II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2022/926

of 15 June 2022

imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Regulation (EU) 2016/388 ([2]) ('the original Regulation'), the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) The anti-dumping duty imposed ranged from 0 % for Electrosteel Castings Ltd to 14,1 % for Jindal Saw Limited and 'all other companies'.

(3) By Regulation (EU) 2016/387 ([3]), the Commission also imposed a definitive countervailing duty on the same product. The countervailing duty imposed ranged from 8,7 % for Jindal Saw Limited to 9 % for Electrosteel Castings Ltd and 'all other companies'.

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Commission Implementing Regulation (EU) 2016/388 of 17 March 2016 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (OJ L 73, 18.3.2016, p. 53).

([3]) Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India (OJ L 73, 18.3.2016, p. 1).

(4) Following the judgments of the General Court in T-300/16 and T-301/16 ([4]), the Commission, corrected mistakes found by the General Courts when calculating the anti-dumping and countervailing duty for Jindal Saw Limited. By Regulations (EU) 2020/526 ([5]) and (EU) 2020/527 ([6]), the Commission re-imposed a new definitive anti-dumping and countervailing duty for Jindal Saw Limited, at the rate of 3 % and 6 % respectively.

(5) The anti-dumping duties currently in force are at rates ranging between 0 % for Electrosteel Castings Ltd, 3 % for Jindal Saw Limited and 14,1 % for 'all other companies'. The countervailing duties currently in force are 6 % for Jindal Saw Limited and 9 % for Electrosteel Castings Ltd and 'all other companies'.

1.2. **Request for an expiry review**

(6) Following the publication of a notice of impending expiry ([7]), the Commission received a request for a review pursuant to Article 11(2) of the basic Regulation.

(7) The request for expiry review was lodged on 21 December 2020 by Saint-Gobain PAM, Saint-Gobain PAM Deutschland GmbH and Saint-Gobain PAM España S.A. ('the applicants'), on behalf of Union producers representing more than 50 % of the total Union production of tubes and pipes of ductile cast iron. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and continuation or recurrence of injury to the Union industry.

1.3. **Initiation of an expiry review**

(8) Having determined that sufficient evidence existed for the initiation of an expiry review the Commission initiated, on 17 March 2021, an expiry review with regard to imports to the Union of tubes and pipes of ductile cast iron originating in India ('the country concerned') 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* ([8]) ('the Notice of Initiation').

(9) On the same date, the Commission also initiated an expiry review of the countervailing measures with regards the imports of the same product ([9]).

1.4. **Review investigation period and period considered**

(10) The investigation of continuation or recurrence of dumping and injury covered the period from 1 January 2020 to 31 December 2020 ('the 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 2017 to the end of the review investigation period ('the period considered').

([4]) Judgment of the General Court of 10 April 2019, Jindal Saw Ltd and Jindal Saw Italia SpA v European Commission, T-301/16, ECLI:EU:T:2019:234 and T-300/16, ECLI:EU:T:2019:235.

([5]) Commission Implementing Regulation (EU) 2020/526 of 15 April 2020 re-imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India as regards Jindal Saw Limited following the judgment of the General Court in T-300/16 (OJ L 118, 16.4.2020, p. 1).

([6]) Commission Implementing Regulation (EU) 2020/527 of 15 April 2020 re-imposing a definitive anti-dumping duty on on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India as regards Jindal Saw Limited following the judgment of the General Court in T-301/16 (OJ L 118, 16.4.2020, p. 14).

([7]) Notice of the impending expiry of certain anti-dumping measures (OJ C 210, 24.6.2020, p. 29).

([8]) Notice of Initiation of an expiry review of the anti-dumping measures applicable to imports of tubes and pipes of ductile cast iron originating in India (OJ C 90, 17.3.2021, p. 19).

([9]) Notice of Initiation of an expiry review of the anti-subsidy measures applicable to imports of tubes and pipes of ductile cast iron originating in India (OJ C 90, 17.3.2021, p. 8).

1.5. **Interested parties**

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

(12) 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. No interested party requested a hearing.

(a) ***Sampling***

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

Sampling of Union producers

(14) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of three Union producers. These Union producers are part of the same group of companies. The Commission selected the sample on the basis of volume of production and sales of the like product in the Union during the review investigation period, i.e. between 1 January 2020 and 31 December 2020. The definitive sample of Union producers accounted for [70-85] % of estimated total Union production and [70-85] % of estimated total Union sales volume of the like product, and it also ensured a good geographical spread.

(15) In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample, but did not receive any comments. The provisional sample was therefore confirmed and was considered representative of the Union industry.

Sampling of importers

(16) 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. However, as no unrelated importers came forward, sampling was not necessary.

Sampling of producers in India

(17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known producers in India to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Government of India to identify and/or contact other producers, if any, that could be interested in participating in the investigation.

(18) As only three producers provided a sampling reply within the time limit provided for, the Commission decided that sampling was not necessary.

(b) ***Questionnaires***

(19) The Commission sent questionnaires to the group of three sampled Union producers and the three exporting producers that had provided a sampling reply. The same questionnaires had also been made available online ([10]) on the day of initiation.

(20) The Commission received questionnaire replies from the three sampled Union producers and from one of the exporting producers, Tata Metaliks Limited ('TML'). Though having submitted sampling replies, the other two exporting producers subsequently did not submit a questionnaire reply and, hence, did not cooperate to the investigation.

([10]) https://trade.ec.europa.eu/tdi/case_details.cfm?ref=ong&id=2521&sta=1&en=20&page=1&c_order=date&c_order_dir=Down

(c) ***Verification***

(21) In view of the outbreak of COVID-19 and the confinement measures put in place by various third countries, the Commission could not carry out verification visits pursuant to Article 16 of the basic Regulation at the premises of the exporting producer. The Commission instead cross-checked remotely all the information deemed necessary for its determinations in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ([11]). The Commission carried out a remote crosscheck of the following exporting producer:

— Tata Metaliks Limited

(22) The Commission sought and verified all the information deemed necessary for the investigation. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following Union producers and a related sales entity in Italy:

— Saint-Gobain PAM, Pont-à-Mousson, France

— Saint-Gobain PAM Deutschland GmbH, Saarbrücken, Germany

— Saint-Gobain PAM Italia S.P.A, Milano, Italy

1.6. **Subsequent procedure**

(23) On 18 March 2022, 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.

(24) Only Tata Metaliks Limited submitted comments within the deadline. The comments were considered by the Commission and taken into account, where appropriate. No party requested a hearing.

1.7. **Comments on initiation**

(25) One user, i.e. Hydro Mat Benelux, and one exporting producer, i.e. Tata Metaliks Limited, submitted comments on initiation.

(26) The Commission noted that Tata Metaliks Limited submitted its comments on initiation were submitted on 17 February 2022, more than 9 months after the deadline of 37 days after the date of publication of the Notice of Initiation as defined in point 5.2 of the Notice of Initiation. Therefore, the Commission did not take into consideration this submission.

(27) The Commission noted that while submitting comments on the initiation, Hydro Mat Benelux did not fully cooperate with the investigation. In particular, the company did not fill in the questionnaire set for users which could have been used for cross-checking some of the statements listed below, i.e. for example the selling prices of the exporting producers or documents related to public procurement.

(28) First, Hydro Mat Benelux claimed that the proceeding should be terminated as the request was not lodged within 3 months prior to the date of expiry, mentioned in the Notice of impending expiry ([12]).

(29) The Commission clarified that the submission date mentioned in the Notice of Initiation did not correspond to the date on which the request was submitted. As it can be seen in the open version of the request for review available in the non-confidential file since 17 March 2021 and accessible by all interested parties, the request was duly submitted on 18 December 2020, that is within the time period provided for in Article 11(2) of the basic Regulation. Therefore, the claim was rejected.

([11]) Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (OJ C 86, 16.3.2020, p. 6).
([12]) OJ C 210, 24.6.2020, p. 29.

(30) Second, Hydro Mat Benelux claimed that there is an excessive use of confidentiality in the request. In particular, the Union industry indexed all the indicators concerning its economic performance. The party referred to Implementing Regulation (EU) 2020/1336 ([13]) where the Commission disclosed the microeconomic data of a single Union producer.

(31) The Commission noted that in Implementing Regulation (EU) 2020/1336 all micro indicators (sales prices and volumes, unit cost of production, labour costs, closing stocks, profitability, etc.) were provided in ranges or indexes.

(32) In addition, the Commission considered that the version of the expiry review request that was placed on the file for inspection by interested parties contained all the essential evidence and non-confidential summaries of data marked as confidential in order for interested parties to make meaningful comments and exercise their right of defence throughout the proceeding.

(33) In this respect, the Commission further recalled that Article 19 of the basic Regulation allows for the safeguarding of confidential information in circumstances where disclosure would be of significant competitive advantage to a competitor or would have a significant adverse effect upon a person supplying the information or upon a person from whom that person has acquired the information. Consequently, these claims were rejected.

(34) Third, the party claimed that the first half of 2020 did not reflect normal economic circumstances and considered that period was not representative for making a forward-looking assessment of the consequences of the expiry of the measures under discussion. The party claimed that the negative performance of the Union industry in the first half of 2020 was caused by the negative economic impacts due to COVID-19 and by the increase in cost of raw materials on world markets which could not be passed on to downstream consumers. Moreover, it claimed that for the period 2017-2019 the main indicators did not demonstrate vulnerability but rather a healthy Union industry, in particular when analysing the production, the production capacity, the inventories, the investments, the sales prices and the profitability.

(35) The Commission recalled that Article 11(2) of the basic Regulation requires that the expiry review request shall contain sufficient evidence that the expiry of the measures would likely result in a continuation or recurrence of injury. In the present case, the specific injury analysis in the expiry review request contained evidence pointing to a significant penetration of the Union market by Indian imports made at prices which substantially undercut and undersell the Union industry's prices. Accordingly, the Commission considered that the expiry review request contained sufficient evidence of continuation of injury and rejected the claim.

(36) Fourth, the party analysed the period 2017-2020 and argued that the available import data did not support the claim of likelihood of recurrence of injury. Moreover, the party claimed that the Indian export prices, the undercutting and underselling margins calculated by the applicant were not reliable as the export prices reflected the transfer price between related parties, i.e. the Indian producers and their related subsidiaries. Finally, the party claimed that the Indian producers have increased their production capacity in order to cope with the growing Indian domestic market and that the main Indian exporting producers did not plan to extend their production capacity.

(37) The Commission considered that none of the allegations disproved the conclusion that there was sufficient evidence for the initiation of an anti-dumping review investigation. Indeed, the expiry review request contained sufficient evidence that dumped imports had a materially injurious impact on the state of the Union industry. In particular, the applicants provided not only undercutting calculations at border level but also at the level of the delivery to customer premises showing an undercutting of no less than 14,9 %. The specific injury analysis of the expiry review request showed increased penetration of the Union market (both in absolute and relative terms) by imports from India made at prices which substantially undercut the Union industry's prices. This appears to have had a materially injurious impact upon the state of the Union industry, shown for example by decreases in sales and market share or by a deterioration of financial results. Therefore, the claim was rejected.

([13]) Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China (OJ L 315, 29.9.2020, p. 1), recitals (442) and (460-471).

(38) Regarding the claim that the increase of the Indian production will be directed only to the Indian market, the party did not provide any evidence. Consequently, the claim was rejected.

(39) Fifth, the party claimed that general competitiveness issues should not justify a finding of continuation or recurrence of injury. The party listed various items such as the fact that the Union consumption fell since Eurozone crisis with a decrease of public spending, and thus had a negative impact on the Union industry's competitiveness, the competition of plastic pipes, the difficulty attracting employment, the maintenance of dominant position, the pressure of cheaper Chinese imports on tender process.

(40) This claim is addressed below in recital (155).

(41) After disclosure, Tata Metaliks Limited submitted that the data in the review request relating to the Union industry's data and the imports covered the period of July 2019 to June 2020. However, the Notice of Initiation defined the review investigation period to be January 2020 to December 2020. In the company's view, the applicants should have updated the expiry review request based on the review investigation period defined in the Notice of Initiation, and these data should have been made available to parties. By not circulating such updated review request to the parties, the Commission violated in its view Article 6.1.2 and Article 6.4 of the WTO's Anti-Dumping Agreement.

(42) First, it is the Commission common practice to base its findings on the most recent available data. Such data may not necessarily correspond to the period defined in the expiry review request since it may not have been available at the time when the request for review was lodged. The WTO's Anti-Dumping Agreement does not contain any provision requiring the Commission to base its findings on the same period as defined in the expiry review request. Second, all the parties had the possibility to comment on the findings and evidence that related to the review investigation period defined in the Notice of Initiation during the investigation. Therefore, the Commission considered that it did not breach any procedural rights or violated the WTO's Anti-Dumping Agreement and rejected the claim.

(43) Tata Metaliks Limited also referred to the fact that the Commission rejected its comments on initiation because they came after the deadline provided for in the Notice of Initiation (see recital (26)). In its view the deadline would only apply after reception of the revised data by the applicants that would relate to the review investigation period as defined in the Notice of Initiation. Tata Metaliks Limited also argued that it is 'a settled principle of natural justice' and 'a settled position of law across all jurisdictions' that submissions regarding questions of law can be raised beyond deadlines.

(44) As explained in the recital (42), the review investigation period related to the most recent period for which data was available, and this period does not always correspond to the preliminary assessment of the review request. Furthermore, the deadline in the Notice of Initiation related explicitly to the date of publication of the Notice, and not to any other date such as submission of any information by a party. The deadline in the Notice of Initiation does not distinguish between questions of law and of fact and applies equally to both. The Commission thus rejected the claim.

2. **PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product concerned**

(45) The product concerned is the same as in in the original investigation namely tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) ('ductile pipes'), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), originating in India, currently falling within CN codes ex 7303 00 10 (TARIC code 7303 00 10 10) and ex 7303 00 90 (TARIC code 7303 00 90 10) ('the product concerned').

(46) Ductile pipes are used for drinking water supply, sewage disposal and irrigation of agricultural land. The transportation of water through ductile pipes may be based on pressure or solely on gravity. The pipes range between 60 mm and 2 000 mm and are 5,5, 6,7 or 8 meters long. They are normally lined with cement or other materials and externally zinc-coated, painted or tape wrapped. The main final users are public utility companies.

2.2. **Like product**

(47) 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;

— the product produced and sold on the domestic market of country concerned; and

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

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

3. **LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING**

(49) In accordance with Article 11(2) of the basic Regulation, and as stated in the Notice of Initiation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping. The Commission first examined whether the dumping in the review investigation period ('RIP')) continued (Section 3.1) and second, whether there is a likelihood it will continue or recur should the measures lapse (Section 3.2).

3.1. **Continuation of dumping in the review investigation period**

3.1.1. *Evolution of the imports after the imposition of the measures*

(50) In the original investigation period ([14]), India exported to the Union [80 000 – 100 000] tonnes of the product concerned (based on EU27) ([15]). Between 2016 and 2018, after the imposition of the definitive measures in March 2016, imports decreased and fluctuated between 38 000 to 55 000 tonnes yearly. In 2019, the imports from India increased again to [64 000 – 75 000] tonnes.

(51) During the review investigation period, imports of the product concerned decreased to [44 000 – 52 000] tonnes. After the review investigation period, in 2021, the imports increased again to the level of 2019.

(52) Overall, imports of the product concerned from India remained in the review investigation period at important level and accounted for about [10 – 14] % of the Union market, compared to [15 – 20] % market share the Indian imports represented during the original investigation period.

3.1.2. *Cooperation of the Indian producers and basis for the findings*

(53) Three Indian producers initially agreed to cooperate. However, two of these companies/groups of companies later withdrew their cooperation (see Section 1.5). The only cooperating company, Tata Metaliks Limited, sold in the review investigation period most of its production on the domestic market. Its total declared export volume to the Union was insignificant, corresponding to [< 1 %] of the total import volumes of the product concerned from India to the Union ([16]). In view of the very low quantities that Tata Metaliks Limited exported to the Union, the Commission did not considered that the exports of Tata Metaliks Limited could constitute a reliable basis to determine whether imports from India into the Union continued to be dumped.

(54) Since the overall exports of the product concerned in the review investigation period remained relatively high (see recital (51), the Commission based its findings on the continuation of dumping on the imports from India to the Union on best facts available in accordance with Article 18 of the basic Regulation. In this respect, it based its findings on statistical import data as recorded by Eurostat.

([14]) 1 October 2013 to 30 September 2014.
([15]) The figures in the original investigation were shown in ranges or indexes because of confidentiality.
([16]) The exported quantities represented in the RIP less than [< 1 %] in terms of turnover of the product concerned.

3.1.3. *Normal value*

(55) To determine the normal value, the Commission first examined the data submitted by the only cooperating producer, Tata Metaliks Limited. In the RIP, the company sold important quantities of the product concerned on the domestic market. Tata Metaliks Limited recorded the domestic prices in its accounting system on linear metres basis. For dumping determinations, Tata Metaliks Limited converted the prices using a conversion ratio from metres to kg. The investigation revealed that the method did not correctly reflect the actual weight of the product, and the resulting prices per kg were therefore not representative of the actual sales prices. Therefore, the Commission decided not to use the information submitted by Tata Metaliks Limited to determine the normal value, and to rely instead on facts available in accordance with Article 18 of the basic Regulation.

(56) After disclosure, Tata Metaliks Limited submitted that the methodology it adopted for converting the unit of measurement for the domestic sales from length to weight was not incorrect. It thus requested the Commission to take into account its data to determine the normal value.

(57) The Commission noted that apart from the general claim, Tata Metaliks Limited did not put forward any specific argument on the accurateness of the data submitted by the company. Contrary to the claim by Tata Metaliks Limited, the Commission found during the remote cross-check (see recital (21) above) significant discrepancies between the reported and real weight of the sold products. Therefore, the Commission maintained its view that the data of Tata Metaliks Limited to determine the normal value could not be used.

(58) In the absence of cooperation of any other producer in India, the Commission thus established the normal value on facts available, and in particular on the information in the review request. That information included prices offered, agreed and paid for multiple quantities, diameters and types of the product concerned in several different States and municipalities.

3.1.4. *Export price*

(59) Given that the Commission considered that the low export quantities of Tata Metaliks Limited (see recital (53)) were not representative of the overall exports of the product concerned to the Union market and in the absence of cooperation of any other producers in India, the Commission established the export price based on CIF Eurostat data adjusted to ex-works level.

(60) After disclosure Tata Metaliks Limited submitted that the methodology applied by the Commission was unfair and incorrect as Tata Metaliks Limited will be penalized for any dumping by the exporting producers whereas those producers would continue to get the benefit of individual anti-dumping rates assigned to them.

(61) The Commission recalled that since Tata Metaliks Limited exported during the review investigation period very limited quantities to the Union, the Commission could not use its data to determine the export price. In the absence of cooperation of any other exporting producer, it had no choice but to rely on the statistical data. Moreover, in any event and as further detailed in recitals (193), under the current review the Commission solely concludes on whether the measures are necessary or not. The duty rates established in the original investigation will not be therefore amended. The Commission thus rejected the claim.

3.1.5. *Comparison*

(62) The Commission compared the normal value and the export price on an ex-works basis determined as mentioned above in Sections 3.1.3 and 3.1.4.

(63) On this basis, the dumping margin expressed as a percentage of the CIF Union frontier price, duty unpaid, was 12 % during the review investigation period.

3.1.6. *Conclusion*

(64) The Commission therefore concluded that during the review investigation period, the Indian producers continued to export the product concerned to the Union at dumped prices.

3.2. **Likelihood of continuation of dumping should the measures lapse**

(65) Further to the finding of the existence of continued 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 Commission analysed in particular the following elements: the production capacity and spare capacity in India, prices from India to third countries and attractiveness of the Union market in terms of the size of the market and prices.

3.2.1. *Production capacity, spare capacity in India and prices from India to third countries*

(66) In the review investigation period, the total estimated production of the Indian producers of the product concerned was around 2 million tonnes yearly. The estimated production capacity amounted to around 2,5 million tonnes. Hence, the spare capacity represented around 500 000 tonnes yearly, which exceeds the consumption of the product concerned on the Union market in the review investigation period, which amounted to [388 000 to 454 000] tonnes.

(67) Based on the evidence submitted by the applicant and confirmed by the information from the cooperating producer, Tata Metaliks Limited, a number of the Indian producers including Tata Metaliks Limited ([17]) plan to invest in further capacity increases ([18]). The total additional capacities to be installed in next few years are estimated at around 1,5 million of tonnes.

(68) The expected grow in capacities correspond to the estimated growth of the demand on the Indian market. However, the major known producers also plan to focus on the export markets ([19]). For instance, the company ESL Steel Limited (part of the Vedanta Group) explicitly mentioned, in a feasibility study, that its new facility was located near to a port, which enhances its export chance. The report mentioned in particular a big potential of exports to the Eastern Europe ([20]). Plans to expand to the Union market in the future were also mentioned by the cooperating company, Tata Metaliks Limited during the remote cross-check of its questionnaire reply.

(69) Moreover, according to one of the major players, the company Srikalahasthi Pipes Limited ('SPL'), in the medium and long term (7 to 10 years), because the wastewater and water projects will be finalized, there will be an excess of the supply over demand on the Indian market. Consequently, this will represent further incentive of the Indian producers to focus more and more on export markets.

(70) Based on the above, the Commission concluded that the Indian producers have significant spare capacity, which they could use to produce the product concerned to export to the Union market if measures lapse, and that this spare capacity is expected to further grow.

(71) Concerning the prices from India to third countries, the Commission examined those on the basis of the export statistics in Global Trade Atlas ('GTA') at the level of CN code, i.e. 7303 00 30. Based on these statistics, the Commission established that Union market remains attractive in terms of its size and prices as it is by far the most important export market for Indian producers of ductile pipes, accounting for 40 % of their total exports. Moreover, exports to the Union are 25 times higher than exports to India's second largest export market, which is Qatar. The latter accounts only for 2 % of the total Indian exports. Finally, import prices of the Indian exporting producers to the Union market were slightly higher than those to other countries during the review investigation period. Consequently, should the measures be allowed to lapse, the exporting producers would have an incentive to increase their exports to the Union even further.

([17]) https://www.tatametaliks.com/tata-metalik-ir-20-21/focus-on-downstream.html#:~:text = Tata%20Metaliks%20had%20foreseen%20the,in%20H1 %20FY%202022 %2D23

([18]) The intention to invest in capacity increase were made public by the major producers of the product concerned in India such as Vedanda.

([19]) Review request, Annex 17.

([20]) Review request, Annex 17.

3.2.2. *Attractiveness of the Union market and prices on the Union market*

(72) The market of ductile pipes in the Union is important ([388 000 – 454 000] tonnes, see recital (66)). The applicants expect the market to be further growing within the next 5 years ([21]).

(73) In the RIP, the average price per tonne on the Union market was EUR [1 020 – 1 200]. In the same period, the price on the Indian domestic market was EUR 595 per tonne (ex works). Therefore, the prices on the Union market were around two times higher compared to the prices of the imports from India.

(74) Therefore, in terms of the size and the prices, the Union market remained an attractive market for the Indian producers. This is further supported by the fact that during the review investigation period, the market share of the Indian exporting producer remained important (see Table 2) and that, as explained in recital (71) above, the Union market constituted 40 % of the total exports from India of the product concerned.

3.3. **Conclusion on the likelihood of continuation of dumping**

(75) The investigation showed that the Indian exports continued to enter the Union market at dumped prices during the review investigation period.

(76) The Commission also found evidence on the basis of Article 18 basic Regulation that dumping will likely continue should the measures lapse. The spare capacity in India was significant in comparison with the Union consumption during the review investigation period. Moreover, the attractiveness of the Union market in terms of size and prices supported the likelihood that Indian exports and spare capacity would be directed towards the Union market, should the measures lapse. Consequently, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in a significant increase of dumped imports of the product concerned from India to the Union.

(77) In the light of the above, the Commission concluded that the expiry of the anti-dumping measures would be likely to lead to a continuation of dumping.

4. **INJURY**

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

(78) Within the Union, five companies produce the product concerned. Three of these companies are part of the same group. Based on the available information from the request, there are no other Union producers of the product concerned in the Union. Therefore, they constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(79) As the data relating to the injury assessment was primarily derived from the same group of producers, as mentioned in recital (14), the figures for the injury analysis are given in ranges or in an indexed form for reasons of confidentiality.

(80) The total Union production during the review investigation period was established at [372 000 – 436 000] tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as macro data provided by the applicant and data collected from the sampled Union producers during the investigation.

4.2. **Union consumption**

(81) The Commission established the Union consumption on the basis of the volume of the total Union industry's sales in the Union, the captive production on the basis of the data collected from the sampled Union producers and estimates for the remaining Union producers provided by the applicant, plus the total of imports from all countries to the Union as reported by Eurostat (Comext database).

([21]) Review request, Section 5.1.6.

(82) Union consumption developed as follows:

Table 1

Union consumption (in 1 000 tonnes)

	2017	2018	2019	Review Investigation Period
Total Union Consumption	[376 – 440]	[389 – 455]	[420 – 492]	[388 – 454]
Index (2017 = 100)	*100*	*103*	*111*	*103*
Captive market	[15 – 17]	[13 – 16]	[10 – 12]	[2 – 3]
Index	*100*	*91*	*68*	*18*
Free market	[361 – 423]	[375 – 439]	[410 – 479]	[385 – 450]
Index (2017 = 100)	*100*	*103*	*113*	*106*

Source: Eurostat Comext

(83) The Union consumption fluctuated during the period considered. Overall, it increased slightly by 3 % in 2018, increased by 8 % in 2019 and decreased by 8 % in 2020. As a result, the consumption increased by 3 % during the period considered.

(84) The use of ductile iron pipes is by nature linked to infrastructure investment with regard to water treatment, the water supply and water treatment companies, whether public or privately-owned, account for most of the demand for the ductile iron pipes in the Union. Ductile pipes are mainly used in large infrastructure projects. Moreover, the evolution of the Union consumption did not show a major impact due to the COVID-19 pandemic as the improvement of water networks has a constant priority for the public authorities. Therefore, the evolution of the Union consumption reflects the evolution of the infrastructure investment.

(85) The Union industry reported captive use of the product concerned, which represented less than 5 % of total Union consumption in 2017 and decreased over the period considered representing less than 1 % in the review investigation period. The Commission therefore considered that the captive use did not have a meaningful impact on the injury analysis.

4.3. **Imports from India**

4.3.1. *Volume and market share of the imports from India*

(86) The Commission established the volume of imports on the basis of Eurostat (Comext database). The market share of the imports was established on the Union consumption, as set out in recital (81).

(87) Imports of the product concerned into the Union from India developed as follows:

Table 2

Import volume (in 1 000 tonnes) and market share

	2017	2018	2019	Review Investigation Period
Volume of imports from India	[45 – 52]	[38 – 45]	[64 – 75]	[44 – 52]
Index (2017 = 100)	*100*	*86*	*143*	*98*

Market share (in %)	11/15	9/13	14/18	10/14
Index (2017 = 100)	*100*	*83*	*128*	*95*

Source: Eurostat Comext

(88) During the period considered, the Indian import volumes fluctuated significantly: in 2018, the imports decreased by 14 %, in 2019 increased by 68 % and finally during the review investigation period decreased by 31 %.

4.3.2. *Prices of the imports from India*

(89) The Commission established the weighted average prices of imports on the basis of Eurostat Comext statistics.

(90) The weighted average price of imports into the Union from India developed as follows:

Table 3

Import prices (EUR/tonne)

	2017	2018	2019	Review Investigation Period
India	553	562	586	585
Index (2017 = 100)	*100*	*101*	*105*	*105*

Source: Eurostat Comext

(91) In 2017-2018, the import prices were rather stable. As from, in 2019 the import prices increased by 5 % and remained stable during the review investigation period.

4.3.3. *Price undercutting*

(92) As mentioned in recital (53), only one Indian producer cooperated with the investigation. This producer declared a negligible quantity exported to the Union, which corresponded to less than 1 % of the total import volumes of the product concerned from India to the Union. Therefore, the Commission considered that this export volume was not representative of the exports of the product concerned to the Union and decided to establish the price undercutting based on facts available.

(93) The Commission compared the weighted average CIF Indian import prices, adjusted for post importation costs, to the weighted average price of the Union industry. The Indian import prices undercut the prices of the Union industry by around [30- 45] % during the review investigation period.

4.3.4. *Imports from third countries other than India*

(94) During the review investigation period, the volume and the market share of imports from third countries other than India amounted respectively to [8 700-20 200] tonnes and [2-4] % of the Union consumption. Over the period considered, the weighted average price of imports from third countries was at comparable level to prices of the sampled Union producers in 2017-2018 and around 25 % lower for the period 2019-2020 (see Table 8). While the volume of imports from third countries slightly increased, i.e. by 2 %, the origin of the imported ductile pipes was not stable over the period considered. For example, in 2017, the main imports from third countries came from China, Russia and Switzerland, while in the review investigation period the main importers were Turkey and United Arab Emirates.

(95) The aggregated volume of imports into the Union as well as the market share and price trends for imports of tubes and pipes of ductile cast iron from other third countries developed as follows:

Table 4

Import volume and market share from other third countries

Country		2017	2018	2019	Review Investigation Period
China	Volume (tonne)	[2 900 – 3 400]	[1 400 – 1 700]	[3 900 – 4 600]	[200 – 400]
	Index	*100*	*50*	*133*	*10*
	Market share (in %)	[0 – 1]	[0 – 1]	[0 – 2]	[0 – 1]
	Index (2017 = 100)	*100*	*48*	*119*	*9*
	Average price (EUR/tonne)	701	933	738	833
	Index (2017 = 100)	*100*	*133*	*105*	*118*
Russia	Volume (tonne)	[2 000 – 2 500]	[1 400 – 1 600]	[2 900 – 3 600]	[1 200 – 1 600]
	Index (2017 = 100)	*100*	*67*	*147*	*63*
	Market share (in %)	[0 – 1]	[0 – 1]	[0 – 1]	[0 – 1]
	Index (2017 = 100)	*100*	*65*	*132*	*61*
	Average price (EUR/tonne)	568	697	735	698
	Index (2017 = 100)	*100*	*122*	*129*	*122*
Switzerland	Volume (tonne)	[3 400 – 4 400]	[1 800 – 2 200]	[1 600 – 2 000]	[800 – 1 000]
	Index (2017 = 100)	*100*	*52*	*47*	*23*
	Market share (in %)	[0 – 1]	[0 – 1]	[0 – 1]	[0 – 1]
	Index (2017 = 100)	*100*	*51*	*42*	*23*
	Average price (EUR/tonne)	1 604	1 656	1 714	1 817
	Index (2017 = 100)	*100*	*103*	*106*	*113*
Turkey	Volume (tonne)	[10 – 20]	[10 – 20]	[3 100 – 3 650]	[4 200 – 5 000]
	Index (2017 = 100)	*100*	*115*	*25 750*	*35 070*

	Market share (in %)	[0 – 1]	[0 – 1]	[0- 1]	[1 – 2]
	Index (2017 = 100)	*100*	*111*	*23 065*	*34 035*
	Average price (EUR/tonne)	1 136	1 750	838	1 007
	Index (2017 = 100)	*100*	*153*	*73*	*88*
UAE	Volume (tonne)	[460 – 590]	[3 700 – 4 400]	[4 800 – 5 600]	[6 400 – 7 600]
	Index (2017 = 100)	*100*	*766*	*988*	*1 322*
	Market share (in %)	[0 – 1]	[0 – 1]	[1 – 2]	[1 – 2]
	Index (2017 = 100)	*100*	*741*	*884*	*1 282*
	Average price (EUR/tonne)	712	786	722	705
	Index (2017 = 100)	*100*	*110*	*101*	*99*
Other third countries	Volume (tonne)	[10 -20]	[150 – 200]	[10 -50]	[150 – 300]
	Index (2017 = 100)	*100*	*994*	*200*	*1 457*
	Market share (in %)	[0 – 1]	[0 – 1]	[0 – 1]	[0 – 1]
	Index (2017 = 100)	*100*	*962*	*179*	*1 414*
	Average price	508	1 422	1 980	897
	Index (2017 = 100)	*100*	*279*	*389*	*176*
Total of all third countries excl. India	Volume (tonne)	[8 700 – 11 200]	[8 800 – 10 500]	[16 000 – 19 600]	[13 500 – 15 800]
	Index (2017 = 100)	*100*	*94*	*180*	*145*
	Market share (in %)	[1 – 3]	[1 – 3]	[3 – 5]	[3 – 5]
	Index (2017 = 100)	*100*	*91*	*161*	*141*
	Average price (EUR/tonne)	1 033	1 004	856	879
	Index (2017 = 100)	*100*	*97*	*82*	*85*

Source: Eurostat Comext database

4.4. **Economic situation of the Union industry**

4.4.1. *General remarks*

(96) 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.

(97) As mentioned in recital (13), sampling was used for the assessment of the economic situation of the Union industry.

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

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

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

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2017	2018	2019	Review Investigation Period
Production volume (in 1 000 tonne)	[408 – 478]	[452 – 530]	[436 – 510]	[372 – 436]
Index (2017 = 100)	*100*	*110*	*106*	*91*
Production capacity (in 1 000 tonne)	[824 – 965]	[824 – 965]	[824 – 965]	[743 – 870]
Index (2017 = 100)	*100*	*100*	*100*	*90*
Capacity utilisation (in %)	[47 – 51]	[52 – 56]	[50 – 54]	[48 – 51]
Index (2017 = 100)	*100*	*110*	*106*	*101*

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

(102) The Union production decreased by 9 % over the period considered after an increase of 10 % in 2018.

(103) The production capacity followed a similar trend as it decreased by 10 % over the period considered.

(104) The capacity utilisation remained stable as the decrease of the production capacity followed the decrease of the Union production.

(105) Following final disclosure, Tata Metaliks Limited claimed that the imports from India could not have been a reason for the Union industry to reduce its production capacity but rather the decline in demand as compared to 2019.

(106) The Union industry's decision to reduce its production capacity was made before the COVID-19 crisis and thus the decision had no link with the decrease of the consumption between 2019 and the review investigation period. Therefore, the claim was rejected.

4.4.2.2. Sales volume and market share

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

Table 6

Sales volume and market share of Union producers

	2017	2018	2019	Review Investigation Period
Sales volume on the Union market (in 1 000 tonnes)	[321 – 376]	[341 – 399]	[338 – 396]	[329 – 386]
Index	*100*	*106*	*105*	*102*
Market share (in %)	[82- 88]	[84 – 90]	[77 – 83]	[81 – 87]
Index	*100*	*102*	*94*	*99*
Captive market sales (in 1 000 tonnes)	[15 – 17]	[13 – 16]	[10 – 12]	[2 – 3]
Index	*100*	*91*	*68*	*18*
Market share of captive market sales (in %)	[3 – 4]	[3 – 4]	[2 – 3]	[0 – 1]
Index	*100*	*88*	*61*	*18*

Source: Data provided by the Union industry and verified questionnaire replies of the sampled Union producers

(108) The sales volume of the like product by the Union industry over the period considered and the market share did not follow the increase of the Union consumption, except for 2019. In particular, in 2019 the Union industry did not benefit from the increase in consumption, contrary to the imports from India.

(109) Following final disclosure, Tata Metaliks Limited claimed that the market share of the Union industry remained high at around 85 % and increased in the review investigation period in comparison with previous years. The volume of the Union sales was also consistently above the year 2017. The volume in the review investigation period could have been higher without the impact of the COVID-19 crisis. The party considered that the Commission's conclusion did not reflect the factual situation.

(110) The Commission concluded that the Union industry did not benefit from a high market share. As explained in recital (133), the sampled Union producers were lossmaking during the entire period considered, due to the substantial price pressure from the Indian imports (see recital (151)). Also, as explained in recital (108) the Union market share did not follow the increase of the Union consumption and, unlike imports from India, Union sales did not benefit from the increase in the consumption in 2019. Therefore, the claim was rejected.

4.4.2.3. Growth

(111) During the period considered, the Union consumption increased by 3 % whereas the volume of sales to unrelated customers in the Union increased by 2 %. Consequently, despite the increase in consumption, the market share of the Union industry slightly decreased over the period considered.

4.4.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2017	2018	2019	Review Investigation Period
Number of employees	[1 820 – 2 540]	[1 820 – 2 540]	[1 810 – 2 530]	[1 700 – 2 390]
Index	*100*	*100*	*99*	*93*
Productivity (tonne/employee)	[162 – 226]	[179 – 250]	[173 – 242]	[157 – 220]
Index	*100*	*110*	*107*	*97*

Source: Data provided by the Union industry and verified questionnaire replies of the sampled Union producers

(113) The number of employees of the Union industry engaged in the production of the product concerned remained stable during the period 2017-2018 and decreased by around 6 % during the period 2019-2020.

(114) The productivity of the Union industry's workforce, measured as output (tonnes) per employee, increased by 10 % over the period 2017-2018 and decreased by 13 % during the period 2018-2020. This can be explained as the combined effect of:

— A production stoppage at the production site of one main Union producer, leading to the lower production from December 2019 to February 2020, and;

— Less production by the Union producers during the second quarter of 2020, as a result of the COVID-19 pandemic which was not matched with the number of employees that were laid off.

4.4.2.5. Magnitude of dumping and recovery from past dumping

(115) As explained in recital (92), there was limited cooperation from exporting producers from India.

(116) The injury indicators show that, notwithstanding the anti-dumping measures in force since 2016, which resulted in some relief and improved performance initially, the economic situation of the Union industry remained injurious. Thus, no recovery from the past dumping could be established.

(117) The dumping was significantly above the de minimis level. The impact of the magnitude of dumping on the Union industry was substantial, given the volume and prices of imports from India.

(118) Continuous unfair pricing by exporters from India made it also impossible for the Union industry to recover from the past dumping practices.

(119) Following final disclosure, Tata Metaliks Limited claimed that there is no absolute increase in the volume of Indian imports and these imports had only around 15 % market share. Moreover, the interested party pointed out that the Union industry's economic performance improved after the imposition of the initial measures and decreased thereafter. Therefore, the Indian imports did not cause injury to the Union industry.

(120) The Commission observed that the interested party did not substantiate its claim that the Union industry's economic performance improved after the imposition of the initial measures. As mentioned in recital (133), the profitability of the sampled Union producers was negative during the entire period considered. Therefore, the claim was rejected.

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

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

Table 8

Sales prices in the Union and unit cost

	2017	2018	2019	Review Investigation Period
Average unit sales price in the Union on the total market (EUR/tonne)	[950 – 1 110]	[960 – 1 130]	[1 020 – 1 190]	[1 020- 1 200]
Index	*100*	*101*	*107*	*107*
Unit cost of production (EUR/tonne)	[1 000 – 1 100]	[900 – 1 100]	[1 000 – 1 100]	[1 000 – 1 200]
Index	*100*	*97*	*101*	*105*

Source: verified questionnaire replies of the sampled Union producers

(122) The Union industry's average unit selling price to unrelated customers in the Union increased by 7 % over the period considered reflecting the increase of the unit cost of production (5 %).

(123) Following final disclosure, Tata Metaliks Limited claimed that the alleged decrease in the landed prices showed that the imports are not causing any price suppression or depression.

(124) The Commission observed that the interested party did not substantiate its claim how the landed prices, which have undercut the Union prices by around 40 %, during the period considered did not cause any price suppression or depression to the Union producers. Therefore, the claim was rejected.

4.4.3.2. Labour costs

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

Table 9

Average labour costs per employee (EUR/employee)

	2017	2018	2019	Review Investigation Period
Average labour costs per employee	[56 000 – 66 000]	[57 000 – 66 000]	[57 000 – 67 000]	[53 000 – 62 000]

Index (2017 = 100)	*100*	*100*	*101*	*94*

Source: verified questionnaire replies of the sampled Union producers

(126) The average labour costs per employee remained stable until 2019 and dropped by 6 % over the period considered. Within the review investigation period, the average labour costs per employee decreased as the French State financed the unemployment due to COVID-19 shut-down.

(127) Following final disclosure, Tata Metaliks Limited noted that there is no injury to the Union industry under this parameter.

(128) The Commission recalled that as explained in recital (126) above the decrease in average labour costs per employee was due to extraordinary funding received from the French State in the review investigation period. Consequently, this claim was rejected.

4.4.3.3. Inventories

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

Table 10

Inventories

	2017	2018	2019	Review Investigation Period
Closing stocks (in 1 000 tonnes)	[87 – 102]	[77 – 90]	[84 – 98]	[68 – 79]
Index (2017 = 100)	100	88	95	77
Closing stocks as a percentage of production in %)	[20 – 25]	[15 – 17]	[18 – 20]	[18 – 20]
Index (2017 = 100)	100	79	89	85

(130) The level of closing stocks of the sampled Union producers remained stable in relation with the production.

(131) Following final disclosure, Tata Metaliks Limited claimed that the inventory decreased significantly during the review investigation period, showing that the Union industry focussed on reducing its production. The interested party claimed that the inventory should have increased instead in case of being impacted by imports from India.

(132) As seen in recital (102), the decrease in the inventory observed during the review investigation period by the party was accompanied by the decrease in the Union production. Moreover, the Commission did not find any correlation between the decrease in the inventory observed mainly during the review investigation period and the imports from India as the impact of the imports from India was observed not only during the review investigation period but through the entire period considered. Therefore, the claim was rejected.

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

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

Table 11

Profitability, cash flow, investments and return on investments

	2017	2018	2019	Review Investigation Period
Profitability of sales in the Union to unrelated customers (in % of sales)	[- 5 – - 9]	[- 1 – - 5]	[- 1 – - 5]	[- 3 – - 7]
Index (2017 = 100)	*- 100*	*- 33*	*- 36*	*- 69*
Cash flow (million EUR)	[- 31 – - 37]	[- 46 – - 54]	[- 73 – - 85]	[- 43 – - 51]
Index (2017 = 100)	*100*	*- 145*	*- 231*	*- 138*
Investments (million EUR)	[20 – 24]	[30 – 36]	[33 – 39]	[15 – 18]
Index (2017 = 100)	*100*	*149*	*161*	*73*
Return on investments (in %)	[- 6 – - 8]	[- 7 —- 9]	[- 10 – - 12]	[- 5 – - 7]
Index (2017 = 100)	*- 100*	*- 131*	*- 194*	*- 106*

Source: verified questionnaire replies of the sampled Union producers

(134) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The profitability of the sampled producers was negative during the period considered, going from around -5/-9 % in 2017 to -3/-7 % in the review investigation period.

(135) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed remained negative over the entire period considered with the exception of 2018.

(136) The investments (mainly focused on upgrades of the production equipment, increase of quality, productivity and flexibility in the production process) increased in over the period 2017-2019 and decreased to its lowest in 2020.

(137) The return on investments is the profit in percentage of the net book value of investments. It developed a similar trend as profitability, sharply decreased in 2019 and then improved marginally in 2020. It remained negative and deteriorated by 53 % during the period considered.

4.5. **Conclusion on injury**

(138) Despite the anti-dumping measures in force, Indian imports of ductile pipes remained substantial with stable market shares between [9 % and 18 %] during the period considered. During the review investigation period the market share was between [10-14] %. At the same time, the import prices showed a decreasing trend and undercut the Union prices by [30-45] % during the review investigation period, despite the existence of the anti-dumping and countervailing measures.

(139) The development of the macroeconomic indicators, in particular, production and sales volume, employment and productivity showed stable or slightly decreasing trends. The market share of the Union industry decreased in the review investigation period reaching a similar level than in 2017. The increase of market share in 2018 despite the relatively stable sales volume was due to the decreasing consumption during the same period. Although the Union industry largely managed to maintain its sales volume and market share, this was at the expense of its profitability and other financial indicators as explained in the following recital.

(140) Even though the average unit sales price of the Union producers increased by 7 % during the period considered, which was higher than the increase by 5 % of the cost of production, the Union industry still did not manage to achieve sustainable profit margins. Due to the price pressure of the Indian imports, the Union industry could not increase its sales prices to cover the average cost of production and was therefore loss making throughout the period considered (with the exception of 2018 where it was close to breakeven). Thus, the Indian imports also

exercised significant price suppression on the Union producers' sales during the review investigation period. Other financial indicators (cash flow, return on investment) followed a similar trend as the profitability, and showed negative or low values during the period considered. Investments, though showing some increase in 2017 and 2018, were at a generally low levels as well.

(141) Given the above, the Commission concluded that the Union industry suffered material injury.

(142) Following final disclosure, Tata Metaliks Limited claimed that the decline in the Union industry's financial performance was due to factors other than allegedly dumped imports.

(143) The Commission observed that the party did not bring forward new elements which could revert its conclusion. Therefore, the claim was rejected.

(144) Tata Metaliks Limited also claimed that there was no correlation between the evolution of the imports and the level of losses reported by the Union industry, and thus there was no causal link between the imports and the Union industry's financial performance.

(145) As mentioned in recital (93), the Commission found that the import prices from India undercut significantly the Union industry prices. Moreover, the Commission observed that the party did not bring forward any evidence demonstrating that other factors impacted the Union industry. Therefore, the claim was rejected.

(146) Furthermore, Tata Metaliks Limited claimed that it was not able to examine the correlation between the price undercutting and the economic performance of the Union industry as the Commission did not disclose price undercutting calculations for the period considered.

(147) The Commission noted that the information necessary to establish the existence of a price undercutting was provided to the party. Regarding the review investigation period, the findings with regard to price undercutting were set out in recitals (92) and (93) above. For the years 2017, 2018 and 2019, recital (91) provided the unit prices for Indian imports and recital (121) the weighted average unit sales prices of the sampled Union producers to unrelated customers. Therefore, the party had all the information, on the basis of which the Commission concluded the existence of undercutting. Therefore, the claim was rejected.

(148) Finally, the party claimed that the import volumes decreased between 2019 and the review investigation period. Therefore, the party concluded that there was no volume effect.

(149) The Commission observed that the imports from India in the review investigation period moved back to the levels of 2017. Moreover, the main impact of the imports from India was found at the level of the low prices, which resulted in significant pressure on the Union market prices. Therefore, the claim was rejected.

5. **CAUSATION**

(150) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from India caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from India was not attributed to the dumped imports. These factors are:

5.1. **Effects of the dumped imports**

(151) First, the Commission examined whether there was a causal link between the dumped imports and the injury suffered by the Union industry.

(152) Indian imports of ductile pipes remained substantial with market shares above 10 % during the entire period considered and at low price levels during the review investigation period, despite the anti-dumping measures in force. Due to the substantial price pressure from the Indian imports, the Union industry could not pass on to their clients the increase in their costs of production which led to losses during the entire period considered. The Commission therefore concluded that the volume and price levels of the imports under investigation cause material injury.

5.2. **Effects of other factors**

(153) The volumes imported from other third countries represented only between [2- 4] % of the market share in the review investigation period. As shown in the table 4, during the review investigation period, the average import price from third countries was 50 % higher than the average import price from India.

(154) As indicated in recital (40), one party claimed that general competitiveness issues should justify a finding of discontinuation or non-recurrence of injury. The party listed various factors such as the decrease of the Union consumption of ductile pipes that fell since the Euro crisis which resulted in a decrease of public spending, difficulties in attracting staff, the maintenance of the dominant position, the pressure of cheaper Chinese imports on the bidding process for public procurement. Moreover, the party claimed that the plastic pipes are the first competitor of the Union industry as they are less expensive and thus attract a significant part of public tenders.

(155) Contrary to the party's claim, the Union consumption and the market share of the Union industry increased, while employment remained stable during the period considered. Moreover, there is no evidence that the plastic pipes gained market shares during the period considered against ductile pipes. It should be noted that plastic pipes are not in competition for the large pipe diameters. Consequently, these factors did not contribute to the injury found. In addition, Chinese imports were made at significantly higher prices than Indian imports, and in far lower volumes. Finally, the party failed to specify how the dominant position if any, could have caused injury. Therefore, these claims were rejected.

(156) Regarding the export performance of the Union industry, the volumes of exports developed over the period considered as follows:

Table 12

Export performance of the Union industry

	2017	2018	2019	Review Investigation Period
Export volume (in 1 000 tonne)	[119 – 140]	[147 – 172]	[102 – 119]	[66 – 77]
Index (2017 = 100)	*100*	*122*	*85*	*55*
Average price (EUR/tonne)	[760 – 890]	[750 – 880]	[840 – 980]	[890 – 1 040]
Index (2017 = 100)	*100*	*99*	*110*	*117*

Source: the applicant for volume and verified questionnaire replies for values

(157) During the period considered, the volumes dropped by half. Although the prices of the exports increased by 17 %, this was not sufficient to cover the costs of production over the entire period considered as illustrated in table 8 above. Therefore, the exports did not attenuate the causal link between the dumped exports from India and the injury found.

(158) Possible other factors, such as COVID-19 crisis, were also examined, but none of them could attenuate the causal link between the dumped imports and the material injury suffered by the Union industry. The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports.

(159) Following final disclosure, Tata Metaliks Limited claimed that the COVID-19 crisis impacted negatively the economic situation of the Union industry in the first semester of 2020. The party stated that the initial lockdowns imposed for public health measures forced many construction projects to a halt.

(160) As described above, the Union market for ductile pipes during the review investigation period was not significantly impacted by the lockdowns due to COVID-19 crisis. The total Union consumption of that year was similar to the year 2018. Therefore, the claim was rejected.

(161) In light of the above considerations, the Commission concluded that the dumped imports from India caused material injury to the Union industry and that other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury. The injury is clear in particular in the evolution of production, capacity utilisation, sales volume in the Union market, market share, productivity, profitability and return on investments.

6. LIKELIHOOD OF CONTINUATION OF INJURY IF THE MEASURES WERE REPEALED

(162) The Commission concluded in recital (141) that the Union industry suffered material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of continuation of injury caused by the dumped imports from India if the measures were allowed to lapse.

(163) In this respect the following elements were analysed by the Commission: the production capacity and spare capacity in India, relationship between prices in the Union and the Indian prices; the attractiveness of the Union market and the impact of potential imports from India on the Union industry's situation should the measures lapse.

6.1. The production capacity, spare capacity in India and the attractiveness of the Union market

(164) As already described in recitals (66) to (71), the spare capacity available in India represented around 500 000 tonnes yearly, which exceeds the consumption of the product concerned on the Union market, which amounted in the review investigation period to [388 000 to 454 000] tonnes. Moreover, Indian producers planned to invest in new production capacity. Thus, for the next years there will be an excess of the supply over demand on the Indian market. Consequently, this will represent further incentive of the Indian producers to focus more and more on export markets.

(165) The available and future spare capacity of the Indian exporting producers could be used to produce the product concerned to export to the Union market if measures were allowed to lapse.

(166) Following final disclosure, Tata Metaliks Limited claimed that there was no evidence that the alleged spare production capacity in India will be necessarily used for production of ductile pipes and exported as a result of excess of supply over demand in India. Moreover, the Commission did not examine the attractiveness of other export markets and did not analyse any post review investigation period data. Finally, the party claimed that the any determination regarding likelihood of continuation of dumping and injury has to be based on positive evidence ([22]). Therefore, the party concluded that the conclusion on likelihood was incorrect.

(167) The Commission observed that the party confirmed the existence of spare capacity in India. In addition, as explained in recitals (66) to (70) above, the Commission established the spare capacity in question specifically for the product concerned. Also, as explained in the same recitals, the Commission established that in the long run the demand on the Indian market will subside while the party itself acknowledged that it had plans to expand its sales to the Union market. Furthermore, as described below in Section 6.2, the Union market was considered attractive for Indian producers, and it could, therefore, be concluded that available spare capacities in India would, at least partially, be used to increase exports to the Union market. Therefore, the claim was rejected.

(168) Regarding the positive evidence required under the case-law mentioned, the Commission considered that it complied with all requirements of the existing jurisprudence and its assessment and conclusion of the likelihood of continuation of dumping and injury were based on positive evidence, collected during the investigation. Consequently, the claim was rejected.

(169) In view of the above, the Commission concluded that the expiry of the measures would in all likelihood result in a significant increase of dumped imports from India at prices undercutting the Union industry prices, and therefore further aggravating the injury suffered by the Union industry. As a consequence, the viability of the Union industry would be at serious risk.

([22]) United States – Sunset reviews of Anti-dumping Measures on Oil Country Tubular Goods From Argentina (WT/DS/268/AB/R).

6.2. **Attractiveness of the Union market**

(170) The Union market is attractive in terms of its size and prices. As mentioned in recital (71), it is by far the most important export market for Indian producers of ductile pipes, accounting for 40 % of their total exports. Exports to the Union are 25 times higher than exports to its second largest export market, which is Qatar accounting for 2 % of Indian exports of ductile pipes. Also, Indian import prices to the Union market were slightly higher than those other countries during the review investigation period, which made the Union market slightly more lucrative than other markets.

(171) Despite the existing measures, Indian exporting producers sold to the Union a substantial volume of ductile pipes during the period considered and still had considerable market share during the review investigation period (close to [10- 14] %). These were sold at a price which, even including the anti-dumping duties, significantly undercut the Union industry sales prices on the Union market.

(172) The Union market is hence considered attractive for Indian producers, and it can be concluded that available spare capacities in India would at least partially, be used to increase exports to the Union market. In this respect, it is recalled that the market share of Indian imports was at high levels [17–19] % in the investigation period of the original investigation, i.e. prior to the imposition of the anti-dumping duties.

6.3. **Conclusion on likelihood of a continuation and/or recurrence of injury**

(173) On this basis, and noting the past and current injurious situation of the Union industry, the absence of measures would in all likelihood result in a significant increase of dumped imports from India at injurious prices, leading to even higher losses for the Union producers. Therefore, the Commission concluded that should the measures be allowed to lapse, this would in all likelihood result in a significant increase of dumped imports from India at injurious prices and material injury would be likely to continue.

7. **UNION INTEREST**

(174) 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, users and the public policy interests with respect to the product concerned as embodied in the Directive 2009/125/EC of the European Parliament and of the Council ([23]) ('EcoDesign Directive') and its product-specific Regulations. In line with the third sentence of Article 21(1) of the basic Regulation, special consideration was given to the need to protect the industry from the negative effects of injurious dumping.

(175) All interested parties were given the opportunity to make their view known pursuant to Article 21(2) of the basic Regulation.

7.1. **Interest of the Union industry**

(176) The Union industry is located in three Member States (France, Germany and Spain), and employs directly over 2 200 employees in relation to the product concerned.

(177) The anti-dumping measures in force did not prevent the dumped imports from India from entering the Union market and the Union industry suffered material injury during the review investigation period.

([23]) Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of Ecodesign requirements for energy-related products (OJ L 285, 31.10.2009, p. 10). The EcoDesign Directive is implemented through product-specific Regulations directly applicable in all Union countries. The EcoDesign Regulation covers the new EcoDesign requirements with regard to small, medium and large power transformers. Tier 1 of the EcoDesign Regulation entered into force on 1 July 2015, and Tier 2 on 1 July 2021. The Tier 2 requirements are more stringent than those for Tier 1. Although the full effects cannot yet be assessed on such a short period of time since the entry into force of Tier 2, it is generally believed that these Tier 2 requirements will require the highest quality types of GOES to design and manufacture transformers in a cost-efficient manner and within the required space limitations.

(178) On the basis of the above, the Commission established that there is a strong likelihood of continuation of injury caused by imports from this country should the measures expire. The influx of substantial volumes of dumped imports from India would cause further injury to the Union industry.

(179) Following final disclosure, Tata Metaliks Limited claimed the Union industry has been protected for over 6 years while having a market share of 85 %. Thus, it is unlikely for the Union industry to be impacted if the existing measures are repealed. In the event the Union it is, it may request the Commission to start a new investigation.

(180) Contrary to the claim made by the interested party, the Commission established that the Union industry is still suffering from material injury caused by the dumped imports from India, based on the analysis of all relevant injury indicators including the development of Union Industry's market share. The Commission concluded that the injury is likely to continue and deteriorate should the measures be allowed to lapse. Consequently, the claim was rejected.

(181) The Commission thus concluded that the maintenance of the anti-dumping measures against India is in the interest of the Union industry.

7.2. **Interest of unrelated importers, traders and users**

(182) The Commission contacted all known unrelated importers, traders and users. None of them replied to the Commission's questionnaire.

(183) The Commission did not receive any comments indicating that the maintenance of the measures would have a significant negative impact on the importers and users, outweighing the positive impact of the measures on the Union industry.

7.3. **Conclusion on Union interest**

(184) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of the product concerned originating in India.

8. **ANTI-DUMPING MEASURES**

(185) On the basis of the conclusions reached by the Commission on continuation of dumping, continuation of injury and Union interest, the anti-dumping measures on imports of tubes and pipes of ductile cast iron from India should be maintained.

(186) After disclosure Tata Metaliks Limited argued that a continuation of the measures should be considered as an exception and not the norm. It referred in particular to Article 11(1) of the basic anti-dumping Regulation which states that an anti-dumping measure shall only remain in force as long as it is necessary and shall expire upon 5 years from its imposition. Since the duties have been extended pending this review, it argued that by the time this review would likely conclude, the duties would already have been in force for more than 7 years. For this reason, it requested the Commission to terminate the investigation.

(187) The Commission recalled that in accordance with Article 11(2) of the basic Regulation 'A definitive anti-dumping measure shall expire 5 years from its imposition or 5 years from the date of the conclusion of the most recent review which has covered both dumping and injury, *unless it is determined in a review that the expiry would be likely to lead to a continuation or recurrence of dumping and injury*'. The decision to continue the measures is based on a thorough assessment of all the facts found during the expiry review investigation in accordance with Article 11(2) of the basic Regulation. Therefore, the continuation of the measures was neither automatic nor constituted a 'norm'. The Commission thus rejected the claim that the measures should be terminated.

(188) To minimise the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

(189) 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(3) of this Regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

(190) 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.

(191) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product concerned originating in India and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(192) After disclosure, Tata Metaliks Limited requested the Commission to assign it an individual dumping margin. In the alternative, it considered the Commission should at least consider extending the individual anti-dumping rates assigned to the other cooperative producers of the product concerned from India in the original investigation to it in light of its cooperation with the Commission in this expiry review investigation.

(193) The Commission recalled that the objective of an expiry review investigation under Article 11(2) of the basic Regulation is solely to determine whether the existing measures are still necessary. This type of a review investigation does not allow for establishing individual duty rates for companies that did not cooperate in the original investigation. An individual anti-dumping duty rate can only be determined following a review investigation pursuant to Article 11(3) or 11(4) of the basic Regulation. The request was therefore rejected.

(194) 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 ([24]). 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*.

(195) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([25]) 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.

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), currently falling under CN codes ex 7303 00 10 (TARIC code 7303 00 10 10) and ex 7303 00 90 (TARIC code 7303 00 90 10) and originating in India.

([24]) European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

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

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:

Company	Definitive anti-dumping duty	TARIC additional code
Jindal Saw Limited	3 %	C054
Electrosteel Castings Ltd	0 %	C055
All other companies	14,1 %	C999

3. The application of the individual anti-dumping 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 tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in India. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

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

Article 2

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

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

Done at Brussels, 15 June 2022.

For the Commission
The President
Ursula VON DER LEYEN