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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 Federative Republic of Brazil, the Islamic Republic of Iran and the Russian Federation following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Having regard to Regulation (EU) 2015/477 of the European Parliament and of the Council of 11 March 2015 on measures that the European Union may take in relation to the combined effect of anti-dumping or anti-subsidy measures with safeguard measures ([2]), and in particular Article 1 thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations

(1) By Commission Implementing Regulation (EU) 2017/1795 ([3]), the European Commission ('the Commission') imposed anti-dumping duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel, originating in the Federative Republic of Brazil ('Brazil'), the Islamic Republic of Iran ('Iran'), the Russian Federation ('Russia') and Ukraine ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) On 18 January 2021, following a request lodged by the European Steel Association ('EUROFER' or 'the applicant'), the Commission initiated a partial interim review limited in scope to an examination of dumping as far as one Russian producer, PAO Severstal, was concerned. However, on 18 March 2022, EUROFER, withdrew its request and the review investigation was subsequently terminated by Commission Implementing Decision (EU) 2022/624 ([4]).

1.2. Request for an expiry review

(3)Following the publication of a notice of impending expiry ([5]) the Commission received a request for an expiry review of the original measures pursuant to Article 11(2) of the basic Regulation.

(4)The request for review was submitted on 4 July 2022 by EUROFER on behalf of the Union industry of certain hot-rolled flat products of iron, non-alloy or other alloy steel in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in recurrence and continuation of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

(5)Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 5 October 2022, an expiry review with regard to imports to the Union of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in Brazil, Iran, Russia and Ukraine on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([6]) ('the Notice of Initiation').

1.4. Termination of measures against Ukraine

(6)On 23 November 2022 the applicant withdrew its request for an expiry review investigation of the original measures as far as Ukraine was concerned. The Commission subsequently, on 16 February 2023, decided to terminate the expiry review investigation as far as imports from Ukraine were concerned in accordance with Article 9(1) of the basic Regulation and to continue the review investigation regarding imports from Brazil, Iran and Russia ([7]).

(7)Given that the expiry review investigation vis-à-vis Ukraine was terminated, the original measures against imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel, originating in Ukraine automatically lapsed 5 years after the imposition of the original measures.

1.5. Measures in force

(8)The anti-dumping measures currently in force, and which are subject to this expiry review investigation, are hence those applicable to imports from Brazil, Iran and Russia ('the countries concerned'). The measures are imposed in the form of a fixed duty per tonne and the duty rates range between 54,50 and 63,00 EUR/tonne for Brazil, 57,50 EUR/tonne for Iran and between 17,60 and 96,50 EUR/tonne for Russia.

1.6. Review investigation period and period considered

(9)The investigation of continuation or recurrence of dumping covered the period from 1 July 2021 to 30 June 2022 ('review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2019 to the end of the review investigation period ('the period considered').

1.7. Interested parties

(10) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, known Union producers, the known producers and the authorities in the countries concerned, known importers, users, traders as well as associations known to be concerned about the initiation of the expiry review and invited them to participate.

(11) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.8. Comments on initiation

(12) The Commission received comments on initiation from the Ministry of Economic Development of the Russian Federation and the Ministry of Industry and Trade of the Russian Federation ('GOR'), the Federal Government of Brazil ('GBR'), represented by the Mission of Brazil of the European Union, and the Brazilian producers Usinas Siderúrgicas de Minas Gerais S.A ('USIMINAS') and Companhia Siderúrgica Nacional ('CSN').

(13) The GOR recalled that the Union's sanctions resulting from Russia's unprovoked military aggression against Ukraine affected the imports of the product concerned. It added that on 26 March 2022 the Union imposed an import ban on Russian iron and steel products and alleged that since the second quarter of 2022 Russian imports of almost all types of HRF stopped. According to the GOR, these sanctions have a long-lasting nature and at the time of the investigation there were no signs that they would be softened. Therefore, the GOR claimed that the Commission should consider that sanctions have a bearing for the assessment of the likelihood of continuation of dumping – notably for the assessment of the attractiveness of the Union market and of the applicant's statement in the Request that third country markets could not absorb Russian steel capacity ([8]). In relation to the attractiveness of the Union market, the GOR argued that disruption of trade flows and supply chains due to the sanctions reduced the attractiveness of the Union market for Russian suppliers due to the perceived risk of trade restrictions. Moreover, according to the GOR, rekindling trade ties between the Union and Russia will require a lot of time and efforts. Finally, the GOR also claimed that likelihood of recurrence of injury could not be established due to the imposition of the Union's sanctions.

(14) First, as regards the GOR's claim that Russian imports of almost all types of HRF stopped as of the second quarter of 2022, the Commission noted that the fourth package of sanctions, to which the GOR referred to, imposed an import ban on only 21 out of 24 CN codes mentioned in recital 42 ([9]). However, importantly, according to Article 3g, paragraph 2 of Regulation (EU) No 833/2014 as amended by Regulation (EU) 2022/428, this import ban did not apply to the execution until 17 June 2022 of contracts concluded before 16 March 2022, or ancillary contracts necessary for the execution of such contracts. Therefore, except for the last 13 days of the review investigation period, sanctions did not have any impact on the imports of the product concerned from Russia. In addition, an import ban on the remaining 3 CN codes was imposed only after the review investigation period by virtue of the eighth package of sanctions ([10]). This latter import ban did not apply to the execution until 8 January 2023 of contracts concluded before 7 October 2022. Therefore, imports of the product concerned from Russia could continue also in the second quarter of 2022. Second, concerning the prospective impact of the sanctions on the product concerned from Russia, the

Commission recalled that those sanctions are linked to Russia's unprovoked military aggression against Ukraine and the underlying geopolitical situation. Their scope, modulation, and/or duration are therefore unpredictable. Furthermore, anti-dumping measures have a lifetime of five years. Considering these uncertainties and the fact that the Council may further amend the precise scope and duration of sanctions at any moment, the Commission found that they did not preclude the initiation of a review investigation and they cannot have a bearing in its conclusions on the likelihood of continuation or recurrence of dumping, neither with regard to the attractiveness of the Union market, nor with regard to the diversion of export flows to the Union due to the situation in third country markets, and on the likelihood of recurrence of injury. In particular, the GOR did not bring any evidence to support the view that specifically the resumption of dumped imports of the product concerned from Russia will require a lot of time and efforts. Therefore, this claim was rejected.

(15) The GOR furthermore claimed that the information referred to in the request concerning the planned capacity expansion, based on the OECD report on Latest Developments in Steelmaking Capacity for 2021 ([11]), was not accurate. In particular, the GOR alleged that none of the steelmaking projects in Russia listed in the request had been implemented and that the company Don-Metal was a trader of metal scrap and not a producer. In addition, according to the GOR, the company Novolipetsk Steel (NLMK) was not expanding its capacity, as reported in the request based on a press report of Steel Business Briefing ('SBB') but was carrying out environmental modernization of the existing steelmaking production.

(16) The Commission noted that, even without considering the pieces of evidence contested by the GOR, the evidence of overcapacity submitted by EUROFER ([12]) in the request remained unchallenged. While it is true that an expiry review is a forward-looking exercise and that planned capacity expansion can indeed play a role in assessing whether dumping is likely to continue or to recur, existing overcapacity – as opposed to future overcapacity – is a much stronger indicator of likelihood. Therefore, the request included sufficient evidence to justify the initiation of the expiry review and this claim was rejected.

(17) Furthermore, the GOR claimed that Annex 5 of the non-confidential version of the request did not include the dumping calculation for Russia and that the bundle of annexes labelled as 'HRFS_ER_Annexes_Part1' did not include any data on the export price.

(18) The Commission noted that, while the file in Annex 5 labelled as 'Dumping margin calculation 4 countries' inadvertently included only the first page of the document, the request for review provided all the necessary elements for the dumping calculation ([13]) and indicated the resulting average dumping margin for the countries concerned ([14]). Indeed, as shown by recital 19, the GOR run the dumping calculation for Russia based on the data of the request for review and provided comments on it. In particular, concerning the data on the export price, as it was clear from the request for review ([15]), EUROFER based the export prices for its calculation on CIF prices from Eurostat data, which are publicly available, and, alternatively, on FOB prices from Trade Data Monitor ('TDM') export data, both appropriately adjusted to EXW prices. As explained in the request for review ([16]), TDM export data were provided in Annex 6. Annex 6 was part of the bundle of annexes mentioned by the GOR, the same as Annex 5. Therefore, this claim was rejected. In any case, on 18 November 2022 EUROFER submitted the complete Annex 5 so that all interested parties could submit comments in due course.

(19) Finally, the GOR claimed that the only export price that it could find in the request for review was the Russian export price to the Union from Eurostat which, for the period identified in the request, was set at EUR 823 per tonne ([17]). When comparing it with the normal value for the same period, adjusted by the estimated inland freight, thus corresponding to EUR 650-750 per tonne, it argued that Russian imports were not dumped on the Union market.

(20) The Commission noted that in the request for review EUROFER submitted two sets of Russian domestic prices in Annex 5: EXW prices from the Developing Markets Steel Review published by MEPS International Ltd. ('MEPS') and CPT prices from SBB ([18]). As shown in Annex 5, EUROFER calculated the dumping margin in the request based on domestic data from MEPS. Indeed, data from MEPS were provided also for Brazil and Ukraine (contrary to data from SBB, which were only available for Russia) and EUROFER calculated the dumping margin consistently across three of the countries concerned with data from the same source. Then, EUROFER made two parallel dumping calculations, comparing domestic prices from MEPS both to export prices from Eurostat and from TDM at EXW level. In both instances, EUROFER found dumping. Instead, the GOR arbitrarily chose to use only CPT domestic prices from SBB. Then, it adjusted CPT domestic prices from SBB to EXW level by the estimated inland freight. Conversely, it did not make any adjustment to the CIF export price from Eurostat. Therefore, it wrongly compared EXW domestic prices with CIF export prices. Thus, the claim was rejected.

(21) USIMINAS stated that the methodology used by EUROFER to show the *prima facie* existence of recurrence of dumping of imports from Brazil, and in particular for determining the Brazilian export using data from Türkiye, Chile and Portugal, is not applicable in this case, and has been misapplied. According to USIMINAS, pursuant to Articles 2(8) and 2(9) of the basic Regulation, the export price can only be constructed when there are no exports to the Union. Given that in this case, there were exports from Brazil to the Union during the reporting period, USIMINAS argued that the request for review should have used the actual export prices of Brazil to the Union and thus the Commission was wrong to accept the information submitted in the request for review.

(22) The Commission recalled that in accordance with Article 11(2) of the basic Regulation, an expiry review shall be initiated where the request for review contains sufficient evidence that the expiry of the measures would likely result in a continuation or recurrence of dumping and injury. In the request for review, the applicant argued that the expiry of the measures would result in the recurrence of dumping from Brazil, and that imports would flood back the Union market at dumped prices, in line with their current prices in third country markets. To support its argument, and in view of the small volumes of imports from Brazil to the Union during the reporting period, the applicant used export prices from Brazil to all third countries, and separately to Türkiye, Chile and Portugal. The Commission considered that these prices were a relevant element for its assessment of the merits of the file, and that together with other information provided by the applicant, constituted sufficient evidence, meeting the requirements of Article 11(2) for the initiation of the investigation. Therefore, the claim was rejected.

(23) USIMINAS, claimed that the Commission should not have accepted EUROFER's cumulative analysis as sufficient *prima facie* evidence for initiation of the case. Furthermore, USIMINAS, CSN, and the GBR submitted that a cumulative assessment of the effects of the imports from the countries concerned was not warranted, in light of the different conditions of competition between

imports from Brazil and the imports from the other investigated countries, the negligible import volumes, and the price development of imports from Brazil.

(24) The Commission disagrees with this claim. Indeed, the request for review claimed a fragile situation for the Union industry with a likelihood of recurrence of injury. The applicant thus had to provide evidence about the likely evolution of Brazilian imports in the absence of measures. In this respect, the request looked at factors such as overcapacity in Brazil, the price level of Brazilian exports to third countries, and the attractiveness of the Union market (including an undercutting calculation for Brazil). All of these factors were analysed individually for Brazil rather than on a cumulative basis. The actual volume of imports was indeed provided on a cumulative basis, but this was not as such the basis for reaching a conclusion on recurrence of injury. Therefore, the request for review was deemed to contain sufficient evidence for initiation of the case.

1.9. Sampling

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

1.9.1. *Sampling of Union producers*

(26) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of representativity in terms of size of the production and sales volume of the product under review whilst the geographical location was also considered. This sample consisted of three Union producers. The sampled Union producers accounted for 25 % of the estimated total production volumes and 26 % of sales of the like product in the Union. In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No substantive comments were received and the provisional sample was confirmed.

1.9.2. *Sampling of importers*

(27) 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.

(28) However, no unrelated importer came forward and provided the requested information.

1.9.3. *Sampling of producers in the countries concerned*

(29) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all producers in the countries concerned to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Missions of Brazil, Iran and Russia to identify and/or contact other producers, if any, that could be interested in participating in the investigation.

(30) Four producers in Brazil provided the requested information and agreed to be included in the sample.

(31) In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two groups of producers made up of three producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available, covering 98 % of the total export volume to the Union from Brazil in the review investigation period. In

accordance with Article 17(2) of the basic Regulation, all known producers concerned, and the authorities of Brazil were consulted on the selection of the sample. No comments were received on the sampling.

(32) In the case of Iran, one producer submitted a sampling reply. Therefore, in view of the low number of producers coming forward, sampling was not necessary.

(33) In the case of Russia, the Commission did not receive any sampling replies from the Russian producers.

1.10. Replies to the questionnaire

(34) The Commission sent links to questionnaires to the only Iranian producer who came forward, to the sampled Brazilian, and Union producers. The same questionnaires had also been made available online ([19]) on the day of initiation.

(35) Questionnaire replies were received from the three sampled Union producers, the two sampled Brazilian groups of producers and the Iranian producer.

1.11. Verification

(36) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. The Commission performed remote cross-checkings (RCCs) of the information provided by the following companies via videoconference:

Union producers

— ArcelorMittal Poland (Dąbrowa Górnicza, Poland)

— Tata Steel Ijmuiden (IJmuiden, The Netherlands)

— ThyssenKrupp Steel Europe AG (Duisburg, Germany)

Exporting producer in Iran

— Mobarakeh Steel Company (Mobarakeh, Esfahan, Iran)

(37) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Exporting producers in Brazil

— ArcelorMittal Brasil S.A (Serra, Brazil)

— Companhia Siderúrgica Nacional (São Paulo, Brazil)

1.12. Disclosure

(38) On 25 October 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.

(39) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. USIMINAS requested and was granted a hearing with the Commission services on 10 November 2023.

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

(40) The product under review is the same as in the original investigation namely 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 ('HRF' or 'product under review').

(41) The following products are not covered by this review:

— products of stainless steel and grain-oriented silicon electrical steel,

— products of tool steel and high-speed steel,

— products, not in coils, without patterns in relief, of a thickness exceeding 10 mm and of a width of 600 mm or more, and

— 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.

(42) The product under review is 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 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225191090), 7225 30 90, ex 7225 40 60 (TARIC code 7225406090), 7225 40 90, ex 7226 19 10 (TARIC codes 7226191091, 7226191095), 7226 91 91 and 7226 91 99.

(43) Hot-rolled flat steel products are produced through hot rolling. This is a metal forming process in which hot metal is passed through one or more pairs of hot rolls to reduce the thickness and to make the thickness uniform, whereby the temperature of the metal is above its recrystallization temperature. They can be delivered in various forms; in coils (oiled or not oiled, pickled or not pickled), in cut lengths (sheet) or in narrow strips.

(44) There are two main uses of the hot-rolled flat steel products. First, they are the primary material for the production of various value-added downstream steel products, starting with cold-rolled flat and coated steel products. Second, they are used as an industrial input purchased by end users for a variety of applications, including in construction (production of steel tubes), shipbuilding, gas containers, cars, pressure vessels and energy pipelines.

2.2. Product concerned

(45) The product concerned by this investigation is the product under review originating in Brazil, Iran and Russia.

2.3. Like product

(46) As established in the original investigation, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned when exported to the Union,

— the product under review produced and sold on the domestic market of Brazil, Iran and Russia,

— the product under review produced and sold by the exporting producers to the rest of the world, and

— the product under review produced and sold in the Union by the Union industry.

(47) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. DUMPING

3.1. Federative Republic of Brazil

3.1.1. *Preliminary remarks*

(48) During the review investigation period, imports of product under review from Brazil continued albeit at lower levels than in the investigation period of the original investigation (i.e. from 1 July 2015 to 30 June 2016). Imports of HRF from Brazil accounted for about 1,38 % of the Union market in the review investigation period compared to 1,79 % market share during the original investigation. In absolute terms the volume of imports from Brazil decreased from 608 541 tonnes in the original investigation period to 478 692 tonnes in the review investigation period.

3.1.2. *Dumping*

3.1.3. *Normal value*

(49) The Commission first examined whether the total volume of domestic sales for each sampled exporting producer was representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales 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 under review to the Union during the review investigation period. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.

(50) 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.

(51) The Commission then examined whether the domestic sales by each sampled exporting producer on its 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 review investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union. The Commission established that domestic sales were representative for all but one product type exported to the Union market by one of the sampled exporting producer.

(52)The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the review investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.

(53)The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:

(a)the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and

(b)the weighted average sales price of that product type is equal to or higher than the unit cost of production.

(54)In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the review investigation period.

(55)The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the review investigation period, if:

(a)the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type; or

(b) the weighted average price of this product type is below the unit cost of production.

(56)The analysis of domestic sales showed that more than 80 % of all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the prices of all domestic sales during the review investigation period.

(57)For the product type not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made on the domestic market were added to the cost of production of the product type as there were no sales of this product type from other Brazilian producers.

3.1.4. *Export price*

(58)The sampled exporting producers exported to the Union to related companies. The related companies located in the Union mainly used HRF to manufacture other products. The investigation did not reveal that the related companies who submitted a questionnaire reply purchased HRF from unrelated companies. Thus, the Commission was not able to confirm whether the related price was an arm's length price, as compared with the original investigation when the Commission confirmed that the related prices were arm's length prices.

(59)Nevertheless, since in an expiry review investigation there is no need to determine a dumping margin but only likelihood of continuation or recurrence of dumping, the Commission considered it appropriate to use such an export price as established in accordance with Article 2(8) of the basic Regulation.

3.1.5. *Comparison*

(60) The Commission compared, per product type, the normal value and the export price of the sampled exporting producers on an ex-works basis as established above.

(61) 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 expenses and packaging.

3.1.6. *Dumping margins*

(62) For the sampled exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product under review, in accordance with Article 2(11) and (12) of the basic Regulation.

(63) On this basis, the indicative weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, was 16,2 % and 18,7 % for the sampled producers respectively. It was therefore concluded that dumping continued during the review investigation period.

(64) In their comments to the final disclosure CSN claimed that its dumping margin as calculated by the Commission was likely to be overstated. In particular, in view of the fact that the Commission was not able to establish that CSN's export sales to its related company in the EU were at arm's length, it was likely that these sales were made at prices that were lower than free market prices. This was because according to CSN, transfer prices are generally lower that free market prices. Furthermore, in view of the high inflation in Brazil and the fluctuation of the exchange rate, it would be more appropriate to calculate the dumping margin using monthly averages for the normal value and export price, rather than averages over the entire review investigation period. Based on such methodology, CSN claimed that there would still be dumping but slightly lower.

(65) The Commission noted that CSN did not substantiate the claim regarding the transfer price. Furthermore, even if the dumping calculation methodology suggested by CSN would be accepted, the difference in the dumping margin would be small and therefore would not change the conclusions on the continuation of dumping. In view of the above, CSN's comments were rejected.

3.2. Islamic Republic of Iran

3.2.1. *Preliminary remarks*

(66) During the review investigation period, imports of HRF from Iran virtually disappeared. The Commission analysed the likelihood of recurrence of dumping in the next section.

3.3. Russian Federation

3.3.1. *Preliminary remarks*

(67) During the review investigation period, imports of product under review from Russia continued albeit at lower levels than in the investigation period of the original investigation. According to

Eurostat, imports of HRF from Russia accounted for about 3,55 % of the Union market in the review investigation period compared to 4,29 % market share during the original investigation. In absolute terms the volume of imports from Russia decreased from 1 455 436 tonnes in the original investigation period to 1 224 699 tonnes in the review investigation period.

(68) As mentioned in recital 33, none of the exporters/producers from Russia cooperated in the investigation. Therefore, on 27 October 2022, by way of the Note to the file on the sample of exporting producers, the Commission informed all interested parties that, due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation with regard to the findings relating to Russia. The Commission did not receive any comments in this regard.

(69) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular publicly available information such as official company websites, information in the request for review, and information obtained from cooperating parties in the course of the review investigation (namely, the applicant).

3.3.2. *Dumping*

3.3.3. *Normal value*

(70) Due to the lack of cooperation from Russian producers, the Commission used facts available for establishing normal value in Russia. To this end, the information submitted by the applicant was used.

(71) The Commission was not able to retrieve publicly available data on domestic prices of HRF in Russia. Thus, normal value was based on the domestic prices in Russia established from average domestic price lists for hot-rolled coils from MEPS during the review investigation period, to which processing costs were added to obtain the price of HRF. To get to ex-work prices, the inland transport costs were deducted as estimated by the applicant in the request for review.

3.3.4. *Export price*

(72) In the absence of cooperation by the Russian producers, the export price was determined based on CIF Eurostat import data corrected to ex works level. Thus, the CIF price was reduced by the freight train and domestic transport cost as estimated by the applicant in the request for review.

3.3.5. *Comparison*

(73) The Commission compared the normal value and the export price on an ex-works basis as established above.

3.3.6. *Dumping margin*

(74) On this basis, the indicative dumping margin expressed as a percentage of the CIF Union frontier price, duty unpaid, was around 5 %. It was therefore concluded that dumping continued during the review investigation period.

4. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

4.1. Federative Republic of Brazil

(75) Further to the finding indicating the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures lapse. The following additional elements were analysed: the production capacity and spare capacity in Brazil and the attractiveness of the Union market.

4.1.1. *Production capacity and spare capacity in Brazil*

(76) In the request for review, the applicant provided information concerning production capacity, production, consumption and spare capacity in Brazil.

(77) In terms of spare capacity of HRF, the applicant stated that based on CRU data ([20]) there was an existing spare capacity for the year 2020 of over 6,6 million tonnes compared to the level of production of HRF in Brazil ([21]). In this regard, the Commission noted that the spare capacity calculations submitted by the applicant use the nominal ('nameplate') capacity, that is the maximum capacity that can be theoretically achieved under ideal conditions, for instance, producing a specific product mix and without taking into account any planned or unplanned maintenance breaks. For the calculation of the spare capacity in this case, the Commission considered it more appropriate to use, where available, the production capacity that represents the maximum quantity that can realistically be produced taking such factors into account.

(78) The investigation revealed that during the review investigation period the sampled exporting producers had increased their capacity utilisation with respect to 2019 and 2020 and were producing close to their production capacity, with utilisation rates of more than 90 %. Therefore, the spare capacity for the sampled exporting producers was found to be limited in the review investigation period. However, this has to be seen in the context of Brazilian imports to the Union continuing at only slightly reduced levels compared to the original period of investigation.

4.1.2. *Exports to third countries and attractiveness of the Union market*

(79) The Commission examined whether it was likely that Brazilian exporting producers would increase their export sales at dumped prices on the Union market should measures be allowed to lapse. Therefore, the Commission analysed the price level of Brazilian producers on their domestic market as well as the Brazilian exports to third country markets and compared them to the price level of the Union industry.

(80) The investigation revealed that the domestic prices in Brazil of the sampled exporting producers were higher than the prices of the Union industry on the Union market during the period considered, with the exception of the prices of one sampled exporting producer in 2020.

(81) As concerns the prices to third countries, for the sampled exporting producer with significant export sales to third countries the prices to third countries were generally lower (by 12 % on average) during the period considered than the prices of the Union producers on the Union market. This is consistent with price comparison data from GTA, showing that the export price to third countries of

all Brazilian exporters is lower than the prices on the Union market throughout the period considered.

(82) Furthermore, in order to have an indication of the likely pricing behaviour when exporting to the Union in the absence of measures, the Commission also compared the Brazilian export price to third countries with the Brazilian normal value for the sampled exporting producer that also exported to third countries. The comparison was made at ex-works level. On this basis, the normal value was found to be higher than the export price to third countries, with the difference expressed as a percentage of the CIF frontier price at around 20 %.

(83) The Commission also noted that in the review investigation period the sampled exporting producers increased significantly the share of the exports to the Union in their total sales, in terms of volume. It is recalled that these sales were made at dumped prices. Thus, it is likely that, should the measures lapse, dumped imports would continue increasing.

(84) The GBR claimed that the Brazilian HRF producers are focused on serving their domestic and regional markets and have no incentive to increase their exports to the Union.

(85) The investigation revealed that for the sampled exporting producers more than 50 % of their sales during the RIP were indeed made on the domestic market. However, the aforementioned increase of their exports to the Union as a share of their total sales occurred even if the prices on the Brazilian domestic market were higher than the prices of the Union industry.

(86) In their comments following disclosure, the GBR reiterated its claim that Brazilian HRF producers lack the incentives to increase their exports to the Union and referred to the alleged focus of Brazilian producers on the domestic and regional markets, the limited spare capacity in Brazil, the EU Carbon Border Adjustment Mechanism (CBAM), and the EU safeguard duties on imports of certain steel products.

(87) As regards the focus markets and the available spare capacity of Brazilian producers, as mentioned in recital 81, the Union market is more attractive than other export markets. In view of this fact, the limited spare capacity in Brazil would not prevent a further increase of exports to the Union. Therefore, these claims were rejected. As regards the arguments on the CBAM and the safeguard measures, these are addressed in recital 211 below.

4.1.3. *Conclusion*

(88) The Commission concluded that, in view of the fact that Brazilian imports at dumped prices only slightly decreased as compared to the original investigation, the attractiveness of the Union market in terms of prices and the fact that prices of exports from Brazil to third countries are below domestic prices, it is likely that Brazilian producers will continue to export to the Union at dumped prices in case the measures are allowed to lapse.

4.2. Islamic Republic of Iran

(89) In view of the absence of exports from Iran to the Union during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of recurrence of dumping, should the measures be repealed. The following elements were analysed:

the production capacity and spare capacity in Iran, the attractiveness of the Union market and export prices to third countries.

4.2.1. *Production capacity and spare capacity in Iran*

(90) In the request for review and in subsequent submissions, the applicant provided calculations of the HRF steel capacity and spare capacity in Iran based on two sources of information, Plantfacts and CRU ([22]). According to these calculations, Iran had at its disposal significant spare capacity in the review investigation period. As in the case of Brazil as explained in recital 77, the Commission considered that these calculations use the nominal capacity and that it would be more appropriate for its assessment to use the production capacity, where available.

(91) The investigation established that the cooperating exporting producer from Iran was producing close to its production capacity during the review investigation period and therefore, its spare capacity was limited during the review investigation period.

(92) However, the investigation also revealed that the company had started the construction of a new hot strip mill to increase significantly its HRF steel capacity. According to statements attributed to the managing director of the company in January 2020 ([23]), the project would add up to 4,5 million tonnes of annual HRF capacity and was planned for completion within 900 days.

(93) During the remote cross-check, which was carried out over video-conference, the company stated that the project was facing significant delays, however without providing proper evidence in this regard. Moreover, the company claimed that the new hot strip mill was aimed to serve only the domestic market due to the significant growth that was expected in this market. To substantiate this claim, the company presented an internal forecast showing its projections of the evolution of the domestic market.

(94) The Commission noted that if the company's projections materialised (under the most likely scenario for the evolution of the domestic market), taking into account the current market share of the company, the operation of the new hot strip mill would result in a spare capacity, well in excess of 1 million tonnes per annum.

(95) Based on the above, the Commission concluded that within the next years, there will be significant spare capacity available in Iran, which could be used for exports, including exports to the Union.

4.2.2. *Attractiveness of the Union market and export prices to third countries*

(96) The Commission examined whether it was likely that Iranian exporting producers would start exporting the product under review at dumped prices on the Union market should measures be allowed to lapse. For that purpose, the Commission compared the price level of the exports of the cooperating Iranian producer to third countries to the price level of the Union industry and the price level of the cooperating Iranian producer on the domestic market with the price level of its exports to third country markets.

(97) The Commission compared the CIF export prices to third countries from Iran, as provided by the cooperating producer in its questionnaire reply, with the Union industry's prices. Export prices to third countries were found to be at least 14 % lower than the Union industry prices in the review investigation period. Therefore, the Union market is more attractive compared to other possible

export destinations of the product under review and Iranian producers have an economic incentive to shift exports to the Union, should measures be allowed to lapse.

(98)Furthermore, in order to have an indication of the likely price behaviour to the Union in the absence of measures, the Commission also compared the Iranian export price to third countries with the Iranian normal value using the data provided by the cooperating exporting producer for the review investigation period. The comparison was made on an ex-works basis. On this basis, the price difference between the normal value and export prices to third countries established as a percentage of the CIF frontier price was around 3 %. However, during the remote cross-check process it was not possible to verify that the total value of the export transactions had been paid. Therefore, the Commission considered that the actual export prices to third countries could be even lower, and that the above difference between domestic and export prices could be even higher. This suggests that, should measures be repealed, and the prices at which the Iranian exporting producer would export the product concerned to the Union are in line with the other third countries observed during the review, the dumping margins would likely be significant.

(99)In their comments following final disclosure, the cooperating Iranian producer claimed that the Commission's assessment was incorrect because there was no continuation of dumping The exporting producer also contested the conclusions in relation to spare capacity. As the comments provided by the company are based on confidential information, the Commission addressed them on a separate document sent to only to the company.

4.2.3. *Conclusion*

(100)The Commission concluded that due to the spare capacity expected to become available in Iran, the attractiveness of the Union market and the fact that prices of exports from Iran to third countries are below domestic prices, there is a high likelihood of recurrence of dumping from Iran in case the measures are allowed to lapse.

4.3. Russian Federation

(101)Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in Russia, the attractiveness of the Union market and the possible absorption capacity of third-country markets.

4.3.1. *Production capacity and spare capacity in Russia*

(102)In the request for review, the applicant provided information concerning production capacity, production, consumption and spare capacity in Russia.

(103)In terms of production capacity of HRF, the applicant provided two sets of sensitive CRU data subject to copyright ([24]). In addition, it submitted ([25]) the OECD report on Latest Developments in Steelmaking Capacity for 2021 ([26]). In terms of production of HRF, the applicant provided the same two sets of sensitive CRU data subject to copyright ([27]), as well as alternative sensitive data from Plantfacts subject to copyright ([28]). In addition, it submitted an excerpt of the OECD report on Steel Market Developments for the fourth quarter of 2021 ([29]). In terms of consumption and spare capacity of HRF, the applicant provided a set of sensitive CRU data subject to copyright ([30]).

(104) Due to the lack of cooperation of the Russian exporting producers, the Commission based its findings concerning the production capacity of HRF in Russia in the review investigation period on the crude steelmaking capacity reported in the OECD report on Latest Developments in Steelmaking Capacity, apportioned to HRF based on data from the World Steel Association ('Worldsteel'). First, the latest OECD report on Latest Developments in Steelmaking Capacity showed an increasing trend of production capacity of crude steel in Russia ([31]), corresponding to an average of 90,5 million tonnes of crude steelmaking capacity in the review investigation period. Worldsteel reported that HRF (including hot-rolled strip products) and hot-rolled coils (which are, as reported by the applicant, the form in which HRF are usually exported ([32])) amounted to an average of 21,7 % of the global export volume of steel finished products (thus excluding ingots and semi-finished products) in the review investigation period ([33]). This percentage for HRF was applied to the crude steelmaking capacity in Russia, resulting in a production capacity of HRF in Russia of 19,6 million tonnes during the review investigation period.

(105) The Commission based its findings concerning the production of HRF in Russia in the review investigation period on apportioned data on crude steel production from Worldsteel. Indeed, Worldsteel reported an average production of crude steel in Russia 74,3 million tonnes during the review investigation period ([34]). Applying the same share of HRF reported above, the Commission found that Russia produced 16,1 million tonnes of HRF in the review investigation period, as a conservative estimate.

(106) The Commission based its findings concerning the consumption of HRF in Russia in the review investigation period on apportioned data on crude steel consumption from Worldsteel. In fact, Worldsteel an average consumption of crude steel in Russia of 42,8 million tonnes in the review investigation period ([35]). Applying the same share of HRF and hot-rolled coils reported above, the Commission found that Russia's consumption of HRF in the review investigation period amounted to 9,3 million tonnes, as a conservative estimate.

(107) Based on the above data, the Commission found that Russia had a spare capacity of 3,5 million tonnes when compared to production during the review investigation period, which is 10 % of the free market consumption in the Union. Moreover, when comparing the production capacity with domestic consumption, consumption fell short of capacity by 10 million tonnes during the review investigation period, which is almost 30 % of the free market consumption in the Union.

(108) Excess in production capacities is an incentive to continue exporting. It is clear that Russian producers must exploit all existing possibilities to increase production to fully benefit from their installed capacities. The most obvious way is to penetrate any open market worldwide and very likely at dumped prices as it is still the case in the current investigation.

(109) Based on the above facts and considerations, the Commission concluded that Russian producers have sufficient spare capacities, which could be used for exporting HRF at dumped prices to the Union if the measures were allowed to lapse.

4.3.2. *Attractiveness of the Union market*

(110)The Commission examined whether it was likely that Russian producers would increase their export sales at dumped prices to the Union market should measures be allowed to lapse. Therefore, the Commission analysed the price level of Russian producers on their domestic market, as well the price level of Russian exports to third country markets, and compared them to the price level of the Union industry.

(111)The Russian export volumes and prices used to determine the attractiveness of the Union market were established based on facts available in accordance with Article 18 of the basic Regulation and based on GTA data and information in the request for review.

(112)The Commission compared the Russian domestic prices used to establish the normal value with the Union industry's prices in the review investigation period. The comparison showed that the average Russian domestic prices were 17 % lower than the Union industry's prices. Prices in the Union were therefore more attractive than prices in Russia.

(113)Moreover, the Commission compared Russian FOB export prices to third countries from the GTA database, adjusted by the freight train cost from Russia to the Union indicated in the request for review, with the Union industry's prices. However, the GTA database did not include data for 2022 because Russian customs authorities suspended the publication of statistics until further notice following Russia's unprovoked military aggression against Ukraine. Therefore, the Commission used 2021 data and deemed them to be applicable also to the first half of 2022. Export prices to third countries in 2021 were approx. 21 % lower than Union industry's prices in the review investigation period. Therefore, the Union market is more attractive compared to other possible export destinations of the product concerned and Russian producers have an economic incentive to shift exports to the Union, should measures be repealed.

(114)Furthermore, in order to have an indication of the likely pricing behaviour to the Union in the absence of measures, the Commission also compared Russian FOB export prices from the GTA database, adjusted for the transport cost in Russia indicated in the request for review, with Russian domestic prices used to establish the normal value. Thus, the comparison was made at ex-works level. For the reasons mentioned above, the Commission used 2021 data and deemed them to be applicable also to the first half of 2022. On this basis, the price difference between Russian export prices to third countries in 2021, adjusted by the transport cost in Russia, and the normal value was approximately 15 % of the CIF frontier price to the Union. The normal value being higher by 15 % confirms that, should measures lapse, Russian exports to the Union would likely be made at a price lower than Russian domestic prices.

4.3.2.1. Possible absorption capacity of third country markets

(115)In addition to the above, the Commission found that trade defence measures on exports of the product concerned from Russia are in force in Indonesia, Mexico, Thailand, the United Kingdom and the United States of America ([36]). As a consequence, these third country markets, which are significant consumers of steel products, are less attractive for the Russian exporting producers. This is an additional element which supports the finding that Russia's current production capacity would most likely end in the Union market, should measures be repealed.

4.3.3. *Conclusion*

(116) Considering the significant spare capacity in Russia and taking into account the evidence on the attractiveness of the Union market, the Commission concluded that should the measures lapse, it is likely that the Russian exporting producers would activate the spare capacity and likely even redirect exports from third countries towards the Union market at dumped prices and in significant volumes.

(117) In view of its findings on the continuation of dumping during the review investigation period and on the likely development of exports should the measures lapse, the Commission concluded that there was a strong likelihood that the expiry of the anti-dumping measures on imports from Russia would result in the continuation of dumping.

5. INJURY

5.1. Definition of the Union industry and Union production

(118) According to the applicant the like product was manufactured by 21 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(119) The total Union production of the product under review during the review investigation period was established at around 70 million tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the request for the expiry review, the verified questionnaire replies and the macro questionnaire reply submitted by EUROFER. As indicated in recital 26, the Union producers selected in the sample represented 25 % of the total Union production of the like product during the review investigation period.

5.2. Union consumption

(120) The product under review is regarded as a primary material for the production of various value-added downstream products, starting with cold-rolled products. Given that the Union industry is mostly vertically integrated and produces both the product under review and downstream products, both the captive and free market were analysed separately, where appropriate.

(121) The distinction between captive and free market is relevant for the injury analysis because products destined for the captive market are not exposed to direct competition from imports, and transfer prices are set within the groups according to various price policies. By contrast, production destined for the free market is in direct competition with imports of the product concerned, and prices are set according to market conditions. The total free market includes sales of Union producers to unrelated customers and non-captive sales to related companies.

(122) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire activity of the Union industry related to the like product and determined whether the production was destined for the captive or the free market. The Commission found that more than 50 % of the total Union production of the like product was destined for the captive market during the review investigation period.

(123) The Commission established the Union free market consumption on the basis of (a) the sales on the Union market of all known producers in the Union, as reported in the macro questionnaire reply

from EUROFER and (b) the imports to the Union from all third countries as reported by Eurostat. The Union captive market consumption was established on the basis of the captive use and captive sales on the Union market of all known producers in the Union, as reported in the macro questionnaire reply from EUROFER.

(124) Union consumption developed as follows:

Table 1

Union consumption

	2019	**2020**	**2021**	**Review investigation period**
Total Union consumption	74 399 168	64 954 323	75 357 797	74 386 585
Index	100	87	101	100
Captive market	42 010 993	36 988 575	40 424 417	39 811 331
Index	100	88	96	95
Free market	32 388 175	27 965 748	34 933 380	34 575 254
Index	100	86	108	107
Source: Eurostat (), Macro questionnaire reply from EUROFER.				

(125) Total Union consumption sharply dropped by 13 % in 2020 due to a slump in demand caused by the Covid-19 pandemic. This decrease was however followed by a recovery driven by the rebound in steel demand which occurred in 2021 and continued during the review investigation period. Overall, during the review investigation period, total Union consumption was able to bounce back to 2019 levels.

(126) The captive market consumption trend was nearly identical to the total Union consumption trend, declining sharply in 2020 by 12 %, followed by a recovery in the post-Covid-19 period. Captive market consumption, however, reached only 95 % of 2019 levels.

(127) Free market consumption followed a similar trend to that of total Union consumption. It decreased sharply by 14 % in 2020 and recovered strongly during the review investigation period, increasing by 7 % compared to 2019.

5.3. Imports from the countries concerned

5.3.1. *Volume and market share of the imports from the countries concerned*

(128) As noted in recital 35, there was no cooperation from any producer in Russia, whereas there was cooperation from one Iranian and four Brazilian producers out of which the Commission sampled two producers.

(129)The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established on the basis of a comparison between import volumes and the Union free market consumption, as reported in Table 1 above.

(130)Imports to the Union from the countries concerned developed as follows:

Table 2

Import volume (tonnes) and market share

	2019	**2020**	**2021**	**Review investigation period**
BRAZIL ([38])	91 725	174 104	185 506	478 692
Index	100	190	202	522
Market share	0,28 %	0,62 %	0,53 %	1,38 %
Index	100	221	189	493
IRAN	3 377	0	0	0
Market share	0,010 %	0 %	0 %	0 %
RUSSIA	1 350 435	1 508 376	2 037 080	1 224 699
Index	100	112	151	91
Market share	4,17 %	5,39 %	5,84 %	3,55 %
Index	100	129	140	85
Volume of imports from the countries concerned	1 468 537	1 682 480	2 158 713	1 616 013
Index	100	115	147	110
Market share	4,46 %	6,02 %	6,36 %	4,93 %
Index	100	134	142	110
Source: Eurostat, Macro Questionnaire reply from EUROFER, Surveillance statistics, questionnaire replies from the sampled Brazilian exporting producers. Market shares were established by comparing import volumes with the Union free market consumption as reported in Table 1.				

(131)Imports from Brazil fluctuated during the period considered. In 2020, the level of imports to the Union increased, followed by a slight increase and then a sharper increase during the review investigation period. Imports from Iran to the Union stopped completely after 2019. Imports from Russia fluctuated during the period considered. Compared to 2019, Russian imports increased sharply in 2020 and 2021. This was followed by a slight decrease during the review investigation period.

5.3.2. *Prices of the imports from the countries concerned and price undercutting*

(132) The Commission established the prices of imports on the basis of Eurostat and the recalculation done for Brazil as explained in footnote 38.

(133) In the absence of reliable prices in Brazil, as explained in recital 58, and in the absence of imports from Iran, the Commission could not perform an undercutting calculation from the two countries. Concerning Russia, statistical data from Eurostat was used to establish the undercutting margin, as explained below in recital 138.

(134) The weighted average price of imports into the Union from the countries concerned developed as follows:

Table 3

Import prices (EUR/ tonne)

	2019	**2020**	**2021**	**Review investigation period**
BRAZIL	467	425	1 035	939
Index	100	91	221	201
IRAN	504	—	—	—
RUSSIA	443	391	744	897
Index	100	88	168	202
The countries concerned	445	394	769	909
Index	100	89	173	204
Source: Eurostat, Surveillance statistics, questionnaire replies from the sampled Brazilian exporting producers (see footnote 38).				

(135) With the exception of Iran that stopped exporting after 2019, average prices of the countries concerned followed the same trend during the period concerned. After a drop in prices in 2020, a sharp increase of the average prices was observed between 2021 and the review investigation period, with the exception of Brazil, where prices between 2021 and the RIP dropped. For Russia and Brazil, the average prices of imports more than doubled during the period considered, from 443 EUR/tonne in 2019 to 897 EUR/tonne in the review investigation period for Russia, and from 467 EUR/tonne to 939 EUR/tonne for Brazil.

(136) After disclosure, the GBR and USIMINAS argued that the methodology used by the Commission to recalculate Brazilian data was unclear and could not be verified by interested parties. They requested the Commission to rely exclusively on official import statistics in its analysis. USIMINAS added that the import data calculated by the Commission distorted indicators such as import prices and total import volumes. Furthermore, both the GBR and USIMINAS affirmed that the market share of Brazilian imports had been overstated, and that the Brazilian market share should be expressed as a percentage of aggregate consumption. The same claim was put forward by CSN, adding that looking at all Brazilian sales and comparing them to only free market consumption, creates an asymmetry in the Commission assessment of the market share, as not only it artificially inflates the Brazilian imports market in the EU, but it also results in an unjustified

cumulative assessment of Brazilian imports with Russian imports. On the issue of comparison with the free market, in particular, the GBR referred to the paragraphs 7.272 and 7.273 of the panel report of 31 October 2018 on the dispute 'Morocco – Anti-Dumping Measures on Certain Hot-Rolled Steel from Turkey (WT/DS513/R)', which called upon an investigating authority to analyse all parts of the state of the domestic industry, to ensure that the authority would not focus only on parts of the domestic industry that were performing poorly and excluding those performing well, and vice versa.

(137) As already explained in footnote 38, the Commission noted a discrepancy between Eurostat data and the sampled companies' verified sales data to the European Union. In particular, the two sampled companies' verified sales volumes to the EU were higher than the total Brazilian import volumes reported by both Eurostat and Surveillance. The statistical data could therefore not be exclusively taken into account for determining the import volumes from Brazil. Instead, the Commission relied on import statistics from the Surveillance database adjusted with the verified sales volumes from the two sampled companies to establish the total import volumes. The adjustment was made on the basis of the respective sampled company's TARIC additional code in the Surveillance database, which provided company specific information. The Commission could not disclose the detailed data behind this calculation methodology, as this would constitute a breach of confidentiality towards the cooperating exporting producers under Article 19(1) of the basic Regulation. In addition, the Commission adjusted the import prices, total import volumes and the Union free market consumption accordingly, as already explained in footnote 38. On the claims concerning the calculation of the market share, the Commission established the market share of the imports on the basis of a comparison between import volumes and the Union free market consumption, in accordance with the methodology in the original investigation ([39]) as required by Article 11(9) of the basic Regulation. In addition, the Commission recalled that captive sales and sales to related parties are two different concepts. For sales to be considered captive, the (related) buyer cannot have a free choice of supplier. As already recalled in recital 58. In the present case, there is no indication or evidence that those sales were exclusive. In fact, those companies seem to able and did source from third parties in the original investigation. On the claims that such methodology results in an unjustified cumulative assessment of Brazilian imports with Russian imports, the Commission recalled that the Brazilian and Russian market share were calculated separately, and that the likelihood of recurrence of injury analysis was first performed on a country-by-country basis. Furthermore, the Commission recalled that in its analysis of the state of the Union industry, it examined both at the Union industry performance as a whole, and also the captive and free market separately (e.g. recital 157). In particular, this was confirmed by paragraph 7.6.2.1.2.1 of WT/DS513/R, whereby the Appellate Body affirmed that 'in cases where investigating authorities examine one part of a domestic industry, they should, in principle, examine in like manner all of the other parts that make up the industry, as well as examine the industry as a whole'. Therefore, the Commission rejected these claims.

(138) In the absence of cooperation from Russia, given that statistical data was used, only an average price per tonne for a large variety of product types could be established. Hence, in the absence of information at product type level the Commission could not carry out a precise undercutting calculation but had to limit itself to a price comparison between average prices per tonne.

(139) The Russian exports price thus determined was compared with the weighted average sales prices during the review investigation of the sampled Union producers charged to customers on the Union market, adjusted to an ex-works level.

(140) The price comparison was made at the same level of trade and, in analogy with a precise undercutting calculation methodology, the result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the review investigation period. It showed that on average the Russian export prices to the Union would be lower than Union industry's average prices, by around 5 %.

5.4. Imports from third countries other than Brazil, Iran and Russia

(141) The imports of the product under review from third countries other than Brazil, Iran and Russia were mainly from Türkiye and India.

(142) The (aggregated) volume of imports into the Union as well as the market share and price trends for imports of the product under review from other third countries developed as follows:

Table 4

Imports from third countries

		2019	**2020**	**2021**	**Review investigation period**
Total of all third countries, except the countries concerned	Volume (tonne)	5 757 331	4 262 990	7 505 856	8 182 615
	Index	100	74	130	142
	Market share	17,76 %	15,24 %	21,53 %	23,73 %
	Average price (EUR/tonne)	491	442	768	907
	Index	100	90	156	184
Source: Eurostat.					

(143) Total imports of the product under review from third countries other than the countries concerned increased by 42 % (from 5,75 million to 8,18 million tonnes) over the period considered. The increase in import volumes also translated in an increase of third countries market share by 6 percentage points over the period considered. Overall, the Union imported HRF from more than 40 countries, with none of the other third countries holding a market share of more than 4 % in the Union market [40].

5.5. Economic situation of the Union industry

5.5.1. *General remarks*

(144) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(145) As mentioned in recital 26, sampling was used for the assessment of the economic situation of the Union industry.

(146) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data provided by the applicant that related to all Union producers. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(147) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, magnitude of the dumping margin and recovery from past dumping.

(148) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

(149) As explained in recitals 122-123, to provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire production of the product concerned and determined whether the production was destined for the captive or the free market. Where relevant and possible the Commission analysed separately injury indicators related to the free and the captive market.

5.5.2. *Macroeconomic indicators*

5.5.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2019	**2020**	**2021**	**Review investigation period**
Production volume (tonnes)	70 920 480	61 096 994	69 531 100	68 417 802
Index	100	86	98	96
Production capacity	92 584 290	91 965 705	93 249 147	93 214 413
Index	100	99	101	101
Capacity utilisation	77 %	66 %	75 %	73 %
Index	100	87	97	96

Source: Macro questionnaire reply from EUROFER.	

(151)The production volume of the Union industry decreased overall by around 4 % during the period considered, with a significant drop in 2020 followed by a recovery in 2021 due to the rebound in steel demand. During the review investigation period, production volume decreased slightly compared to the previous year.

(152)While the production capacity of the Union industry slightly increased during the period considered by 1 %, the capacity utilisation followed the same negative trend as production volume and decreased by 4 % between 2019 and the review investigation period.

5.5.2.2. Sales volume and market share

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

Table 6

Sales volume and market share in the free market

	2019	**2020**	**2021**	**Review investigation period**
Sales on the free market	25 185 306	22 020 277	25 204 938	24 689 248
Index	100	87	100	98
Market share	77,7 %	78,7 %	72,3 %	71,6 %
Index	100	101	93	92
Source: Macro questionnaire reply from EUROFER.				

(154)The Union industry sales volume on the Union market followed a trend similar to Union consumption during the period considered. It decreased in 2020 for the reasons explained in recital 125, followed by a rebound in 2021. During the review investigation period, sales volume decreased by 2 % compared to 2019.

(155)During the period considered, the Union industry's market share in terms of Union consumption increased slightly from 2019 to 2020 from 77,7 to 78,7 %. Between 2020 and 2021, it dropped by 6 percentage points. During the review investigation period, the Union industry further lost market share, dropping from 72,3 % to 71,6 %. As shown in Tables 1and 4, this decline is explained by the fact that the market share of imports from third countries kept increasing between 2020 and the review investigation period, which explains the loss of the Union industry on the free market share.

(156)The Union industry's captive volume as a share of total production developed over the period considered as follows:

Table 7

Captive volume on the Union market (tonnes)

	2019	**2020**	**2021**	**Review investigation period**

Captive volume on the Union market	42 010 993	36 988 575	40 424 417	39 811 331
Index	100	88	96	95
Total production of Union Industry	70 920 480	61 096 994	69 531 100	68 417 802
% of captive volume compared to total production	59,23	60,54	58,13	58,18
Source: Macro questionnaire reply from EUROFER.				

(157)The Union industry captive volume (composed of captive use and captive sales on the Union market) decreased by 12 % from 2019 to 2020 and recovered by 7 percentage points compared to 2020 in the review investigation period, resulting in an overall decrease of 5 % during the period considered, from about 42 million tonnes to almost 40 million tonnes from the start to the end of the period considered. Overall, the captive and free market followed the same trend. Therefore, the Commission concluded that development of the captive market did not have any significant impact on the Union industry performance on the free market.

(158)The Union industry's captive market share (expressed a percentage of total production) remained relatively stable during the period considered, ranging between 58,13 % and 60,54 %.

5.5.2.3. Growth

(159)In a context of stable consumption and decreasing production, the Union industry lost sales volume and market share on the free market. Overall, there was no growth for the Union industry over the period considered.

5.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

	2019	**2020**	**2021**	**Review investigation period**
Number of employees	38 980	36 207	38 470	39 937
Index	100	93	99	102
Productivity (unit/employee)	1 819	1 687	1 807	1 713
Index	100	93	99	94
Source: Macro questionnaire reply from EUROFER.				

(161)The number of employees engaged in the production of the product under review decreased sharply from 2019 to 2020 and increased from then on to the end of the review investigation period. Overall resulting in a slight increase of 2 % over the period considered.

(162)The productivity of the Union industry's workforce, measured as output (tonnes) per employee, decreased by 6 % over the period considered.

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

(163)As explained in recital 128, there was no cooperation from exporting producers from Russia. Only one Iranian and two Brazilian exporting producers cooperated fully during this proceeding.

(164)As shown before, there were indications that dumping continued concerning imports from Brazil (see recital 63) and Russia (see recital 74) during the review investigation period. All indicative dumping margins were above the *de minimis* level.

(165)For Iran, as explained in recital 66, it was not possible to establish an affirmative determination of dumping during the review investigation period. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be repealed.

(166)Despite the fact there was still dumping for Brazil and Russia, albeit in small volumes, the analysis of the injury indicators shows that the measures in place had a positive impact on the Union industry. As a matter of fact, the anti-dumping measures imposed following the original investigation allowed the Union industry to recover from past dumping. This was also confirmed by the Commission findings in the anti-dumping investigation against hot-rolled flat products from Türkiye ([41]). The Union industry managed to recover from the injurious effects of the dumped imports from Russia, Brazil and Iran by the end of 2018. However, the recovery of the Union industry's economic situation came to an abrupt halt and was reversed in 2019, when the Union industry had to compete with significant volume of low-priced dumped imports from Türkiye, forcing it to set its prices below costs to keep its market share and thus to suffer from material injury. Following imposition of measures against imports from Türkiye in 2021 and the post-Covid recovery, the situation of the Union industry improved and recovered by the end of the RIP. Hence, during the review investigation period, the Union industry was no longer considered injured.

5.5.3. *Microeconomic indicators*

5.5.3.1. Prices and factors affecting prices

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

Table 9

Sales prices and cost of production in the Union (EUR/tonne)

	2019	**2020**	**2021**	**Review investigation period**
Average unit sales price on the free market	526	464	744	954
Index	100	88	141	181
Unit cost of production	557	534	669	800
Index	100	96	120	144

Source: Sampled Union producers questionnaire reply.

(168)The Union industry’s average sales prices decreased by 12 % between 2019 and 2020 and increased drastically from 2020 to the end of the review investigation period resulting in and overall increase of 81 % over the period considered. The trend of unit sales prices during the period considered was influenced by the severe disruptions caused by the Covid-19 pandemic and the post-pandemic resumption in demand. Starting in 2021, high steel demand, tight supply, and increased cost of production were the factors that influenced the sudden and significant rise in the unit sales price.

(169)The unit cost of production increased over the period considered by 44 %. Both in 2019 and 2020, the unit cost of production was above the unit sales price. The inability for the Union industry to reflect the increased cost of production in their sales price during this period was due to large volumes of dumped imports from Türkiye, pushing the prices downwards ([42]). In 2020, both cost of production and sales prices dropped, but the former to a smaller extent. This was due to the slump in the market during the Covid-19 pandemic, depressing prices significantly whilst the cost of production was less affected. The unit cost of production surged in 2021 due to a jump in energy and commodity prices. This trend continued throughout the review investigation period, where Russia’s unprovoked military aggression against Ukraine exacerbated the energy crisis already ongoing since 2021. However, due to the post-Covid recovery, demand surged as well and consequently, prices also increased significantly (almost doubling between 2020 and the review investigation period), even more than the increase in production costs in the same period.

5.5.3.2. Labour costs

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

Table 10

Average labour costs per employee

	2019	**2020**	**2021**	**Review investigation period**
Average labour costs per employee (EUR)	69 352	69 748	78 444	81 000
Index	100	101	113	117
Source: Sampled Union producers questionnaire reply.				

(171)During the period considered average labour costs remained stable from 2019 to 2020 and from then on increased, resulting in an overall increase of 17 % at the end of the investigation period. The number of employees during this period went up as well.

5.5.3.3. Inventories

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

Table 11

Inventories

	2019	**2020**	**2021**	**Review investigation period**
Closing stocks (tonnes)	533 200	390 880	522 405	476 151
Index	100	73	98	89
Closing stocks as a percentage of production	4,5	3,8	4,6	4,3
Index	100	84	121	94
Source: Sampled Union producers questionnaire reply.				

(173) During the period considered, the Union industry stocks of HRF decreased, with a drastic fall in 2020, which was explained by the effects of the Covid-19 pandemic, and a nearly full rebound in 2021 followed by a decrease in the review investigation period. The HRF industry in the Union was characterised by framework contracts (monthly, quarterly, yearly) between producers and customers that fix the quantities and prices. These framework contracts were implemented through purchasing orders according to customers' needs. As a result, the Union industry could plan its production and inventories. Accordingly, and as also established in the original investigation, stocks were not considered an important injury indicator for this industry, since most types of the like product were produced by the Union industry based on specific orders of the users.

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2019	**2020**	**2021**	**Review investigation period**
Profitability of sales in the Union free market (% of sales turnover)	–8,1	–18,8	13,9	18,3
Index	- 100	- 231	170	224
Cash flow (EUR)	-6 211 922	- 130 468 840	645 183 908	984 716 910
Index	- 100	-2 100	10 386	15 852
Investments (EUR)	433 154 031	181 406 902	394 535 083	351 855 569

Index	100	42	91	81
Return on investments	–6,7 %	–13,8 %	17,1 %	27,2 %
Index	- 100	- 206	254	405
Source: Sampled Union producers questionnaire reply.				

(175) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the free market sales of the like product in the Union as a percentage of the turnover of those sales.

(176) Profitability followed an inverted bell curve trend and increased overall by 26,4 percentage points during the period considered. Losses were incurred in 2019 and reached its lowest level, namely - 18 %, in 2020 at the core of the pandemic. In 2021 profit strongly rebounded to 13,9 % and increased further to reach 18,3 % in the review investigation period.

(177) Dumped imports at low prices from Türkiye rapidly increased in 2017 and 2018 ([43]), which explained the low profitability in 2019. This was then exacerbated by the shocks caused by the global pandemic in 2020, such as supply chain disruptions and the decline in steel consumption. Spike in steel demand, coupled with increased sales prices, led to high profits in 2021, which marked an exceptional year for the Union industry. This trend continued throughout the review investigation period, marking an even higher profitability for the Union industry.

(178) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed in a similar manner to profitability: a negative record in 2019, followed by a drastic further decrease in 2020, and a strong rebound in 2021, which increased even more in the review investigation period.

(179) Between 2019 and the review investigation period, investments decreased by 19 %. Overall, during the period considered, the investment flows followed an inverted bell curve distribution: investment dropped significantly in 2020, followed by a peak in 2021. During the review investigation period, investment slightly decreased compared to the previous year. In general, the investments were aimed at improving quality and greening of production.

(180) The return on investments (ROI) is the profit in percentage of the net book value of investments. Compared to 2019, the return on investment deteriorated in 2020, and rebounded in 2021. Overall, the ROI significantly improved during the review investigation period as compared to 2019. In fact, during the period considered, the ROI increased by around 20 percentage points.

(181) The sampled Union producers’ ability to raise capital was not affected during the review investigation period, which saw a speedy recovery from the pandemic.

5.6. Conclusion on injury

(182) Following the imposition of anti-dumping measures against imports of HRF from Brazil, Iran and Russia in 2017, imports from Brazil decreased, while imports from Russia remained overall at similar levels compared to the original investigation. In the case of Iran, imports of HRF into the Union stopped completely in 2020, allowing the Union industry to start recovering from the injurious effects of the dumped imports from the countries concerned and, as confirmed by the

Commission in Commission Implementing Regulation (EU) 2021/1100 concerning imports of HRF originating in Türkiye [44], the Union industry had recovered by the end of 2018. However, the recovery of the Union industry's economic situation came to an abrupt halt and was reversed in 2019, when the Union industry had to compete with significant volumes of low priced dumped imports from Türkiye, forcing it to set its prices below costs to keep its market share and thus causing a material injury to the Union industry [45]. In July 2021, the Commission imposed definitive measures against Türkiye and thanks to various factors at play, as explained in recital 177, the situation of the Union industry improved and recovered by the end of 2021. As already stated in recital 177, the Union industry was able to continue benefiting from these improving conditions during the review investigation period resulting in a further increase in its profitability.

(183)More particularly, most injury indicators, notably production, capacity utilisation, sales volume, employment and productivity followed a similar trend during the period considered. This trend was characterised by a sharp decrease in 2020 and a rebound in 2021, which continued throughout the review investigation period to levels similar or slightly higher to those at the beginning of the period considered in 2019. The reason behind this irregular trend lies largely in the coincidence of a considerable influx of low-priced dumped imports of HRF from Türkiye and the unique dynamics created by the Covid-19 pandemic. Lockdowns and interruptions of industrial activity led to extremely low consumption levels and low demand for steel in 2020, whilst steel demand and prices soared in 2021 during the post-Covid recovery leading, amongst others, to high profits for the steel industry in 2021 and the review investigation period.

(184)Sales prices, profit, cash flow and ROI followed a similar trend characterised as well by a sharp drop in 2020, and a rebound in 2021. However, these indicators increased dramatically during the review investigation period in comparison to 2019, a year in which the Union industry was considered to be injured by imports from Türkiye.

(185)On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

(186)However, the indicators cannot be analysed without considering the exceptionally favourable steel market conditions of 2021 and the first half of 2022. In 2020, the pandemic-induced slowdown of industrial activity and its consequent decrease of steel demand led to a severe downturn of the performance of the steel industry, and global economy in general. In 2021, driven by a rebound in demand, steel consumption strongly bounced back at increased prices. These favourable market conditions were carried over to the first half of 2022. However, the positive post-Covid trend experienced throughout 2021 came to an end in the second quarter of 2022 due to severe rises in energy costs and high inflation. This means that the favourable circumstances experienced during 2021 and the review investigation period are unlikely to continue. As noticed in previous cases, HRF is a highly price-sensitive commodity, and competition is mainly based on price [46]. This means that large volumes of dumped imports can lead to Union producers with no choice but to lower their prices in order to keep market share, leading to injury.

6. LIKELIHOOD OF RECURRENCE OF INJURY

(187) The Commission concluded in recital 185 that the Union industry did not suffer material injury during the review investigation period. On the other hand, as explained in recitals 88 and 117, the Commission concluded that dumping would likely continue in the absence of anti-dumping measures, and, as explained in recital 100, dumping would likely recur in the case of Iran. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from the countries concerned if the measures were allowed to lapse.

(188) In this respect the following elements were analysed by the Commission: (1) the production capacity and spare capacity in the countries concerned and the attractiveness of the Union market, and (2) the likely price level of imports from the countries concerned and their impact on the Union industry.

6.1. Production capacity and spare capacity in the countries concerned and the attractiveness of the Union market

(189) As already described in recital 78, both sampled producers in Brazil operated almost at full capacity during the review investigation period. Both producers had increased their sales to the Union during the review investigation period, by increasing their capacity utilisation as compared to previous years, as stated in recital 78. The significant increase in export sales in the review investigation was an indicator that the Union market is still attractive for exporting producers from Brazil, despite of the current measures.

(190) The sole cooperating producer from Iran was similarly operating at almost full capacity during the review investigation period (recital 91). Hence, its spare capacity was limited. However, upon further investigation, the Commission found that the company was actively planning to increase its HRF steel capacity, that would result in around 1 million tonnes per annum in spare capacity, that could be used for export, including to the Union (recital 95). For the aforementioned reason, the Commission concluded that within the next few years, there will be significant spare capacity in Iran which could be used for exports to the Union. Moreover, export prices to third countries were found to be at least 14 % lower than the Union industry prices during the review investigation period, thus making the Union market more attractive in terms of prices, compared to other possible export destinations.

(191) As stated in recital 107, the Commission found that Russia had a spare capacity of 3,5 million tonnes in the review investigation period, which is 10 % of the free market consumption in the Union. Hence, it was concluded that Russian producers have sufficient spare capacities, which could be used for exporting HRF at dumped prices to the Union. Moreover, a price comparison between Russian domestic prices and Union industry prices (recital 112) found that Russian domestic prices were on average 17 % lower than the Union industry prices, thus confirming the attractiveness of the Union market for Russian exporting producers.

(192) The Union market is among the largest markets of certain hot-rolled flat steel products worldwide. In addition, price levels in the Union (the average price charged by the Union industry was EUR/tonne 954 during the review investigation period) are above the average price charged by Brazilian and Iranian exporting producers to the rest of the world, and by Russian producers to the Union. Since, as explained in recital 186 above, HRF is a highly price sensitive commodity

product, the Brazilian, Iranian and Russian exporters would have a strong incentive to direct their exports to the Union should the measures lapse.

(193) In view of the above, it is likely that the exporting producers from the countries concerned would increase their export sales to the Union in case measures would be allowed to lapse.

6.2. Likely price levels of imports into the Union from the countries concerned and impact on the Union industry

6.2.1. *Brazil*

(194) As stated in recital 133, the Commission could not perform an undercutting calculation for Brazil. Based on Eurostat data, imports price from Brazil were below the Union sales price during the period considered, except for 2021. The sampled exporting producers represented more than 90 % of the exports from Brazil to the European Union (recital 31), but since both sampled exporting producers from Brazil were selling to related parties in the Union, and in the absence of sales to unrelated customers in the Union, the Commission could not affirmatively conclude that the sales price to related were sufficiently reliable to be used as an indication for a likely price absent anti-dumping measures. Therefore, the Commission analysed the current pricing behaviour of Brazilian exporting producers on their third country export markets to assess the likely pricing behaviour on the Union market, should the measures lapse.

(195) The export price from Brazil to other third country markets was used as a proxy to establish the likely pricing behaviour absent measures. The comparison was made using GTA data for export sales from Brazil to the rest of world, filtering it by the top 10 countries in terms of quantities, which represented around 90 % of sales from Brazil to third countries. The comparison indicated that the export price level to third countries (calculated at around 820 EUR/tonne as landed price free for circulation) was around 13-14 % lower than the current Union industry average sales price on the free market, and also below the non-injurious price established at around 920 EUR/tonne.

(196) As the above analysis demonstrated that the Brazilian exporting producers were able to sell on third markets at prices below the Union price during the review investigation period, the Commission thus concluded that, should measures be allowed to lapse, the Brazilian exporters would be able to lower their prices to the EU and exercise significant price pressure.

6.2.2. *Iran*

(197) Imports from Iran to the Union virtually disappeared during the period considered. Under these circumstances, the Commission examined the current pricing behaviour of the sole cooperating exporting producer in Iran on its third country export markets to assess the likely price of imports to the Union, should the measures lapse.

(198) The comparison was made using Iranian export prices to the rest of the world, and it indicated that the likely landed price free for circulation in the Union of Iranian exports of HRF would, absent measures, be not more than 830-840 EUR/tonne.

(199) The price comparison between the Iranian export price thus determined and the weighted average sales price during the review investigation period of the Union producers, adjusted to an ex-works level, showed that on average, Iranian export prices to the Union would be lower than Union

industry's average prices by around 10-13 %. Prices from Iran would also be below the non-injurious price established in recital 195.

6.2.3. *Russia*

(200)Imports from Russia during the RIP were made at prices below the sales price of the Union industry, at a price of 897 EUR/tonne. As already stated in recital 140, the result of the price comparison between Russian exports to the Union and the Union industry's average prices showed a price difference of around 5 %. Prices from Russia were also set below the non-injurious price of 920 EUR/tonne.

6.2.4. *Conclusion*

(201)HRF is a highly price sensitive commodity product and as observed in the investigation concerning imports of HRF from China and also in the investigation on the identical product from Türkiye, rather modest levels of price undercutting combined with large volumes are susceptible to have significant and immediate impact on the Union industry's performance ([47]). In both those investigations, undercutting margins below 5 % forced the Union industry to lower sales prices (or lose market share) to such an extent that it incurred material injury in the short term.

(202)Given that the Union industry during the review investigation period had just rebounded from a turbulent and economically difficult period, including the Covid-19 pandemic, with accumulated losses, it is still in a fragile situation. It is therefore highly likely that the continuation of dumped imports from Brazil and Russia and recurrence of dumping from Iran in significant volumes and prices below the Union industry prices would have a significant adverse effect on the Union industry's performance, notably with regard to production, sales volumes and prices, profitability and investment needs, resulting in material injury recurring.

(203)After disclosure, USIMINAS submitted that the domestic Union industry was not fragile, given that indicators such as profit and return on investment greatly increased during the review investigation period. In addition, both USIMINAS and CSN argued that there could be no likelihood of recurrence of injury, since the profitability of the Union industry increased despite an increase in imports from the countries concerned. It also referred to Brazil's low import volumes at high prices and the limited spare capacity in Brazil.

(204)The Commission recalled that, as stated in recital 166, the Union industry was deemed not to be materially injured during the review investigation period. The Commission also acknowledged that the review investigation period was marked by exceptionally favourable market conditions (recital 186) and that, given that the Union industry just rebounded from a turbulent and economically difficult period characterized by accumulated losses, it was still in a fragile situation for the reasons explained in recitals 201 and 202. Furthermore, as explained in section 6.2.1, the Commission had to analyse the current pricing behaviour of Brazilian exporting producers in their third country export markets, which showed that Brazil would be able to exert significant price pressure on the Union industry absent measures. Therefore, the claim was rejected.

7. UNION INTEREST

(205) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

7.1. Interest of the Union industry

(206) The Union industry is located in 15 Member States (Austria, Belgium, Czechia, Finland, France, Germany, Hungary, Italy, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia and Spain). It employs almost 40 000 employees in relation to the product under review.

(207) In the absence of measures, the Union industry will no longer be protected against the likely increase of dumped imports from Brazil, Iran and Russia, which will cause material injury. The effect of anti-dumping measures will be positive for the Union producers, as measures will help the Union industry to continue its recovery from past dumping. It is therefore clearly in the interest of the Union industry to maintain the measures.

7.1.1. *Interest of users and unrelated importers*

(208) The Commission contacted all known users and unrelated importers. No users or unrelated importers came forward and cooperated in this investigation by submitting a questionnaire reply. Given the lack of cooperation of users and unrelated importers and in the absence of any indications to the contrary, the continuation of the measures is not considered against the interest of users and importers.

(209) Moreover, the Commission analysed whether measures against Brazil, Iran and Russia would have a negative effect on the security of supply, as there are also measures in place on HRF against Türkiye and China. The Union industry level of capacity utilisation was 73 % during the review investigation period, and the total production capacity exceeded the total Union consumption by 18 million tonnes, according to EUROFER's macro questionnaire data. In addition, despite measures against some of the major exporters of HRF, almost 40 countries exported the product under review to the Union during the review investigation period, thus showing that the imposition of measures would not impinge upon diversification of supply. For these reasons and in the absence of cooperation by users and importers, the Commission concluded that there were no potential risks at the level of supply for downstream users.

(210) After initiation, USIMINAS claimed that the introduction of the Carbon Border Adjustment Mechanism (CBAM) would impact adversely the access to the Union market given the burdensome reporting obligations and surcharges linked to the CBAM. This claim was reiterated after disclosure. Furthermore, both the GBR and USIMINAS argued that the Union industry was already significantly protected by the safeguards measures. CSN added that because of the steel safeguards, Brazilian HRF import volumes would not increase, and that imports from Brazil could not cause injury, as the residual duty Brazil was subject to was higher than the current *ad valorem* anti-dumping duty applicable to CSN. Hence, CSN argued that it is unreasonable to deem that injury is likely to recur because of imports from Brazil.

(211)The Commission recalled that the CBAM only entered into force in October 2023 and that during a transitional period, until 2026, importers will only have to report emissions embedded in their goods without incurring any financial charges. The stated reason for this transitional period is to allow parties time to adjust before the final system is put into place and to reduce the risk of trade disruptions. Accordingly, the Commission considered that it is premature to make any assessment of the potential impact of CBAM on future trade flows of HRF. In addition, the Commission recalled that the safeguard measures cannot be considered of a lasting nature, and that the measure currently in place ([48]) has no impact on the assessment of the likelihood of increased imports in the absence of anti-dumping duties. Considering the temporary nature of the steel safeguards, the Commission hence found that they could not have a bearing on its conclusions in this investigation. Therefore, the Commission rejected both claims.

7.1.2. *Conclusion on Union interest*

(212)On the basis of the above, the Commission concluded that there were no compelling reasons of Union interest against the continuation of the existing measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the Federative Republic of Brazil, the Islamic Republic of Iran and the Russian Federation.

8. ANTI-DUMPING MEASURES

(213)On the basis of the conclusions reached by the Commission on continuation and recurrence of dumping, recurrence of injury and Union interest, the anti-dumping measures on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the Federative Republic of Brazil, Islamic Republic of Iran and the Russian Federation should be maintained.

(214)To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(4) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to ‘all other companies’.

(215)While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(4) 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.

(216)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.

(217) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in the countries concerned and produced by the named legal entities. Imports of the product under review 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.

(218) 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 ([49]). The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.

(219) An exporter or producer that did not export the product concerned to the Union during the period that was used to set the level of the duty currently applicable to its exports may request the Commission to be made subject to the anti-dumping duty rate for cooperating companies not included in the sample. The Commission should grant such request, provided that three conditions are met. The new exporting producer would have to demonstrate that: (i) it did not export the product concerned to the Union during the period that was used to set the level of the duty applicable to its exports; (ii) it is not related to any exporting producer subject to the anti-dumping duties; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.

(220) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([50]) when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

(221) By Commission Implementing Regulation (EU) 2019/159 ([51]), the Commission imposed a safeguard measure with respect to certain steel products for a period of three years. By Implementing Regulation (EU) 2021/1029, the safeguard measure was prolonged until 30 June 2024. The product under review is one of the product categories covered by the safeguard measure. Consequently, once the tariff quotas established under the safeguard measure are exceeded, both the above-quota tariff duty and the anti-dumping duty would become payable on the same imports. As such cumulation of anti-dumping measures with safeguard measures may lead to an effect on trade greater than desirable, the Commission decided to prevent the concurrent application of the anti-dumping duty with the above-quota tariff duty for the product under review for the duration of the imposition of the safeguard duty.

(222) This means that where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to the product under review and exceeds the equivalent ad valorem level of the anti-dumping duties pursuant to this Regulation, only the above-

quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected. During the period of concurrent application of the safeguard and anti-dumping duties, the collection of the duties imposed pursuant to this Regulation shall be suspended. Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to the product under review and is set at a level lower than the equivalent ad valorem level of the anti-dumping duties in this Regulation, the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duties imposed pursuant to this Regulation. The part of the amount of anti-dumping duties not collected shall be suspended.

(223) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of 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, 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 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, ex 7225 19 10 (TARIC code 7225191090), 7225 30 90, ex 7225 40 60 (TARIC code 7225406090), 7225 40 90, ex 7226 19 10 (TARIC codes 7226191091, 7226191095), 7226 91 91 and 7226 91 99 and originating in the Federative Republic of Brazil, the Islamic Republic of Iran and the Russian Federation.

The following products are not covered by this review:

(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 definitive 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**	**Definitive duty rate – euro per tonne net**	**TARIC additional code**
Brazil	ArcelorMittal Brasil S.A.	54,5	C210
	Aperam Inox América do Sul S.A.	54,5	C211
	Companhia Siderúrgica Nacional	53,4	C212

	Usinas Siderúrgicas de Minas Gerais S.A. (USIMINAS)	63,0	C213
	Gerdau Açominas S.A.	55,8	C214
Iran	Mobarakeh Steel Company	57,5	C215
Russia	Novolipetsk Steel	53,3	C216
	Public Joint Stock Company Magnitogorsk Iron Steel Works (PJSC MMK)	96,5	C217
	PAO Severstal	17,6	C218

3. The rate of the definitive anti-dumping duty applicable to the product described in paragraph 1 and produced by any other company not specifically mentioned in paragraph 2 shall be the fixed duty as set out in the table below

Company	**Definitive duty rate – euro per tonne net**	**TARIC additional code**
All other Brazilian companies	63,0	C999
All other Iranian companies	57,5	C999
All other Russian companies	96,5	C999

4. 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 under review) 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.

5. Article 1(2) may be amended to add new exporting producers from the Federative Republic of Brazil and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

(a) it did not export the goods described in Article 1(1) originating in the Federative Republic of Brazil during the period between 1 July 2015 to 30 June 2016 ('original investigation period');

(b) it is not related to any exporting producer subject to the anti-dumping duties imposed by this Regulation; and

(c) it has either actually exported the product under review originating in the Federative Republic of Brazil or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the original investigation period.

6. For the individually named producers and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Commission Implementing Regulation (EU) 2015/2447 ([52]), the definitive duty rate set out above shall be reduced by a percentage which

corresponds to the apportioning of the price actually paid or payable. The duty payable will then be equal to the difference between the reduced definitive duty rate and the reduced net, free-at-Union-frontier price, before customs clearance.

7. For all other companies and in cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs value pursuant to Article 131(2) of Implementing Regulation (EU) 2015/2447 the amount of anti-dumping duty, calculated on the basis of the amounts set above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

Article 2

Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to 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 and exceeds the equivalent ad valorem level of the anti-dumping duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected.

During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.

Where the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 becomes applicable to 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 and is set at an equivalent ad valorem level lower than the anti-dumping duty set out in Article 1(2), the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected in addition to the difference between that duty and the higher anti-dumping duty set out in Article 1(2).

The part of the amount of anti-dumping duty not collected pursuant to paragraph 3 shall be suspended.

The suspensions referred to in paragraphs 2 and 4 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159.

Article 3

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, 12 December 2023.

For the Commission

The President

Ursula VON DER LEYEN