



**COUNCIL OF
THE EUROPEAN UNION**

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**ANTIDUMPING 14
COMER 31**

PROPOSAL

from:	European Commission
dated:	18 February 2013
No Cion doc.:	COM(2013) 82 final
Subject:	Proposal for a Council Implementing Regulation imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain organic coated steel products originating in the People's Republic of China

Delegations will find attached a proposal from the Commission, submitted under a covering letter from Mr Jordi AYET PUIGARNAU, Director, to Mr Uwe CORSEPIUS, Secretary-General of the Council of the European Union.

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Proposal for a

COUNCIL IMPLEMENTING REGULATION

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain organic coated steel products originating in the People's Republic of China

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

Grounds for and objectives of the proposal

This proposal concerns the application of Article 5 of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community.

General context

This proposal is made in the context of the implementation of the basic Regulation and is the result of an investigation which was carried out in line with the substantive and procedural requirements laid out in the basic Regulation.

Existing provisions in the area of the proposal

Provisional anti-dumping measures were imposed on the same product group by Commission Regulation (EU) No 845/2012 (OJ L 252, 19.9.2012, p.33).

Consistency with other policies and objectives of the Union

Not applicable.

2. RESULTS OF CONSULTATIONS WITH THE INTERESTED PARTIES AND IMPACT ASSESSMENTS

Consultation of interested parties

Interested parties concerned by the proceeding have had the possibility to defend their interests during the investigation, in line with the provisions of the basic Regulation.

Collection and use of expertise

There was no need for external expertise.

Impact assessment

This proposal is the result of the implementation of the basic Regulation.

The basic Regulation does not provide for a general impact assessment but contains an exhaustive list of conditions that have to be assessed.

3. LEGAL ELEMENTS OF THE PROPOSAL

Summary of the proposed action

On 18 September 2012, the Commission imposed provisional anti-dumping duties on imports

of certain organic coated steel products originating in the People's Republic of China.

The investigation found dumping of the product concerned, which caused injury to the Union industry. The investigation also found that it was not against the Union interest to impose anti-dumping measures.

Therefore, it is proposed that the Council adopts the attached proposal for a Regulation in order to impose definitive anti-dumping measures on imports of certain organic coated steel products originating in the People's Republic of China.

Legal basis

Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation')

Subsidiarity principle

The proposal falls under the exclusive competence of the Union. The subsidiarity principle therefore does not apply.

Proportionality principle

The proposal complies with the proportionality principle for the following reasons:

The form of action is described in the above-mentioned basic Regulation and leaves no scope for national decision.

Indication of how financial and administrative burden falling upon the Union, national governments, regional and local authorities, economic operators and citizens is minimized and proportionate to the objective of the proposal is not applicable.

Choice of instruments

Proposed instrument: Regulation.

Other means would not be adequate because the basic Regulation does not provide for alternative options.

4. BUDGETARY IMPLICATION

The proposal has no implication for the EU budget.

Proposal for a

COUNCIL IMPLEMENTING REGULATION

imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain organic coated steel products originating in the People's Republic of China

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community¹ ('the basic Regulation'), and in particular Article 9 and 14(1) thereof,

Having regard to the proposal submitted by the European Commission ('the Commission') after consulting the Advisory Committee,

Whereas:

1. PROVISIONAL MEASURES

- (1) The Commission, by Regulation (EU) No 845/2012² ('the provisional Regulation') imposed a provisional anti-dumping duty ('the provisional measures') on imports of certain organic coated steel products ('OCS') originating in the People's Republic of China ('PRC').
- (2) The proceeding was initiated following a complaint lodged on 7 November 2011 by Eurofer ('the complainant') on behalf of producers representing a major proportion, in this case more than 70%, of the total Union production of OCS. The complaint contained *prima facie* evidence of dumping of the said product and of material injury resulting therefrom, which was considered sufficient to justify the initiation of a proceeding.

2. SUBSEQUENT PROCEDURE

- (3) Subsequent to the disclosure of the essential facts and considerations on the basis of which it was decided to impose provisional anti-dumping measures ('the provisional disclosure'), several interested parties made written submissions making known their views on the provisional findings. The parties who so requested were granted the opportunity to be heard.

¹ OJ L 343, 22.12.2009, p. 51.

² OJ L 252, 19.09.2012, p. 33.

(4) The Commission continued to seek and verify all information it deemed necessary for its definitive findings. Further verification visits were carried out at the premises of the following company:

– Macrometal, Hamburg

(5) Subsequently all parties were informed of the essential facts and considerations on the basis of which it was intended to recommend the imposition of a definitive anti-dumping duty on imports of certain organic coated steel products originating in the PRC and the definitive collection of the amounts secured by way of provisional duty ('the final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.

(6) The comments submitted by the interested parties were considered and taken into account where appropriate.

2.1. Investigation period

(7) As set out in recital (12) of the provisional Regulation, the investigation of dumping and injury covered the period from 1 October 2010 to 30 September 2011 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from January 2008 to the end of the IP ('the period considered').

3. PRODUCT CONCERNED AND LIKE PRODUCT

3.1. Product exclusion requests

(8) Recitals (19) and (20) of the provisional Regulation stated that the Commission had received several requests for product exclusion and that no conclusions had been reached at the time of the provisional Regulation being published.

(9) After disclosure of the provisional findings, more requests were received and have been analysed as follows:

3.1.1. OCS with metallic coating of chromium or tin

(10) A user of OCS submitted a request to exclude OCS with a substrate with a metallic coating of chromium or tin from the product scope. The investigation established that the metallic coating of chromium or tin renders this product type physically and chemically different to the OCS under investigation. OCS with a substrate with a metallic coating of chromium or tin is almost exclusively used in the food packaging and cable industries. The Union industry also explained that it had not intended this product to form part of the product scope. For these reasons OCS with a substrate with a metallic coating of chromium or tin has been excluded from the product scope of the investigation.

(11) The China Iron and Steel Association ('CISA'), two importers and one user proposed the exclusion of four other product types. These requests were analysed and rejected as below.

3.1.2. Hot-rolled plates with protective primer, whether organic or inorganic

(12) This request was rejected because these products do not fall under the CN codes under investigation. The painting or coating is only for rust protection and therefore fall under CN heading 7208 and not CN heading 7210. Hot-rolled plates with a protective primer, whether organic or inorganic, are not included in the product scope and as a result cannot be removed from it.

3.1.3. OCS with substrate thickness between 0.6 and 2.0 mm

(13) CISA and two importers requested the exclusion of OCS with substrate thickness between 0.6 and 2.0 mm, representing 5 – 10% of imports from China, stating that there was only direct competition between Chinese exports and Union industry production for OCS with substrate thickness of between 0.25 and 0.6 mm.

(14) This request was rejected given that both Chinese exporters and the Union industry manufacture and sell OCS with a substrate thickness of between 0.6 and 2.0 mm and that therefore these products are clearly in competition with each other. No evidence was provided to show that OCS with a substrate thickness of over 0.6 mm does not compete with OCS with a substrate thickness of less than 0.6 mm and that therefore this would constitute a different product type. OCS with substrate thickness of less than and above 0.6 mm have the same basic physical and technical characteristics and same end uses and therefore are the same product.

3.1.4. OCS with aluminium-zinc alloy coated substrate

(15) The two importers alleged that only four Union producers have the licence to produce this product type and that only one company was in fact producing it. They also alleged that this product differs from zinc coated OCS in terms of product characteristics.

(16) This request was rejected as the two product types are interchangeable with overlapping uses and at least two cooperating Union producers manufactured this product type during the investigation period. It should be noted that only one cooperating Chinese exporting producer exported this product type to the Union during the investigation period.

3.1.5. OCS with zinc alloy coated substrate

(17) This request was rejected because, contrary to the assertion by one user, this product is produced and sold in significant quantities by several Union producers and has the same essential physical and technical characteristics and end uses as other types of OCS.

3.2. Product inclusion request

(18) Following disclosure of the provisional findings, one association requested that OCS with a metallic coating of chromium or tin, classified under TARIC codes 7210 12 20 10 and 7210 50 00 10 be included in the product scope. This request was rejected as these codes were not included in the original complaint and the products covered by such codes have different physical and technical characteristics from the products covered by the complaint.

3.3. Product concerned

(19) Given the acceptance of the exclusion of OCS with metallic coating of chromium or tin, the provisional findings with regard to the product concerned, outlined in recitals (13) and (14) of the provisional Regulation, are amended by this exclusion.

(20) The product concerned is therefore now certain organic coated steel products ('OCS'), i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating of chromium or tin, currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70, and originating in the People's Republic of China ('the product concerned').

3.4. Like product

(21) Since no comments were received with regard to the conclusions outlined in recitals (15) to (18) of the provisional Regulation, the provisional findings with regard to the like product are hereby confirmed.

4. DUMPING

(22) Several Chinese exporting producers submitted comments on dumping following the imposition of provisional measures and the disclosure of the Commission's provisional findings to the Chinese exporting producers.

4.1. Market economy treatment ('MET')

(23) In the absence of any comments concerning MET, recitals (21) to (38) of the provisional Regulation are hereby confirmed. None of the two groups of cooperating exporters in the PRC that had requested MET could show that they fulfilled the criteria for being granted MET.

4.2. Individual treatment ('IT')

(24) Two exporting producers in the PRC met the criteria for being granted IT (recital (40) of the provisional Regulation). Another party reiterated its claims to be granted IT and individual examination. Indeed, this party withdrew its MET claim but maintained its request to be granted IT, as well as individual examination. This claim was considered as a claim for individual examination and therefore included in the requests mentioned in recital (41) of the provisional Regulation. In accordance with Article 9(5) and 9(6) of the basic Regulation, individual duties shall be applied to imports from any exporter or producer which will be granted individual examination, as provided for in Article 17(3) of the basic Regulation. As explained in more detail in recitals (26) to (31) below, the claim for an individual duty for this party was rejected.

(25) In the absence of any other comments on IT, recitals (39) to (40) of the provisional Regulation are hereby confirmed.

4.3. Individual examination ('IE')

- (26) Claims for individual examination were submitted by eight exporting producers pursuant to Article 17(3) of the basic Regulation. As explained in recitals (41) and (42) of the provisional Regulation, hereby confirmed, one exporting producer, Union Steel China, which requested MET, was inspected in the framework of the examination of its MET claim.
- (27) With regard to all other claims for individual examination, it was concluded that individual examinations would be unduly burdensome and would prevent the completion of the investigation in good time. Accordingly, these claims were not accepted.
- (28) One party argued that its request cannot be considered as administratively burdensome as after the provisional stage the Commission services still have six months before the definitive determination. Also, in recent proceedings the Commission services have granted individual examination after the provisional stage.
- (29) Another party, already referred to in recital (24) above, argued that it should be granted individual examination as it has submitted the necessary information within the time limits set and as individual examination was already granted to another exporting producer, Union Steel China.
- (30) Decisions whether or not to accept individual examinations are taken on a case by case basis, taking into account the number of claims submitted and the time available to assess these claims. In this case, in view of the number of claims submitted, the limited time available after the examination of the sampled exporting producers and the MET claim of the exporting producer which was not included in the sample and the procedural deadlines which need to be respected, it was decided that these claims cannot be accepted, as set out in recital (27) above.
- (31) As explained in recital (41) of the provisional Regulation, with regard to Union Steel China the circumstances were different as this company was already inspected in the framework of the examination of its MET claim.

4.4. Normal value

4.4.1. Analogue country

- (32) No further comments were received concerning the selection of Canada as the analogue country. Therefore recitals (43) to (49) of the provisional Regulation are hereby confirmed.

4.4.2. Determination of normal value

- (33) Normal value was calculated on the basis of the data provided by the sole cooperating producer in the analogue country (i.e. Canada). Thus, normal value was established on the basis of prices of domestic sales and constructed normal value of one Canadian producer of the like product as explained in recitals (50) to (55) of the provisional Regulation.
- (34) Following the provisional disclosure, two Chinese exporting producers argued that the Commission did not provide necessary information in relation to the normal value in

the analogue country, in particular regarding the different product types, comparability of the products, representativeness and adjustments.

- (35) These claims were partially accepted. The Commission provided to the Chinese exporting producers all relevant information concerning the data used in order to calculate normal value that could be released without infringing the provisions of Article 19 of the basic Regulation, i.e. assuring at the same time that any confidential data provided by the sole Canadian producer is treated as such and is not disclosed to other parties. The information provided to the exporting producers allowed to understand the methodology used in line with the provisions of Article 2 of the basic Regulation. However, it was found that more detailed data could be provided per product type by using ranges in order to respect the confidentiality of the data. Such data were provided in the final disclosure. In addition, more detailed information was provided as to why some products types were found not to be representative and the level of the adjustments made to the normal value.
- (36) Following the final disclosure, one party acknowledged that more detailed data was indeed provided, but argued that some data were still missing, in particular with regard to the level of the cost of manufacturing used to construct the normal value for those product types that were not sold domestically.
- (37) For those product types not sold domestically, the cost of manufacturing of the closest resembling product types were used as a basis and adjusted where appropriate. Although they were not identical to those exported by the Chinese exporting producers, they nevertheless very closely resembled the types sold by the Chinese exporting producers, as in general only the thickness of the organic coating varied. Accordingly the differences in cost of manufacturing were found to be minor.
- (38) As acknowledged by this party in its submission, in the final disclosure the Commission provided more detailed data presented in ranges, including data relating to the cost of manufacturing, SG&A and profit in the analogue country used to construct normal value, data relating to the overall level of adjustments made to the normal value, data relating to the final normal value per group of product types, data regarding the representativeness and the nature and effects of the adjustments made to the normal value.
- (39) As follows from the above, the final disclosure, made in accordance with the requirements of Article 20 of the basic Regulation, allowed interested parties to understand in detail the methodology used in line with the provisions of Article 2 of the basic Regulation and all parties were given the opportunity to comment on the final disclosure. Therefore, it is concluded that the disclosure was complete and that the rights of defence of interested parties were fully respected.
- (40) One party claimed that the source of the selling, general and administrative costs and profit in cases where the normal value was constructed was left unexplained. However, in recital (55) of the provisional Regulation it is explained that the selling, general and administrative costs of the Canadian producer and the profit margin of the Canadian producer for the product types that were found to be profitable were used in cases where the normal value had to be constructed. In accordance with Article 2(3) and 2(6) of the basic Regulation, selling, general and administrative costs and profit are

based on verified costs and verified domestic sales in the ordinary course of trade of the analogue country producer.

(41) In view of the above, recitals (50) to (55) of the provisional Regulation are hereby confirmed.

4.5. Export price

(42) In the absence of any comments, recital (56) of the provisional Regulation is hereby confirmed.

4.6. Comparison

(43) Two parties claimed that the Commission did not provide sufficient information with regard to the comparability of the product types and their representativeness at product type level.

(44) As explained in recital (35) above, the Commission provided to the Chinese exporting producers all the relevant data that could be provided, account taken of the provisions on confidentiality in the basic Regulation. More detailed information per product type was indeed provided following this claim made after the provisional disclosure, including the reasons why some product types were found not to be representative and, accordingly, the normal value had to be constructed.

(45) Following the verification visit to the Canadian analogue country producer, the normal values for some product types were adjusted downwards for differences in physical characteristics in accordance with Article 2(10)(a) of the basic Regulation, mainly as it was found that the organic coating used by the Canadian producer with regard to some of the product types was of a different quality than the one used by the Chinese exporting producers. These adjustments have resulted in a lower normal value for the product types concerned.

(46) One party requested the amounts of each of the adjustments made to the normal value. In order to respect the confidentiality of the data provided by the Canadian producer, these data could not be provided. However, the overall percentage of the adjustments was given in the final disclosure, showing that the impact of the adjustments was minor.

(47) As set out in recital (37) above, in case of any difference found the product types that were sold domestically resembled nevertheless very closely the types sold by the Chinese exporting producers. These product types were found to be similar in terms of steel quality, substrate width and thickness of the substrate used and the type and mass of the metallic coating used.

(48) Where appropriate the adjustment for differences in physical characteristics was made, as set out in recital (45) above, due to a difference in the quality of the organic coating used with regard to some of the product types. In order to assess the market value of the difference, the average cost difference with the closest resembling product type was taken into account as well as international market prices.

- (49) The same party enquired whether transport costs and insurance costs were included in the SG&A. It should be stated that as the comparison was done on an ex-works basis, these costs were not included.
- (50) One party argued that their claim for an adjustment in relation to the value of three invoices should have been taken into account, as well as one particular sales transaction which had been disregarded. This claim related to compensation paid to a customer linked to sales made prior to the investigation period, but which had been treated as a discount to the value of these three invoices issued in the investigation period, resulting in the value of these invoices being artificially lowered. The company's claim was accepted. The requested adjustment was made and the sales transaction, which was erroneously omitted, was included in the calculation of the export price.
- (51) In the absence of any other comments, recital (57) of the provisional Regulation is hereby confirmed.

4.7. Dumping margin

- (52) In the absence of any comments in this respect, the methodology as set out in recitals (58) and (59) of the provisional Regulation is hereby confirmed.
- (53) Following provisional disclosure, the Commission was informed that some trading companies, that did not produce the product concerned, had been named in the operative part of the Regulation. These trading companies have now been removed from the operative part and only exporting producers are now named.
- (54) Taken into account the adjustment of the normal value and the very minor adjustment to the export price, as set out in recitals (45) and (50) above, and in the absence of any further comments, the definitive dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company Name	Dumping margin
Zhangjiagang Panhua Steel Strip Co., Ltd, Chongqing Wanda Steel Strip Co., Ltd, and Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd	60.9%
Zhejiang Huadong Light Steel Building Material Co. Ltd and Hangzhou P.R.P.T. Metal Material Company Ltd	48.9%
Union Steel China	50.9%
Other co-operating companies	55.0%
Non co-operating companies	68.1%

- (55) On the basis of the facts stated in recital (60) of the provisional Regulation, the country-wide definitive dumping margin for the PRC was established by using the highest dumping margin established for representative product types of exporting producers. Taking into account the adjustment of the normal value as set out in recital (45) above, the countervailing duties resulting from export subsidies imposed on the same product in the parallel anti-subsidy proceeding and in the absence of any other comments, the country-wide level of dumping is established at 68.1% of the CIF Union frontier price, duty unpaid.

5. INJURY

5.1. Union production and Union industry

(56) In the absence of further comments on Union production, recitals (63) to (64) of the provisional Regulation are hereby confirmed.

5.2. Union market

(57) In the absence of further comments on the Union market, recitals (65) to (69) of the provisional Regulation are hereby confirmed.

5.3. Union consumption

(58) Following the publication of the provisional Regulation some interested parties pointed out some inconsistencies in the injury data published. The Commission re-examined the data and revised where necessary data concerning the Union industry and Union market. Whereas this has caused some figures to change in some years, the trends and therefore the conclusions on these data remain generally unchanged.

(59) After the revision explained above, the total Union consumption developed as follows:

	2008	2009	2010	IP
Consumption (in tonnes)	5 197 716	3 879 380	4 548 528	4 811 310
<i>Index (2008=100)</i>	<i>100</i>	<i>75</i>	<i>88</i>	<i>93</i>

(60) Total consumption on the EU market shrunk by 7 % over the period considered. Between 2008 and 2009 there was a decrease of about 25 % mainly as a result of the global negative effects of the economic crisis, especially on the construction industry. After that consumption started to recover and increased by 18 percentage points from 2009 to the IP but it was still below the initial level of 2008.

(61) In the absence of comments on Union consumption, recitals (70) to (72) of the provisional Regulation are hereby confirmed.

5.4. Imports into the Union and market share

(62) Imports into the Union from the PRC developed as follows during the period considered. The market share percentages have changed as a result of the changes in the consumption figures:

	2008	2009	2010	IP
Volume of imports from the PRC (tonnes)	472 988	150 497	464 582	702 452
<i>Index (2008=100)</i>	<i>100</i>	<i>32</i>	<i>98</i>	<i>149</i>
Market share	9.1%	3.9%	10.2%	14.6%
<i>Index (2008=100)</i>	<i>100</i>	<i>43</i>	<i>112</i>	<i>160</i>

Source: Eurostat

(63) The change in consumption data above has changed the percentage market share of imports from the PRC from the data published in the Provisional Regulation. The trend however remains the same. Market share of imports from the PRC increased significantly from 9,1% at the start of the period considered to 14,6% at the end. After a decrease in 2009 mirroring the strong decline in consumption due to the economic crisis, imports recovered at a very fast pace, with market share recovering in one year to 2008 i.e. to pre economic crisis levels and then by the end of the IP significantly exceeding them.

5.4.1. Prices of imports and price undercutting

(64) Following disclosure one exporting producer requested further information on the calculation of the price undercutting where there was no exact match between the product type exported from the PRC and the product type sold on the Union market by the Union industry. They also requested information as to whether an adjustment had been made for physical differences where no exact match had been found.

(65) Where no exact match existed between the exported product type and the product type sold by the Union industry, the Commission compared the exported product type to the closest resembling product type sold by the Union industry. In these cases a comparison was made to the closely resembling product type where the only difference was the substrate thickness.

(66) Where there was more than one closely resembling product type, the Commission compared the exported product type to the cheaper product type sold on the Union market, regardless of whether this cheaper product type had a thicker, or thinner, substrate. Therefore, no adjustment for physical differences was deemed necessary.

(67) In the absence of other comments on the prices of imports and price undercutting, recitals (78) to (81) of the provisional Regulation are hereby confirmed.

6. Economic situation of the Union industry

6.1. Preliminary remarks

(68) In the absence of comments on the preliminary remarks on the economic situation of the Union industry the conclusions in recitals (82) to (85) remain unaffected.

6.2. Data relating to the Union industry as a whole (macroeconomic indicators)

(69) Following the disclosure of the provisional findings in recitals (86) to (92) the Commission updated the data sources on which these findings were based. This update has not significantly changed the indicators published in the provisional Regulation nor has it changed the trends on which the Commission's injury analysis was based. The updated data is published below as follows:

6.2.1. Production, production capacity and capacity utilisation

	2008	2009	2010	IP
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Production volume (tonnes)	4 447 780	3 514 965	3 992 209	4 018 310
<i>Index (2008=100)</i>	100	79	90	90
Production capacity (tonnes)	6 007 536	6 128 301	6 099 587	5 923 311
<i>Index (2008=100)</i>	100	102	102	99
Capacity utilisation	74%	57%	65%	68%
<i>Index (2008=100)</i>	100	77	88	92

Source: Complaint, questionnaire replies

(70) Whereas the data have changed slightly, the trends and the conclusions set out in recitals (87) and (88) of the provisional Regulation remain unaffected and are therefore confirmed. Production decreased sharply in 2009, partially recovering in 2010 and remaining stable in the IP but still below 2008 levels. Production capacity remained constant during the period considered while capacity utilisation declined, following the trend of production.

6.2.2. Sales volume, market share and growth

	2008	2009	2010	IP
Sales volume (tonnes)	2 951 468	2 280 304	2 643 923	2 592 540
<i>Index (2008=100)</i>	100	77	90	88
Market share (%)	56.8%	58.8%	58.1%	53.9%
<i>Index (2008=100)</i>	100	104	102	95

Source: Complaint, questionnaire replies

(71) In 2009 the Union industry sales volume to unrelated customers decreased sharply by 23 %. In 2010, sales volume increased by thirteen percentage points, but then dropped by two percentage points in the IP. The conclusions as set out in recitals (90) and (91) of the provisional Regulation are therefore confirmed.

6.2.3. Employment and productivity

	2008	2009	2010	IP
Employment (in FTE)	7 088	6 470	6 097	6 046
<i>Index (2008=100)</i>	100	91	86	85
Productivity (tonnes/FTE)	627	543	655	665
<i>Index (2008=100)</i>	100	87	104	106

Source: Complaint, questionnaire replies, Eurofer

(72) Whereas the data have slightly changed, the conclusions on employment as set out in recital (92) of the provisional Regulation are confirmed.

6.3. Data relating to the sampled Union producers (microeconomic indicators)

(73) Following the disclosure of the provisional findings in recitals (93) to (108) the Commission updated the data sources on which these findings were based. This update has not significantly changed the indicators published in the provisional Regulation nor has it changed the trends on which the Commission's injury analysis was based. The updated data is published below as follows:

6.3.1. Average unit prices of the representative Union producers

(74) After the drop in unit price to unrelated customers by 21% in 2009 and accompanying loss, the unit price started to recover. In 2010 and during the IP, the Union industry experienced an increase in costs and could only moderately increase the prices to cover them, enough just to keep the profitability on the same low level for 2010 and the IP. However, this resulted in a further loss in market share since the Chinese import prices were constantly undercutting the Union industry prices.

	2008	2009	2010	IP
Unit price in EU to unrelated customers (EUR/tonne)	1 023	805	911	994
Index (2008=100)	100	79	89	97
Unit cost of production (EUR/tonne)	925	884	893	978
Index (2008=100)	100	95	97	106

Source: Verified questionnaire replies of the sampled producers

6.3.2. Profitability, cash flow, investments, return on investment

(75) This table is restated here for ease of reference, as the data and therefore the conclusions drawn from it have not changed.

	2008	2009	2010	IP
Profitability of sales in the EU to unrelated customers (% of sales turnover)	6.7%	-9.3%	2.8%	2.6%
Index (2008=100)	100	-138	41	39
Cash flow (EUR)	328 190 880	211 298 356	152 030 083	204 650 414
<i>Index (2008=100)</i>	100	64	46	62
Investments (EUR)	55 717 957	4 537 128	12 530 132	15 302 264
<i>Index (2008=100)</i>	100	8	22	27

Return on investments	13.8%	-13.9%	5.9%	6%
<i>Index (2008=100)</i>	100	-101	43	44

Source: Verified questionnaire replies of the sampled producers

6.3.3. Stocks

(76) This table is restated here for ease of reference, as the data and therefore the conclusions drawn from it have not changed.

	2008	2009	2010	IP
Closing stocks (tonnes)	116 852	97 533	124 848	130 593
<i>Index (2008=100)</i>	100	83	107	112

Source: Verified questionnaire replies of the sampled producers

6.3.4. Employment, wages and productivity

(77) This table is restated here for ease of reference, as the data and therefore the conclusions drawn from it have not changed.

Average labour costs per employee (EUR, sampled EU producers)	60,959	57,892	58,637	62,347
<i>Index (2008=100)</i>	100	95	96	102

Source: Verified questionnaire replies of the sampled producers

6.3.5. Captive use and captive sales

	2008	2009	2010	IP
Captive use and captive sales (tonnes)	1 135 987	914 412	986 386	970 757
<i>Index (2008=100)</i>	100	80	87	85
Market share	22%	24%	22%	20%
<i>Index (2008=100)</i>	100	108	99	92

Source: Complaint and verified questionnaire replies of the sampled producers

	2008	2009	2010	IP
Captive use and captive sales (EUR/tonne)	962	802	901	965
<i>Index (2008=100)</i>	100	83	94	100

Source: Verified questionnaire replies of the sampled producers

(78) Despite the corrections made to the data published in the Provisional Regulation, the findings on captive use and sales remain unchanged. The average value per tonne of captive sales remained stable during the period considered and was 3 % lower than the sales price to unrelated customers in the IP of the sampled Union producers.

6.4. Conclusion on injury

(79) Based on the above, the provisional findings set out in recitals (110) to (113) of the provisional Regulation are hereby confirmed.

(80) Following the publication of the provisional Regulation two parties came forward and claimed that more recent data are more relevant to the determination of injury and that the Commission should not have taken 2008 as the starting point of the injury analysis, but rather should have used 2009. They stated that WTO case law has made the point that more recent data are more relevant to the determination of injury than historical data, and that the outcome of an end-point to end-point comparison very much depends on which years are used, as a one-year shift can show a different result. A comparison from 2009 to the end of the IP therefore shows a different trend to a comparison from the start of the period considered to the end of the IP.

(81) This claim was not accepted. The period considered was defined in line with usual practice, and the recommendations of the WTO, as an objective period of three to four years ending at the end of the investigation period, which is itself a 12 month period ending as close as possible to the date of initiation.

(82) Even if the period considered had started in 2009, the finding of material injury would remain valid. The Union industry had not reached its target profit with increasing imports during the period despite increasing production volumes, and sales volumes, and increasing productivity. As consumption rises after 2009 this increase was supplied by imports from China, and not by the Union industry, who lost market share from 2009 to the end of the IP.

7. CAUSALITY

7.1. Effect of the dumped imports

(83) In the absence of comments, the provisional findings set out in recitals (115) to (119) of the provisional Regulation are hereby confirmed.

7.2. Effect of other factors

7.2.1. Imports from third countries

Country		2008	2009	2010	IP
South Korea	Volume (tonnes)	228 123	226 568	173 935	237 164
	<i>Index (2008=100)</i>	100	99	76	104
	Market share (%)	4.4%	5.8%	3.8%	4.9%
	<i>Index</i>	100	133	87	112

	<i>(2008=100)</i>				
	Av. price	901	727	846	903
	<i>Index (2008=100)</i>	100	81	94	100
India	Volume (tonnes)	159 999	149 138	155 384	141 391
	<i>Index (2008=100)</i>	100	93	97	88
	Market share (%)	3.1%	3.8%	3.4%	2.9%
	<i>Index (2008=100)</i>	100	125	111	95
	Av. price	932	667	773	824
	<i>Index (2008=100)</i>	100	72	83	88
Other countries	Volume (tonnes)	249 151	158 461	124 319	167 007
	<i>Index (2008=100)</i>	100	64	50	67
	Market share (%)	4.8%	4.1%	2.7%	3.5%
	<i>Index (2008=100)</i>	100	85	57	72
	Av. price	951	809	924	955
	<i>Index (2008=100)</i>	100	85	97	100
Total of all third countries except the PRC	Volume (tonnes)	637 274	534 167	453 637	545 562
	<i>Index (2008=100)</i>	100	84	71	86
	Market share (%)	12.3%	13.8%	10.0%	11.3%
	<i>Index (2008=100)</i>	100	112	81	92
	Av. price	929	735	842	898
	<i>Index (2008=100)</i>	100	79	91	97

Source: Eurostat

- (84) Given the small changes made to the data from the Union industry, this has also slightly affected the data concerning market shares of imports from third countries.

- (85) Some interested parties challenged the Commission's decision to open an investigation only against China, and not against India and South Korea, although the import volumes and price trends matched those of the PRC.
- (86) As set out in recitals (120) to (122) of the provisional Regulation, import volumes from India fell during the period considered, and imports from South Korea increased by only 4%. Indian prices dropped by 12% and South Korean prices remained stable, but at all times higher than those from China. The argument is therefore rejected as the Commission received no evidence or allegation of dumping and resulting injury from those countries.
- (87) The findings as set out in recitals (120) to (122) of the provisional Regulation are therefore confirmed.

7.2.2. Export performance of the Union industry

	2008	2009	2010	IP
Exports, Eurostat (tonnes)	669 790	612 204	580 477	605 760
<i>Index (2008=100)</i>	<i>100</i>	<i>91</i>	<i>87</i>	<i>90</i>
Average price (EUR/tonne)	1 068	937	995	1 092
<i>Index (2008=100)</i>	<i>100</i>	<i>88</i>	<i>93</i>	<i>102</i>
Exports by sampled Union producers	53 542	46 516	48 102	46 228
<i>Index (2008=100)</i>	<i>100</i>	<i>87</i>	<i>90</i>	<i>86</i>
Average selling price (EUR/tonne)	1 086	826	984	1 132
<i>Index (2008=100)</i>	<i>100</i>	<i>76</i>	<i>91</i>	<i>104</i>

Source: Eurostat and verified questionnaire replies

- (88) In the absence of comments on the export performance of the Union industry, the findings of recitals (123) to (124) are hereby confirmed.

7.2.3. Imports from the PRC by the Union industry

- (89) Some parties continued making allegations that contrary to that stated in recital (125) of the provisional Regulation, the import volumes of the Union industry from the PRC constituted up to 40% of total imports from the PRC. No evidence was provided for this allegation and it could not be confirmed. The allegation is therefore rejected.
- (90) Following final disclosure one importer claimed that the Union industry was importing large quantities of the product concerned from the PRC and used its re-sales data to demonstrate this.
- (91) The fact that the Union industry has imported quantities of the product concerned from the PRC is not in dispute. However, even using the importer's own data, the volume

claimed is less than 1% of total imports from the PRC and therefore negligible. As stated in recital (125) of the provisional Regulation, imports from the PRC by the Union industry were 2-3% of total imports during the investigation period.

(92) The findings of recital (125) of the provisional Regulation are therefore confirmed.

7.2.4. Captive use and captive sales

(93) Following final disclosure CISA again claimed that the Union industry was making OCS available to its related downstream businesses at a "subsidised" price, thereby undercutting their competitors in the downstream segment. However, no evidence was provided to change the Commission's conclusion in recital (127) of the provisional Regulation, i.e. that the price difference between related and unrelated sales was small (2%) and that this was not a case of self-inflicted injury.

(94) CISA also challenged the data on the cost of production of OCS and, in extension, the price of OCS to related parties. Given the sales price of hot-dipped galvanised coils, a raw material in the manufacture of OCS, they allege that the cost of production of OCS in the investigation period could not exceed 900 EUR/tonne.

(95) Whereas the Commission does not dispute the data provided by CISA regarding the production cost of hot-dipped galvanised coils, the cost of production of OCS was verified in all of the sampled Union producers. The Commission is satisfied that the full cost of production (raw materials, processing, coating, SG&A, finance costs etc.) is as set out in recital (74) above.

(96) CISA then claimed that the sale of OCS to related parties is made at a loss and is therefore a cause of injury to the Union industry. This is based on a comparison of the total cost of production (978 EUR/tonne) versus the average price of related sale (965 EUR/tonne).

(97) Whereas it is correct that a simple mathematical comparison would suggest that related sales were made at a loss, this would assume that the Union industry would incur the same level of SG&A and other sales overheads on their captive sales as on their unrelated ones. As stated in recital (105) of the provisional Regulation, sales to related parties were made on a 'cost plus' basis and therefore the Union Industry was recovering their costs on these sales.

(98) In the absence of other comments on this point the findings of recitals (126) to (127) of the provisional Regulation are hereby confirmed.

7.2.5. Economic crisis

(99) After the deadline for comments to the final disclosure an interested party noted the announced closure of a plant in Belgium, and that force majeure was causing difficulties to normal production and shipment from other facilities in Belgium. The interested party alleged that this shows the lack of security of supply of OCS in the EU and was a reason to allow importers and users to freely source their OCS from the EU and from China.

(100) These arguments are rejected. Given that capacity utilisation in the EU is low, the issue is not one of a problem of supply as the Union industry has adequate available

capacity. In any case the facilities being closed in Belgium did not manufacture OCS. Security of supply is of course important, but the proposed duties in this case are not designed to stop supply of OCS from China, merely to prevent that supply being dumped onto the EU market.

- (101) In the absence of other comments on this point the findings of recitals (128) to (129) of the provisional Regulation are hereby confirmed.

7.2.6. Structural overcapacity

- (102) Some parties made further allegations that the Union producers had a structural overcapacity, exceeding the total Union consumption. The allegation had been made at an earlier stage and was dealt with in recitals (130) to (132) of the provisional Regulation. In the absence of further evidence on this point, the conclusion of these recitals is therefore confirmed.

7.2.7. Increase in cost of production

- (103) Some parties made further allegations that a source of injury to the Union producers was an increase in their cost of production during the period considered. Data above shows that cost of production on average increased by only 6%. In the absence of dumped imports from the PRC the Union industry should be able to pass this increase on to its customers, yet prices fell by 3%. The claim that cost of production was a cause of injury is therefore rejected.

7.3. Conclusion on causation

- (104) Based on the above, the provisional findings as set out in recitals (133) to (136) of the provisional Regulation that the dumped imports from the PRC caused material injury to the Union industry within the meaning of Article 3(6) of the basic Regulation are maintained. The provisional findings about the effect of the other known factors which could have caused injury to the Union industry were also confirmed: these factors are not such as to break the causal link established between the dumped imports from the PRC and the injury suffered by the Union industry.

8. UNION INTEREST

8.1. Union industry

- (105) No new comments or information were received regarding the interest of the Union producers after disclosure of the provisional findings. Therefore recitals (138) to (143) of the provisional Regulation on the interest of these interested parties are hereby confirmed.

8.2. Importers, traders and users

- (106) Comments were received from importers and other interested parties following final disclosure, however no new comments or information were received regarding the interest of importers, traders or users. Therefore the provisional findings in recitals (144) to (152) of the provisional Regulation on the interest of these parties are hereby confirmed.

8.3. Conclusion on Union interest

(107) In view of the above, the provisional findings concerning Union interest are confirmed, i.e. there are no compelling reasons against the imposition of definitive measures on imports of OCS originating in the PRC.

9. DEFINITIVE ANTI-DUMPING MEASURES

9.1. Injury elimination level

(108) Following provisional disclosure, two interested parties claimed that the data provided did not give sufficient information and explanation on the calculation of the undercutting and underselling margins. As explained in the provisional disclosure, some values were not disclosed due to confidentiality as the model concerned was only manufactured by one or two Union producers. At the stage of final disclosure ranges for these models were disclosed.

(109) Interested parties also challenged the use of 6,7% as the target profit of the Union industry to calculate the injury margin. They claimed that such a profit is overstated and unrealistic given the current economic environment and that 2008 was not a representative year for profitability, as it was an exceptional year for the steel industry.

(110) This claim is rejected. Firstly, profitability for OCS was in fact higher before 2008 than in 2008, which contradicts the claim that 2008 is an exceptional year. Secondly, the target profit is the profit that can be obtained in the absence of dumped imports. 2008 was the last year where the full effects of the dumped imports had not yet been felt by the Union industry and therefore is a suitable basis for establishing the target profit.

(111) Following final disclosure interested parties again challenged the use of 6,7% as the target profit of the Union industry and the description of 2008 as a representative year for profitability. This argument is rejected as no evidence as to what the profit of the Union industry would have been in 2008 in the absence of the financial crisis was provided. In addition, their argument that the profit made by the Union industry in 2008 was affected by the financial crisis, making 2008 an exceptional year, would seem to point to an argument that the profit realised in 2008 is lower than the industry would expect in a normal year.

(112) Interested parties also pointed to the fact that import volumes from the PRC were at their lowest in 2009 rather than in 2008. However, given that the Union industry was not profitable in 2009, it is impossible to use 2009 data to set a target profit for the Union industry.

(113) CISA have further alleged that the profit to unrelated customers in 2008 cannot be used as the target profit because that year shows the largest price difference between related and unrelated sales. This argument was rejected, as this price difference is not relevant to the calculation of the profit of sales to unrelated customers.

(114) CISA then proposed that the target profit for sales of OCS to unrelated parties in the Union be based on the average overall profit for the multinational corporation ArcelorMittal for the years 2010 and 2011. This was rejected as a reliable source for the profit on OCS in the Union in the absence of dumped imports, because taking the

profit of the entire worldwide ArcelorMittal group is clearly not representative of profit on sales of OCS in the Union.

- (115) Interested parties also challenged the post-importation costs used to calculate the provisional duties as they were based on the data from only one importer. The Commission verified a second importer at a later stage and their data has been now used to calculate post-importation costs. By using an average of the two companies these costs have now dropped slightly, thereby increasing the injury margins accordingly.
- (116) One interested party challenged the Commission's methodology for the calculation of the underselling margin. However, this challenge was based on the erroneous assumption that the Commission had calculated the underselling margin by removing the average profit of the Union industry in the IP (2.6%) from the market price to get to the 'break-even point' (i.e. a price that would result in zero profit) and then adding the target profit onto this 'break-even point'.
- (117) The Commission calculated the underselling margin by adding the target profit to the cost of production of each product type. The methodology suggested by this interested party is flawed, because the average profit of 2.6% was not automatically achieved on each sale of each model by all companies from which the data was used.
- (118) One interested party also challenged the Commission's injury calculations. Given that that party did not have full access to the data used by the Commission to calculate the injury margin, it attempted to calculate it on its own, based on its understanding of the price difference on the market between aluminium-zinc alloy coated and zinc coated substrate, which it had calculated at USD 50 per MT. This 'recalculation', based on incomplete data, resulted in a lower injury margin than that which the Commission had calculated and disclosed.
- (119) Their arguments were rejected because following an analysis of the full data from both the exporting producers and the Union industry, the alleged price difference could not be found. Consequently, it should be underlined that the data which the interested party was using was incomplete and thus could not be relied upon to reproduce the Commission's injury calculations.
- (120) Recitals (154) to (158) of the provisional Regulation are hereby confirmed.

9.2. Definitive measures

- (121) In view of the conclusions reached with regard to dumping, injury, causation and Union interest, and in accordance with Article 9(4) of the basic Regulation, a definitive anti-dumping duty should be imposed on imports of OCS originating in the PRC at the level of the lower of the dumping and injury margins found, in accordance with the lesser duty rule. In this case, the duty rate should accordingly be set at the level of the injury found.
- (122) Seven companies that were not sampled cooperated with the anti-dumping investigation, but not the parallel anti-subsidy one. For these companies, the anti-dumping duty rate is set at zero. In the anti-subsidy investigation, these companies will be subject to the residual duty.

(123) In order to ensure equal treatment between any new exporting producers and the cooperating companies not included in the sample, provision should be made for the weighted average duty imposed on the latter companies to be applied to any new producers which would otherwise not be entitled to a review pursuant to Article 11(4) of the basic Regulation, as Article 11(4) does not apply where sampling has been used.

(124) On the basis of the above, the rate at which such duties will be imposed are set as follows:

Company Name	Subsidy margin	Dumping margin	Injury margin	Countervailing duty	Anti-dumping duty
Zhangjiagang Panhua Steel Strip Co., Ltd, Chongqing Wanda Steel Strip Co., Ltd, and Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd	29.7%	60.9%	55.8%	29.7%	26.1%
Zhejiang Huadong Light Steel Building Material Co. Ltd and Hangzhou P.R.P.T. Metal Material Company Ltd	23.8%	48.9%	29.7%	23.8%	5.9%
Union Steel China	26.8%	50.9%	13.7%	13.7%	0%
Other co-operating companies in the anti-dumping investigation (with the exception of the companies subject to the residual duty in the parallel anti-subsidy regulation)	26.8%	55.0%	43.0%	26.8%	16.2%
Non co-operating companies	44.7%	68.1%	58.3%	44.7%	13.6%

10. DEFINITIVE COLLECTION OF THE PROVISIONAL DUTY

(125) In view of the magnitude of the dumping margin found and in the light of the level of the injury caused to the Union industry, and taking into account that no provisional measures were imposed in the parallel anti-subsidy investigation, it is considered necessary that the amounts secured by way of provisional anti-dumping duty imposed by the provisional Regulation should be definitively collected to the extent of the amount of the provisional duty imposed. In these circumstances the provisional duty at the rates set out in Article 1(2) of Regulation (EU) No 845/2012 should be definitively collected. However amounts provisionally secured for products with a substrate with a metallic coating of chromium or tin should be released,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain organic coated steel products, i.e. flat-rolled products of non-alloy and alloy steel (not including stainless steel) which are painted, varnished or coated with plastics on at least one side, excluding so-called 'sandwich panels' of a kind used for building applications and consisting of two outer metal sheets with a stabilising core of insulation material sandwiched between them, excluding those products with a final coating of zinc-dust (a zinc-rich paint, containing by weight 70 % or more of zinc), and excluding those products with a substrate with a metallic coating of chromium or tin, currently falling within CN codes ex 7210 70 80, ex 7212 40 80, ex 7225 99 00, ex 7226 99 70 (TARIC codes 7210 70 80 11, 7210 70 80 91, 7212 40 80 01, 7212 40 80 21, 7212 40 80 91, 7225 99 00 11, 7225 99 00 91, 7226 99 70 11 and 7226 99 70 91), and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty shall be as follows:

Company	Duty (%)	TARIC additional code
Union Steel China	0%	B311
Zhangjiagang Panhua Steel Strip Co., Ltd, Chongqing Wanda Steel Strip Co., Ltd, and Zhangjiagang Free Trade Zone Jiaxinda International Trade Co., Ltd	26.1%	B312
Zhejiang Huadong Light Steel Building Material Co. Ltd and Hangzhou P.R.P.T. Metal Material Company Ltd	5.9%	B313
Angang Steel Company Limited	16.2%	B314
Anyang Iron Steel Co. Ltd	0%	B315
Baoshan Iron & Steel Co. Ltd	0%	B316
Baotou City Jialong Metal Works Co. Ltd.	16.2%	B317
Changshu Everbright Material Technology Co.Ltd.	16.2%	B318
Changzhou Changsong Metal Composite Material Co.Ltd.	16.2%	B319
Cibao Modern Steel Sheet Jiangsu Co Ltd.	0%	B320
Inner Mongolia Baotou Steel Union Co.Ltd.	16.2%	B321
Jiangyin Ninesky Technology Co.Ltd.	0%	B322
Jiangyin Zhongjiang Prepainted Steel Mfg Co.Ltd.	0%	B323

Jigang Group Co., Ltd.	16.2%	B324
Maanshan Iron&Steel Company Limited	16.2%	B325
Qingdao Hangang Color Coated Sheet Co. Ltd.	16.2%	B326
Shandong Guanzhou Co. Ltd.	16.2%	B327
Shenzen Sino Master Steel Sheet Co.Ltd.	16.2%	B328
Tangshan Iron And Steel Group Co.Ltd.	16.2%	B329
Tianjin Xinyu Color Plate Co.Ltd.	16.2%	B330
Wuhan Iron And Steel Company Limited	16.2%	B331
Wuxi Zhongcai New Materials Co.Ltd.	0%	B332
Xinyu Iron And Steel Co.Ltd.	0%	B333
Zhejiang Tiannu Color Steel Co. Ltd.	16.2%	B334
All other companies	13.6%	B999

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

Article 2

Amounts secured by way of provisional anti-dumping duty pursuant to Regulation (EU) No 845/2012 shall be definitively collected at the rate set in Article 1 of that Regulation. However amounts provisionally secured for products with a substrate with a metallic coating of chromium or tin should be released.

Article 3

Where any producer from the People's Republic of China provides sufficient evidence to the Commission that it did not export the goods described in Article 1(1) originating in the People's Republic of China during the period of investigation (1 October 2010 to 30 September 2011); that it is not related to an exporter or producer subject to the measures imposed by this Regulation; and that it has either actually exported the goods concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation, the Council, acting by simple majority on a proposal by the Commission, after consulting the Advisory Committee, may amend Article 1(2) in order to attribute to that producer the duty applicable to cooperating producers not in the sample.

Article 4

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

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

Done at Brussels,

*For the Council
The President*