risk, as they could not absorb the cost increase caused by the measures and continue to be competitive in the downstream market. An anti-dumping duty, the Consortium claimed, would have a direct and significant impact on the users’ costs and these costs increases cannot be passed on to the downstream industries.
- (195) The Commission first noted that users in major downstream markets, such as the automotive industry, industrial appliances or the construction sector did not come forward. In this regard, the Commission pointed to a submission made by the complainant whereby it was argued that anti-dumping duties would have a very low impact on downstream markets and on consumer products such as washing machines. However, the information available in the file, in particular in the questionnaire replies from users, shows that purchases from Turkey consistently represent a relatively modest share (7 % – 14 %) of these users’ total purchases in the investigation period. Given the rather low level of duty proposed, the alternative sources of supply available, and the rather low weight of Turkish imports in the users’ HRFS business segment, the impact of the measures on these users, if any, would be very limited. For users that came forward, overall measures would entail a cost increase ranging from less than 1 % up to 2,5 % for the most affected users for their relevant activities if they would keep the same sourcing pattern. Moreover, there is no evidence on the file indicating that users would be unable to pass on a potential limited price increase. In the same vein, nothing on file supports that EU users’ competitiveness vis-à-vis downstream imports from third countries would suffer.
- (196) The Consortium also argued that in 2019, 22 % of total HRFS imports were subject to trade defence measures and that if Turkey’s imports (representing 38 % of HRFS imports in 2019) were made subject to measures, 60 % of total HRFS imports in the Union would be under measures. The Consortium thus claimed that the imposition of anti-dumping measures would make Union users fully dependent on the Union producers’ supplies, thus further strengthening the position of the Union industry in the HRFS market.
- (197) The Commission considered that the imposition of a provisional anti-dumping duty would in itself not prevent the Union users from continuing purchasing from Turkey, although at price levels offsetting the dumping margins established by the investigation. The Commission recalled that there is a clear and recent example in the HRFS market in the Union, showing that the imposition of anti-dumping duties does not in itself prevent imports from entering the Union market in relevant volumes, as noted by the Consortium itself when referring to Russia’s import volumes despite the anti-dumping measures in place. This fact is evident also from the Consortium’s submission where it acknowledged that imports subject to anti-dumping measures accounted for no less than 22 % of total imports of HRFS in 2019. In any event, Union users would continue having the possibility to diversify their sources of supply among several exporting countries as explained above. The Commission thus rejected the claim that the imposition of the anti-dumping measures would make Union users fully dependent on Union producers’ supplies, or that it would prevent them from importing from Turkey in relevant amounts, as unfounded.

- (198) At provisional stage, the Commission therefore concluded that the effects of a potential imposition of duties on users do not outweigh the positive effects of measures on the Union industry. Indeed, the above analysis rather shows that the imposition of duties would at most have a minor impact, if any impact at all, on users of HRPS.

7.4. Other factors

- (199) Several parties raised competitiveness and competition-related issues. Some parties feared an (enhanced) oligopoly in the Union indicated while others complained that Union producers place independent steel service centres and users in a less competitive situation than related ones.
- (200) The Commission found the oligopoly claim unjustified in light of the number of steel producing mills and groups in the Union. Union producers show healthy competition amongst them and will continue competing with imports from third countries, which will not stop. As to the second claim, the complainants contested it on the grounds that their transactions with related steel service centres are at arm's length. The Commission deemed the claim unfounded namely to the extent the Union industry supplies significant quantities to the independent steel service centres and users that provided questionnaire replies.

7.5. Conclusion on Union interest

- (201) On the basis of the above, the Commission concluded that no Union interest elements preclude from imposing provisional anti-dumping measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

- (202) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.
- (203) Provisional anti-dumping measures should be imposed on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the underselling margins and the dumping margins (recital (170) above). The amount of the duties was set at the level of the dumping margins.
- (204) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Country	Company	Provisional anti-dumping duty
Turkey	Çolakoğlu Metalurji A.Ş.	7,6 %
	Erdemir group: — Ereğli Demir ve Çelik Fabrikaları T.A.S. - İskenderun Demir ve Çelik A.Ş.	5,4 %
	Habaş Sınai Ve Tibbi Gazlar İstihsal Endüstrisi A.Ş.	4,8 %
	Ağır Haddecilik A.Ş.	5,9 %
	Borçelik Çelik Sanayii Ticaret A.Ş.	5,9 %
	All other companies	7,6 %

- (205) 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.

- (206) 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.
- (207) To minimise the risks of any potential circumvention due to the differences in duty rates provisionally established, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Imports not accompanied by that invoice should be subject to the provisionally established anti-dumping duty applicable to 'all other companies'.
- (208) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the provisionally established individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this Regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (209) 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.
- (210) To ensure a proper enforcement of the anti-dumping duties, the provisionally established anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.

9. REGISTRATION

- (211) As mentioned in recital (4), the Commission made imports of HRFS subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.
- (212) In view of the findings at provisional stage, the registration of imports should be discontinued.
- (213) No decision on a possible retroactive application of anti-dumping measures has been taken at this stage of the proceeding. Such a decision will be taken at definitive stage.

10. INFORMATION AT PROVISIONAL STAGE

- (214) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.
- (215) Comments regarding the dumping calculations were received from two exporting producers. None of the comments were considered to be of a clerical nature.
- (216) Comments regarding the injury calculations were received from one sampled Union producer. One comment concerned a clerical error in the computation of the target price of that sampled producer. The error was corrected, however, the correction did not result in a change in the injury margins.

11. FINAL PROVISIONS

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of flat-rolled products of iron, non-alloy steel or other alloy steel, whether or not in coils (including 'cut-to-length' and 'narrow strip' products), not further worked than hot-rolled, not clad, plated or coated, originating in Turkey, currently falling under CN codes 7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 00, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225 19 10 90), 7225 30 90, ex 7225 40 60 (TARIC code 7225 40 60 90), 7225 40 90, ex 7226 19 10 (TARIC code 7226 19 10 90), 7226 91 91 and 7226 91 99.

The following products are excluded:

- (i) products of stainless steel and grain-oriented silicon electrical steel;
- (ii) products of tool steel and high-speed steel;
- (iii) products, not in coils, without patterns in relief, of a thickness exceeding 10 mm and of a width of 600 mm or more; and
- (iv) products, not in coils, without patterns in relief, of a thickness of 4,75 mm or more but not exceeding 10 mm and of a width of 2 050 mm or more.

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

Country	Company	Provisional anti-dumping duty	TARIC additional code
Turkey	Çolakoğlu Metalurji A.Ş.	7,6 %	C602
	Erdemir group: — Ereğli Demir ve Çelik Fabrikaları T.A.Ş.- İskenderun Demir ve Çelik A.Ş.	5,4 %	C603
	Habaş Sınai ve Tibbi Gazlar İstihsal Endüstrisi A.Ş.	4,8 %	C604
	Ağır Haddecilik A.Ş.	5,9 %	C605
	Borçelik Çelik Sanayii Ticaret A.Ş.	5,9 %	C606
	All other companies	7,6 %	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (country concerned). I declare that the information provided in this invoice is complete and correct'. If no such invoice is presented, the duty applicable to all other companies shall apply.
4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.
5. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

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

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Commission Implementing Regulation (EU) 2020/1686 making imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Turkey subject to registration.
2. Data collected regarding products which were imported for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*. Article 1 shall apply for a period of six months.

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

Done at Brussels, 6 January 2021.

For the Commission
The President
Ursula VON DER LEYEN