

**COMMISSION IMPLEMENTING REGULATION (EU) 2015/519****of 26 March 2015****imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China, as extended to imports of certain iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not, following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community <sup>(1)</sup> ('the basic Regulation'), and in particular 11(2) thereof,

Whereas:

**A. PROCEDURE****1. Measures in force**

- (1) The Council, following an anti-dumping investigation ('the original investigation'), imposed, by means of Regulation (EC) No 91/2009 <sup>(2)</sup>, as last amended by Implementing Regulation (EU) No 924/2012 <sup>(3)</sup>, a definitive anti-dumping duty ('the original measures') on imports of certain iron or steel fasteners ('ISF') originating in the People's Republic of China ('the PRC').
- (2) The measures, after amendment by Implementing Regulation (EU) No 924/2012, took the form of an *ad valorem* duty established for individual sampled Chinese exporting producers at the level of 0,0 % to 69,7 %. At the same time the antidumping duty for the cooperating, non-sampled Chinese exporting producers was set at a level of 54,1 % while residual duty for non-cooperating Chinese exporting producers amounted to 74,1 % ('the duties in force').
- (3) By Council Implementing Regulation (EU) No 723/2011 <sup>(4)</sup>, as last amended by Implementing Regulation (EU) No 693/2012 <sup>(5)</sup>, the original measures were extended to imports of ISF consigned from Malaysia, whether declared as originating in Malaysia or not.

**2. Request for an expiry review**

- (4) Following the publication of a notice of impending expiry <sup>(6)</sup> of the definitive anti-dumping measures in force, the Commission received on 1 October 2013 a request for the initiation of an expiry review of those measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by the European Industrial Fasteners Institute ('the applicant') on behalf of producers representing more than 25 % of the total Union production of ISF.
- (5) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation or recurrence of dumping and injury to the Union industry.

**3. Initiation of an expiry review**

- (6) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced, on 30 January 2014, by a notice published in the *Official Journal of the European Union* <sup>(7)</sup> ('the notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51.

<sup>(2)</sup> OJ L 29, 31.1.2009, p. 1.

<sup>(3)</sup> OJ L 275, 10.10.2012, p. 1.

<sup>(4)</sup> OJ L 194, 26.7.2011, p. 6.

<sup>(5)</sup> OJ L 203, 31.7.2012, p. 23.

<sup>(6)</sup> OJ C 148, 28.5.2013, p. 8.

<sup>(7)</sup> OJ C 27, 30.1.2014, p. 15.

#### 4. Investigation

##### 4.1. Review investigation period and period considered

- (7) The investigation of a continuation or recurrence of dumping covered the period from 1 January 2013 to 31 December 2013 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2010 to 31 December 2013 ('the period concerned').

##### 4.2. Parties concerned by the investigation

- (8) The Commission officially advised the applicant, the other known Union producers, the exporting producers in the PRC, and the representatives of the PRC of the initiation of the expiry review. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the notice of initiation.
- (9) All interested parties, who so requested and showed that there were particular reasons why they should be heard, were granted a hearing.
- (10) In view of the apparent large number of exporting producers in the PRC and of producers and unrelated importers in the Union involved in the investigation, sampling was envisaged in the notice of initiation, in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above-mentioned parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the notice of initiation.
- (11) Out of 325 known Chinese producers 24 submitted a reply to the sampling questionnaire. However, 13 of these reported no exports to the EU, whereas three other were found not to be dumping in the original investigation and are therefore not subject to the measure in force. The remaining eight companies reported 11 800 tonnes of export to EU, which according to Eurostat corresponded to 132 % of total Chinese imports to EU in the RIP. A sample of three largest exporters was proposed. However, one of the companies included in the sample claimed that it had wrongly reported its EU exports in the sampling form and in fact it should have reported zero exports.
- (12) The sample was therefore established to consist of the three largest remaining exporters. All three sampled companies withdrew their cooperation at different stages of the procedure choosing not to reply to questionnaires or denying on-spot verification. Consequently, letters were sent to each of the three companies informing them of the Commission's intention to apply Article 18 of the basic Regulation. No reaction was received from these exporting producers.
- (13) The Commission examined the situation of the four remaining exporting producers that replied to the sampling questionnaire. Their exports to the Union were so low, namely less than 1 % of total exports, that it was not considered appropriate or representative to establish a new sample and base the findings of the investigation on their situation. It was considered more appropriate to base the findings of the investigation on a wider and more representative basis, namely on the facts available in view of the non-cooperation of the sampled Chinese exporting producers. The four remaining companies were informed of the Commission's intention to use the facts available.
- (14) In view of the insufficient cooperation the Commission's intention to apply Article 18 was also announced to the Chinese authorities. The Commission did not receive any comments or requests for an intervention of the Hearing Officer on the respective letters to the companies and the Chinese authorities.
- (15) At the preliminary stage of investigation the Commission received cooperation from 91 Union producers/group of producers which represented around 50 % of the Union production of ISF. In view of the large number of cooperating producers the Commission applied sampling. The selected sample originally consisted of nine companies/groups of companies among the most representative in terms of volumes, size, mixture of product types and geographical location in the Union. One of the sampled companies withdrew its cooperation and chose not to reply to the questionnaire. Consequently, the Commission informed the company of its exclusion from the sample in view of non-cooperation. A sample reduced to the remaining eight companies/group of companies was nevertheless considered representative as it covered 24 % of the estimated total Union production of ISF during the RIP.

- (16) Replies to the questionnaires were received from two Union importers. In view of the relatively limited number of companies, no sampling was required.
- (17) With regard to the users, none of them made itself known within the deadline provided in the Notice of Initiation or later in the procedure. Therefore, it is considered that no user cooperated in the investigation.
- (18) Verification visits were carried out at the premises of the following companies:
- (a) Union producers:
- Eleven companies (at least one belonging to each of the eight sampled groups of companies) were visited. These Union producers requested, on the basis of Article 19 of the basic Regulation, that their identities be kept confidential. They claimed that disclosure of their identity could lead to a risk of significant adverse effects to their business activities. Their request was examined and found to be warranted. Consequently, the names of these companies are not listed.
- (b) Union importers:
- Adolf Würth GmbH & Co — Germany
- Marcopol z o.o. — Poland
- (c) Producers in the market economy countries:
- ACKU Metal Industries (M) Sdn. Bhd., Penang, Malaysia
- Sofasco Industries (M) Sdn. Bhd., Penang, Malaysia
- Kalisma Steel Pvt Ltd, Mumbai, India

## 5. Disclosure

- (19) All interested parties were informed of the essential facts and considerations leading to the conclusions of this expiry review and were invited to comment (final disclosure). They were also granted a time period to submit comments subsequent to disclosure. Submissions were received from the applicant, the China Chamber of Commerce for Import and Export of Machinery and Electronic Products, two Union importers/producers and their related Chinese producer and two associations of Union distributors. The submission and comments were duly taken into consideration where warranted.

## B. PRODUCT CONCERNED AND LIKE PRODUCT

### 1. Product concerned

- (20) The product concerned is certain iron or steel fasteners, other than stainless steel i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, originating in the PRC, currently falling within CN codes 7318 12 90, 7318 14 91, 7318 14 99, 7318 15 59, 7318 15 69, 7318 15 81, 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00.

### 2. Like product

- (21) The product concerned and the iron or steel fasteners produced and sold in the Union by the Union industry and the iron or steel fasteners produced and sold in the domestic market of Malaysia ('the analogue country') were found to have essentially the same physical and chemical characteristics and the same basic uses as the iron or steel fasteners produced in the PRC sold for export to the Union. They are therefore considered to be alike within the meaning of Article 1(4) of the basic Regulation.

## C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (22) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping from the PRC.

## 1. Preliminary remarks

- (23) As explained in recitals 11 to 14 above, the Chinese exporting producers selected to be part of a sample did not cooperate with the investigation. Thus, in the absence of sufficient cooperation from exporting producers in the PRC, the overall analysis, including the dumping calculation, was based on facts available pursuant to Article 18 of the basic Regulation.
- (24) The likelihood of a continuation or recurrence of dumping was assessed by using the expiry review request, combined with other sources of information such as trade statistics on imports and exports (Eurostat and Chinese export data) and other information publicly available (such as a declaration from the Chinese Fastener Industry Association).
- (25) The absence of cooperation affected the comparison of the normal value with the export price in that the precise product mix exported by Chinese producers to the Union was unknown.

## 2. Dumping of imports during the RIP

### 2.1. Selection of the analogue country and calculation of the Normal Value

- (26) In the notice of initiation, the Commission had invited all interested parties to comment on its proposal to use India as a market economy third country for the purpose of establishing normal value in respect of the PRC. India had been used as an analogue country in the original investigation.
- (27) In addition to India, the applicant had suggested USA as a potential analogue country. Other interested parties expressed reservations on the proposal of India and suggested Malaysia, Taiwan, Thailand and Vietnam as alternative analogue countries.
- (28) In addition to the suggestions made by the interested parties, the Commission itself sought to identify an appropriate analogue country. It identified Japan as an additional potential analogue country due to its large production volume of fasteners similar to PRC's.
- (29) Requests to cooperate were sent to the known producers in India, Japan, Malaysia (genuine non-circumventing producers<sup>(1)</sup>), Taiwan, Thailand and USA. Vietnamese producers were not contacted since Vietnam is not considered a market economy country. Cooperation was received from exporting producers in India and Malaysia and verification visits were carried out in these two countries.
- (30) It was found that one of the cooperating Indian companies was not a producer but a trading company and that the second cooperating Indian company had started its operations only after the RIP. Therefore the sales and cost data from India could not be used. The two Malaysian cooperating companies were found to be exporting producers with complete data available from the RIP. Therefore, Malaysia was selected as an analogue country to establish the normal value for the PRC in accordance with Article 2(7)(a) of the basic Regulation.
- (31) In accordance with Article 2(2) of the basic Regulation it was first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating producers in Malaysia was representative in comparison with the total export volume to the Union, namely whether the total volume of such domestic sales represented at least 5 % of the total volume of export sales of the product concerned to the Union. On that basis, it was found that the domestic sales in the analogue country were representative.
- (32) It was also examined whether the domestic sales of the like product could be regarded as being made in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation. This was done by establishing the proportion of domestic sales to independent customers on the domestic market which were profitable during the RIP. The domestic sales of one of the producers were found to be made in the ordinary course of trade, whereas the sales of the second producer were not.
- (33) Normal value of the first producer was thus based on the actual domestic price, which was calculated as a weighted average price of the profitable domestic sales made during the RIP. The normal value of the second producer was constructed in line with Article 2(3) of the basic Regulation.

<sup>(1)</sup> OJ L 194, 26.7.2011, p. 6.

- (34) Following the final disclosure, two interested parties commented on the choice of analogue country. The two parties argued that Japan should not have been considered as a potential analogue country due to its focus on high-end products and its high costs. One of these parties also commented that Taiwan should have been chosen as analogue country due to the large number of producers, comparable costs with China and its large exports to Europe and North America.
- (35) The Commission notes that the choice of the analogue country was made following a consideration of six potential countries. Cooperation was requested from all these countries. Cooperation was received only from Malaysia and India; no cooperation was received from Taiwan and Japan. For the reasons explained in recital 30, it was decided to select Malaysia.

#### *2.2. Determination of the export price*

- (36) In view of the lack of cooperation from the sampled Chinese exporting producers and thus the absence of specific information on Chinese prices, the export price was determined on the basis of facts available in accordance with Article 18 of the basic Regulation and to that end statistical sources (Eurostat) were used.

#### *2.3. Comparison and adjustments*

- (37) The comparison between normal value and export price was made on an ex-works basis. In accordance with Article 2(10) of the basic Regulation, due allowance to the export price in the form of adjustments was made where necessary. In order to express the export price at ex-works level, the Commission adjusted the CIF price based on Eurostat for freight, insurance, handling and credit costs.

#### *2.4. Dumping during the RIP*

- (38) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price. The average Eurostat import prices compared to the normal values of the analogue country did not show the existence of dumping.
- (39) However, in the RIP only negligible volumes of 9 000 tonnes of ISF (for a value of 23 million EUR) were imported into the Union from PRC excluding of ISF produced by the exporting producers who were found not to be dumping in the original investigation. Furthermore, due to the non-cooperation by the sampled Chinese exporters, there was no information available on the product mix of the Chinese exports and consequently the comparison with the analogue country normal value could only be made on an aggregate basis.
- (40) Therefore, the finding of no dumping during the RIP is considered to be of limited relevance due to the low imported quantities and the absence of information regarding the imported product mix, given the wide variety of fasteners produced and traded.
- (41) Following final disclosure, three interested parties commented that the measures should be repealed since no dumping had been found during the RIP. They considered that despite the small volumes of exports from the PRC, the finding of no dumping is of significant relevance.
- (42) The Commission notes that in line with Article 11(2) of the basic Regulation, the findings are based on the likelihood of recurrence of dumping and not on a finding on existence of dumping during the RIP.

### **3. Evidence of likelihood of recurrence of dumping**

- (43) In light of the considerations set out in recitals 38 to 40 above, the Commission further analysed whether there was a likelihood of recurrence of dumping should the measures lapse. When doing so, the following elements were analysed: the production capacity and spare capacity in PRC, the export price from PRC to other markets, circumvention practices, and the attractiveness of the Union market.

### 3.1. Production capacity and spare capacity of the PRC

- (44) The PRC is estimated to be the world's largest producer of ISF. According to the data of the China Fastener Industry Association <sup>(1)</sup> ('CFIA'), the production capacity was estimated to be 6,6 million tonnes in 2012. The capacity was estimated to have been utilised at the level of 75 %, thus leaving a significant spare capacity, comparable to the total Union consumption.
- (45) CFIA also estimates that 40 %-50 % of the production of ISF (2,5 million tonnes) has been exported in 2012. It is clear that export is an important part of the activity of the Chinese producers of ISF. The Chinese exports were thus over 40 % higher than the total Union consumption in the same period.

### 3.2. The export price from PRC to third countries' markets

- (46) The request contains prima facie evidence about Chinese export prices to other markets, such as USA and Tunisia. The evidence was based on price quotes obtained by the Union industry. These export prices were found to be below the normal value as established above. Moreover, on the basis of Chinese export prices to Croatia in 2012 and Q1 of 2013, that is before accession of Croatia to EU and extension of EU protective measures on this country, it can be concluded that the level of Chinese export prices which led to the imposition of measures in the original investigation remains quite similar and, thus, below the normal value as established above.
- (47) Anti-dumping measures against fasteners from the PRC have been adopted in several third countries (e.g. Canada <sup>(2)</sup>, Colombia <sup>(3)</sup>, Mexico <sup>(4)</sup>, South Africa <sup>(5)</sup>, and USA <sup>(6)</sup>). These measures concern various sub-categories of fasteners, including the product concerned. These anti-dumping measures were considered to constitute a further indication of the existence of dumping towards third country markets.
- (48) In view of these considerations the Commission concludes that the exporting producers from the PRC sold and currently sell ISF to third countries mentioned in recitals 46 and 47 at dumped prices. Therefore, the Commission considers that it is likely that, if the current measures were to be repealed, the exporting producers from the PRC would also sell the product concerned to the Union market at dumped prices.

### 3.3. Circumvention practices

- (49) An anti-circumvention investigation <sup>(7)</sup> had concluded that circumvention of the measures applicable to Chinese fasteners was taking place through Malaysia. The measures had therefore been extended to Malaysia, except for nine Malaysian producers who had been found to be genuine non-circumventing producers and were exempted from the measures. Circumvention practices indicate that dumping exporters are keen to reach the Union market at dumped prices without having to pay the duties. Therefore, if the measures were allowed to lapse, it is likely that they would be keen to direct dumped imports directly to the Union market, without needing to resort to circumvention.
- (50) Following final disclosure, two interested parties commented that lower duty rates would reduce the risk of circumvention. The parties also argued that the special measures, explained in recital 129, requiring Chinese exporters with individual duty rates to present invoices were a sign that the duty rates were too high and were encouraging circumvention.
- (51) The Commission notes that the level of the duty rates in force cannot be changed in the context of Article 11(2) of the basic Regulation. Moreover, the special measures for Chinese exporters are meant to address the potential risk of circumvention among Chinese producers due to differences in individual duty rates. By contrast, the circumvention practices through Malaysia have been analysed as an indicator of the likelihood of recurrence of

<sup>(1)</sup> *China Fastener World*, issue 38, June 2013, pp. 124-125 [http://www.fastener-world.com.tw/0\\_magazine/ebook/web/page.php?sect=CFW\\_38\\_W&p=124](http://www.fastener-world.com.tw/0_magazine/ebook/web/page.php?sect=CFW_38_W&p=124)

<sup>(2)</sup> WTO Committee on Anti-Dumping Practices — Semi-annual report under Article 16.4 of the Agreement — Canada, 22.8.2014, G/ADP/N/259/CAN

<sup>(3)</sup> WTO Committee on Anti-Dumping Practices — Semi-annual report under Article 16.4 of the Agreement — Colombia, 21.3.2014, G/ADP/N/252/COL

<sup>(4)</sup> WTO Committee on Anti-Dumping Practices — Semi-annual report under Article 16.4 of the Agreement — Mexico, 9.9.2014, G/ADP/N/259/MEX

<sup>(5)</sup> WTO Committee on Anti-Dumping Practices — Semi-annual report under Article 16.4 of the Agreement — South Africa, 27.8.2014, G/ADP/N/259/ZAF

<sup>(6)</sup> WTO Committee on Anti-Dumping Practices — Semi-annual report under Article 16.4 of the Agreement — United States, 5.9.2014, G/ADP/259/USA

<sup>(7)</sup> OJ L 194, 26.7.2011, p. 6.

dumping from PRC to the Union. The Commission considers that the two issues are not directly related: the requirement of invoices from Chinese producers does not change the finding that circumvention practices through other countries are an indication of the likelihood of recurrence of dumping, should the measures be allowed to lapse.

#### 3.4. *Attractiveness of the Union market*

- (52) The circumvention practices via Malaysia show that the Union market remains attractive for the Chinese producers, due to the higher prices in the Union market. The existence of the anti-dumping measures in the other export markets further increases the attractiveness of the Union market, should the measures be repealed. Thus, it can be reasonably expected that, should the measures be repealed, a substantial part of the current Chinese exports would be re-directed to the Union. It is worth recalling that before the original measures were imposed Chinese market share in the Union market amounted to 26 %. It is therefore expected that, should the measure lapse, the Chinese exports currently having 0,5 % of the Union market will increase significantly by undercutting the Union prices.

#### 3.5. *Conclusion on the likelihood of recurrence of dumping*

- (53) The investigation showed that exports of fasteners from the PRC to several third countries were exported at dumped prices and that some of those third countries had adopted anti-dumping measures applicable to Chinese fasteners. The pricing behaviour of the Chinese exports in third markets indicates a likelihood of recurrence of dumping to the Union market, should the measures be allowed to lapse.
- (54) The existence of circumvention practices was considered a further indication of the likelihood of recurrence of dumping.
- (55) Furthermore, the attractiveness of the Union market, and the fact that other markets remain closed due to anti-dumping measures, indicates that there is a risk that Chinese exports would be redirected toward the Union market, should the measures be allowed to lapse.
- (56) In addition, the spare capacity for production of the product concerned in the PRC is significant in comparison with the Union consumption during the RIP. If this capacity were used to export to the Union and to compete on price with the Union producers, then there is a strong likelihood that such exports would be made at dumped prices because of the excess output that would need to find a way to export markets, which provides an incentive for dumping.
- (57) Given the above, there is a likelihood that, if measures were to lapse, dumping would recur.

### **D. DEFINITION OF THE UNION INDUSTRY**

- (58) The investigation established that the like product is manufactured by a high number of producers in the Union, including many small and medium-sized enterprises, and a few larger companies. The Union producers on whose behalf request of the expiry review was lodged cooperated in the investigation, with exception of one company as explained in recital 15. A number of other producers, either supporting or opposing the request, supplied general data on their volume of production and sales. Since many Union producers, mostly small enterprises, did not cooperate in the investigation it was not possible to define precisely the total volume of Union production and number of producers on the basis of individual company data.
- (59) Consequently, the volume of Union production has been estimated by using information provided in the expiry review request based on Eurostat industrial production data. Based on the above the total Union production in the RIP is estimated to be around 1,2 million tonnes.
- (60) Furthermore, the expiry review request and the information gathered during the investigation allows for the estimation that during the RIP, the like product was manufactured by 378 Union producers. They constitute the Union industry within the meaning of Article 4(1) of the basic Regulation and will hereafter be referred to as the 'Union industry'.

- (61) As indicated in recital 15 above, eight Union producers/groups of producers were sampled and provided the requested information. The companies in the sample are estimated to represent around 24 % of the total Union production and their situation is considered to be representative for the Union industry.

#### E. SITUATION ON THE UNION MARKET

##### 1. Preliminary remarks

- (62) For the purpose of the injury analysis the Commission distinguished between macroeconomic and microeconomic injury indicators. The macroeconomic indicators for the period considered were established, analysed and verified on the basis of the data provided by the Union industry. The microeconomic indicators were established on the basis of the data collected and verified at the level of the sampled Union producers.
- (63) In the following sections, the macroeconomic indicators are: production, production capacity, capacity utilisation, stocks, sales volume, market share and growth, employment, productivity, magnitude of the actual dumping margin, recovery from past dumping. The microeconomic indicators are: average unit prices, cost of production, profitability, cash flow, investments, return on investment, ability to raise capital and labour costs.

##### 2. Union consumption

- (64) Union consumption was established on the basis of sales volumes of the Union industry on the Union market, with an estimate for the non-cooperating producers, and import data from Eurostat, at TARIC code level.
- (65) During the period considered Union consumption increased by 3 %. There was a significant growth in 2011 but Union consumption is still very far from the levels recorded during the IP of original investigation when the consumption was above 2,2 million tonnes.

Table 1

#### Consumption

	2010	2011	2012	RIP
Consumption (tonnes)	1 761 591	1 978 967	1 779 434	1 808 139
Index (2010 = 100)	100	112	101	103

Source: Questionnaire replies, expiry review request, Eurostat.

##### 3. Volume, Prices and market share of imports from the PRC

- (66) The volumes and market shares of imports from the PRC were analysed on the basis of Eurostat and the data collected in accordance with Article 14(6) of the basic Regulation.

(a) Volume and market share of the imports concerned

- (67) During the period considered the imports of the product concerned from the PRC into the Union were found to have developed in terms of volumes and market shares as follows:

Table 2

#### Volume and market shares of the imports concerned

	2010	2011	2012	RIP
<b>PRC</b>				
Volume of imports (tonnes)	11 108	9 628	6 839	8 214

	2010	2011	2012	RIP
<i>Index (2010 = 100)</i>	100	87	62	74
Market share (%)	0,6	0,5	0,4	0,5
<i>Index (2010 = 100)</i>	100	77	61	72

Source: Eurostat

- (68) Imports volumes from the PRC decreased considerably from the levels registered in the original investigation period (by more than 98 % if we compare the original IP with the RIP). Accordingly, Chinese market share also decreased from 26 % in the original IP to 0,5 % in the RIP. As a result, official Chinese exports almost ceased to exist on the Union market. Data reported in this and in the following table do not contain export volumes of the three Chinese exporting producers which were found not to be dumping in the original investigation. Their export volume are on average in the period considered around 30 % of the total Chinese export of the product concerned to the Union.

(b) Price of imports and price undercutting

- (69) The table below shows the average price of the Chinese imports. During the period considered average import price from the PRC increased by 28 %. However, there are reasons to believe that this price (which is more than 250 % higher than the average price of Chinese exports during the original IP) could not be considered a meaningful indicator because of the very small quantities which are imported from China. Indeed, it seems, that, taken into account the high anti-dumping duties, small volumes of imports and evidence collected from the cooperating importers, the quantities exported by Chinese producers in the RIP would consist of very small orders and/or very particular product types, therefore leading to higher prices.

Table 3

**Average price of imports from the PRC**

	2010	2011	2012	RIP
<b>PRC</b>				
Average price (Euro/tonne)	1 975	2 158	3 137	2 524
<i>Index (2010 = 100)</i>	100	109	159	128

Source: Eurostat.

- (70) Since no sampled Chinese exporting producer cooperated in the review investigation, and in light of the limited information available from other Chinese exporting producers, the price undercutting during RIP was determined by the comparison of the Union producers' weighted average prices to the unrelated customers on the Union market, on ex-works basis with the average export prices of the Chinese exports on the CIF basis obtained from the Eurostat, with appropriate adjustments for customs duties.
- (71) The result of the comparison, when expressed as a percentage of the sampled Union producers' turnover during the RIP, showed a weighted average undercutting margin on the Union market of 12 %. However, for the reasons explained in recital 69 above it should be considered that the prices registered for Chinese exports of the product concerned in the period considered are much higher than what they would be in the absence of measures. On this basis, there are reasons to believe that, should the measures be repealed, exports of the product concerned from the PRC would be still able to exert a serious pricing pressure on the Union producers.

## 4. Imports from other third countries not subject to measures

Table 4

## Imports from other third countries

	2010	2011	2012	RIP
<b>Taiwan</b>				
Volume of imports (tonnes)	266 795	351 067	323 405	319 326
<i>Index (2010 = 100)</i>	100	132	121	120
Price (EUR/tonne)	1 805	1 905	2 003	1 895
<i>Index (2010 = 100)</i>	100	106	111	105
Market share (%)	15,1	17,7	18,2	17,7
<i>Index (2010 = 100)</i>	100	117	120	117
<b>Vietnam</b>				
Volume of imports (tonnes)	41 981	59 270	57 704	74 764
<i>Index (2010 = 100)</i>	100	141	137	178
Price (EUR/tonne)	1 349	1 496	1 528	1 365
<i>Index (2010 = 100)</i>	100	111	113	101
Market share (%)	2,4	3,0	3,2	4,1
<i>Index (2010 = 100)</i>	100	126	136	174
<b>Thailand</b>				
Volume of imports (tonnes)	27 232	59 979	50 226	45 759
<i>Index (2010 = 100)</i>	100	220	184	168
Price (EUR/tonne)	1 259	1 325	1 362	1 246
<i>Index (2010 = 100)</i>	100	105	108	99
Market share (%)	1,5	3,0	2,8	2,5
<i>Index (2010 = 100)</i>	100	196	183	164
<b>Total other third countries <sup>(1)</sup></b>				
Volume of imports (tonnes)	228 589	202 362	165 618	165 659
<i>Index (2009 = 100)</i>	100	89	72	72
Price (EUR/tonne)	2 816	3 232	3 729	3 751
<i>Index (2009 = 100)</i>	100,0	115	132	133
Market share (%)	13,0	10,2	9,3	9,2
<i>Index (2009 = 100)</i>	100,0	79	72	71

	2010	2011	2012	RIP
<b>Total third countries <sup>(1)</sup></b>				
Volume of imports (tonnes)	564 597	672 679	596 954	605 509
<i>Index (2009 = 100)</i>	100	119	106	107
Price (EUR/tonne)	2 154	2 217	2 382	2 288
<i>Index (2009 = 100)</i>	100	103	111	106
Market share (%)	32,1	34,0	33,5	33,5
<i>Index (2009 = 100)</i>	100	106	105	104

<sup>(1)</sup> Including imports from Chinese companies not found to be dumping in the original investigation.

Source: Eurostat.

- (72) Import volumes from third countries into the Union market showed a slight increasing trend during the period considered which followed the trend in consumption. Market share of all third countries imports of ISF remained relatively stable in the period considered circling around one third of the Union consumption.
- (73) Average prices of imports from the third countries remained generally stable over the period considered and they remained below the level of prices from the Union industry. Notwithstanding this, the prices from third countries are significantly higher than the prices which were registered from China during the original investigation. For the reasons detailed in recital 69 above, the prices of Chinese ISF imported to the Union in the RIP, although higher than average prices of imports from the third countries, cannot be considered representative.
- (74) If third countries are considered individually, it is clear that Taiwan is now the most significant foreign player on the Union market. Its export volumes increased by 20 % over the period considered, and it holds by itself almost half of the imports in the EU market. If we consider that its export volumes in the RIP are 70 % higher than in the original investigation period (and this notwithstanding the fact that the consumption in the RIP is lower), it is clear that a significant part of exports from China have been substituted by Taiwanese products. Nonetheless, it should be noted that the Taiwanese import volumes in the RIP only represented half of the volumes exported by China during the original IP, and that the Taiwanese average prices in the RIP were almost double (+ 97,8 %) the average prices of Chinese exports in the original IP. Furthermore, it is noted that Chinese exporters have kept selling at similarly low level of prices to the markets in Europe where no anti-dumping measure applied such as Croatia before its accession to the EU.
- (75) Furthermore, Vietnam and Thailand could be identified as countries which benefited from the disappearance of Chinese exports, since they recorded significant increases (in the range of 70-80 %), although they were starting from much smaller volumes.
- (76) Moreover, it should be taken into account the fact that imported products are reported to have a product range more focussed on standard products than the ones produced by the Union industry.
- (77) Following final disclosure, it was argued by four interested parties that the Commission findings on the partial replacement on the Union market of Chinese imports by imports from Taiwan, Thailand and Vietnam, should lead to the conclusion that the products which are likely to be imported from China are standard and therefore will not be in direct competition with more sophisticated products produced by the Union industry.

- (78) In reply to this argument, it is noted that the fact that imports from third countries seem indeed to fill the market share abandoned by the Chinese exporters does not mean that future imports from China would not be likely to cause injury. First, as explained more in detail in recital 115, the Union industry consists of producers engaged in both standard and special fasteners. Second, there are indications that future exports from China would also consist of more specialised and higher-end products. The information available concerning the development plans, as the speech from the President of the Chinese Fasteners Industry Association ('CFIA')<sup>(1)</sup>, clearly indicate that the Chinese fastener sector envisages the development of more varied, complex and high end products. Therefore, the above argument has to be rejected.

#### 5. Economic situation of the Union industry

- (79) In accordance with Article 3(5) of the basic Regulation, the Commission examined all economic factors and indices having a bearing on the state of the Union industry.
- (80) For the purpose of the injury analysis, the economic situation of the Union industry is assessed on the basis of such indicators as production, production capacity, capacity utilisation, sales volume, market share and growth, employment, productivity, magnitude of actual dumping margin and recovery from past dumping, average unit prices, unit cost, profitability, cash flow, investments, return on investments and ability to raise capital, stocks and labour costs.

##### (a) Production, production capacity and capacity utilisation

- (81) The Union industry's production remained generally stable during the period considered. It is recalled that the demand for the product concerned is largely dependent on sectors such as the automotive and construction industry, as well as other consumer goods. Indeed, notwithstanding a small increase during 2011, the Union industry's production remained generally stable during the period considered, in line with a slowly growing demand in the European economy.

Table 5

#### Total Union industry' production

	2010	2011	2012	RIP
Production (tonnes)	1 204 336	1 376 855	1 208 232	1 197 189
Index (2010 = 100)	100	114	100	99

Source: Questionnaire replies and review request.

- (82) Also the production capacity remained relatively stable during the period considered with a slight increase in 2011 and in the RIP. In line with the fact that the production remained stable in the period 2010-2013, also capacity utilisation remained substantially stable, with a relative peak in 2011.

Table 6

#### Production capacity and capacity utilisation

	2010	2011	2012	RIP
Production capacity (tonnes)	2 510 509	2 527 863	2 497 078	2 535 889
Index (2010 = 100)	100	101	99	101
Capacity utilisation (%)	48	54	48	47

<sup>(1)</sup> *China Fastener World*, issue 38, June 2013, pp. 124-125 [http://www.fastener-world.com.tw/0\\_magazine/ebook/web/page.php?sect=CFW\\_38\\_W&p=124](http://www.fastener-world.com.tw/0_magazine/ebook/web/page.php?sect=CFW_38_W&p=124)

	2010	2011	2012	RIP
<i>Index (2010 = 100)</i>	100	114	101	98

Source: Questionnaire replies and review request.

(b) Sales volume, market share and growth

Table 7

**Union industry's sales to unrelated customers**

	2010	2011	2012	RIP
Volume (tonnes)	914 869	1 031 862	931 956	939 395
<i>Index (2010 = 100)</i>	100	113	102	103

Source: Questionnaire replies and review request.

- (83) The sales volume of the Union industry on the Union market to unrelated customers followed the trend of consumption and production in the years from 2010 to 2013, with a slight growth over the period considered, notwithstanding a significant increase between 2010 and 2011.

Table 8

**Union industry's market share and growth**

	2010	2011	2012	RIP
Union industry market share (%)	67	66	66	66
<i>Index (2010 = 100)</i>	100	97	98	98

Source: Questionnaire replies, Eurostat.

- (84) The Union industry market share was stable (which is calculated also taking into account the sales to related parties) during the period considered representing about two thirds of the market. Such result is in line with decrease in the Union consumption comparing with original investigation period on one hand and with replacement of the Chinese imports by imports from other sources on the other hand.

(c) Employment and productivity

- (85) Employment of the Union industry related to the product concerned remained generally stable in the period considered. The small increase registered in 2011 is in line with the higher output which is recorded during that year. Given that also the productivity is higher during 2011, this shows that the Union industry responded to the higher demand partially by new recruitments and partially by increasing the output of the existent employees (overtime). When the volumes decreased again in the following years, both these effects disappeared, and the situation returned the 2010 level.

Table 9

**Employment and productivity**

	2010	2011	2012	RIP
Number of employees	20 036	20 854	20 238	19 950
<i>Index (2010 = 100)</i>	100	104	101	100

	2010	2011	2012	RIP
Productivity (unit/employee)	60	66	60	60
<i>Index (2010 = 100)</i>	100	110	99	100

Source: Questionnaire replies, review request.

(d) Magnitude of actual dumping margin and recovery from past dumping

- (86) As indicated in recital 36 above due to lack of cooperation by the sampled exporting producers from the PRC the dumping margins for the PRC could not be calculated with sufficient precision and therefore the finding of no dumping during the RIP is considered to be of a limited relevance. Analysis of the injury indicators brought evidence that the industry is recovering from the past dumping practices. However, the recovery was slowed down by a stagnating demand for the main downstream sectors. Furthermore, it should be noted that the relatively stable condition which is noted in the period considered takes place under the protection of the current anti-dumping measures. Should the measures be repealed the impact of dumped imports from the PRC on the Union industry is expected to be significant.

(e) Average unit selling prices on the Union market and unit costs of production

- (87) The average sales prices of the sampled Union producers to unrelated customers in the Union increased by 8 % in the years 2010-2013, after having reached a relative peak in 2012. The average selling price is generally able to cover for the cost of production and to guarantee a slight profit for the Union industry.

Table 10

**Selling prices and costs**

	2010	2011	2012	RIP
Average unit selling price in the Union to unrelated customers (EUR/tonne)	2 748	2 953	3 049	2 974
<i>Index (2010 = 100)</i>	100	107	111	108
Unit cost of production (EUR/tonne)	2 528	2 811	2 937	2 765
<i>Index (2010 = 100)</i>	100	111	116	109

Source: Questionnaire replies.

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

- (88) During the period considered the Union producers' cash flow, investments, return on investments and their ability to raise capital developed as follows:

Table 11

**Profitability, cash flow, investment, return on investment**

	2010	2011	2012	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	1,5	1,1	2,0	3,6
Cash flow (EUR)	39 046 890	30 835 484	68 050 584	56 369 460
Investments (EUR)	48 809 766	58 881 586	38 561 986	39 453 739

	2010	2011	2012	RIP
<i>Index (2010 = 100)</i>	100	121	79	81
Return on investments (%)	1,0	2,6	5,3	7,5

Source: Questionnaire replies.

- (89) The profitability of the sampled Union producers was established by expressing the pre-tax profit of the sales of the like product to unrelated customers in the Union as a percentage of the relevant turnover. Throughout the period considered, the profit margin remained low, and was also negative for some Union producers; in particular, it is worth to notice that in none of the years considered the profit margin reached the level recorded in the original investigation period (4,4 %). Notwithstanding a stable trend in sales and production, and a significant market share for the Union industry, the profit margins are still relatively low for this industry. In particular, it should be noted, that in 2011 the profit margin was very low despite the fact that sales volumes of the Union industry reached their highest point in the period considered. This raises concerns regarding the future evolution of the profit margins of the Union industry, should the economic situation continue to be stagnating. It should be also noticed that the profit margin in the period considered also always remained under the target profit indicated in the original investigation (5 %).
- (90) Cash flow, which is the ability of the industry to self-finance its activities, was positive during the whole period considered. However, this indicator only improved in 2012, and registered a significant decrease of 17 % in the RIP. This raises concerns as to the ability of the Union industry to carry on the necessary self-financing of its activities.
- (91) The level of investment remains relatively high and stable during the period considered, with a peak in 2011. Return on investment, expressed as the profit in percentage of the net book value of the investments, follows a similar trend as the profit margin. Therefore, this indicator also reaches its peak in the RIP. This signal could be read as ambivalent, because, on the one hand, it reflects the highest point of the profit margin among the ones recorded in the period considered, but, on the other, it also reflects a low level of investments, which is a sign that the industry's outlook for the economic perspectives of the sector are still uncertain.
- (92) In the light of the above, it can be concluded that, although the financial performance of the Union producers remained stable through the period considered, it still, with exception of investments, did not reach the levels of the original investigation period.

(g) Stocks

- (93) The level of closing stocks of the cooperating Union producers followed closely the trend already observed in production and sales, with a rather stable trend and a relative peak in 2011. Moreover, considering that the production of the like product in the Union is predominantly by order, the level of stocks does not constitute a very meaningful indicator.

Table 12

**Closing stock**

	2010	2011	2012	RIP
Closing stock (tonnes)	283 330	321 795	315 784	292 740
<i>Index (2010 = 100)</i>	100	114	111	103

Source: Questionnaire replies.

(h) Labour costs

- (94) The average wage of the employees recorded a steady increase by 4 % every year in the period considered. However, this growth can be explained by adjustment for inflation and, to a smaller extent, by recourse to extra time working (as witnessed in 2011 by the increase in productivity per employee).

Table 13

**Labour costs**

	2010	2011	2012	RIP
Average labour costs per employee (EUR)	41 604	43 300	45 006	46 742
<i>Index (2010 = 100)</i>	100	104	108	112

Source: Questionnaire replies.

## 6. Conclusion on the situation of the Union industry

- (95) The investigation showed that the imports of products from the PRC almost disappeared on the Union market after the imposition of the original measures in 2009. This allowed the Union industry to achieve good and stable level of production, sales volume and market share. On the other hand, the profitability is still below the levels reached during the original investigation period, as well as the target profit for the sector.
- (96) It is therefore concluded that the Union industry did not suffer material injury during the RIP. However, given the slow growth in consumption and the fact that the profit margins remain below what is needed for long term viability, the situation of the Union industry can still be considered as vulnerable.
- (97) Following final disclosure, three interested parties argued that the fact that the Commission concluded that the Union Industry did not suffer any material injury during the RIP should lead to the termination of the measures. The Commission indeed established non-existence of material injury in the RIP. However, the decision to extend measures is not based on material injury in the RIP but on findings with regard to the likelihood of recurrence of injury, in line with Article 11(2) of the basic Regulation. Therefore, this argument had to be rejected.

## F. LIKELIHOOD OF RECURRENCE OF INJURY

### 1. Preliminary remarks

- (98) To assess the likelihood of recurrence of injury if the measures were allowed to lapse, the potential impact of the Chinese exports on the Union market and on the Union industry was analysed in accordance with Article 11(2) of the basic Regulation.
- (99) The analysis focused on the consumption trend of the Union market, spare capacity, trade flows and attractiveness of the Union market, and pricing behaviour of the PRC. Due to the lack of cooperation of Chinese exporters the analysis is based on the facts available which include statistics (Eurostat and Chinese trade statistics) and industry documents (such as the speech from the President of CFIA referred to in recital 78 above) provided in the request for initiation of the expiry review.

### 2. Consumption in the Union

- (100) As indicated in recitals 64 and 65 the consumption of the product concerned in the Union had an overall stable trend in the period considered. At the same time the consumption in RIP is still a lower by almost 20 % compared with pre-crisis level of the original investigation period. The fall in the consumption of the product concerned is driven by declining production in automotive and construction sectors in the Union, as well as other consumer goods sectors which have a significant use of the product concerned (electronic and household appliances, furniture, etc.). In this circumstance, it is thus considered that the return of extremely low-priced imports from China should the measures be allowed to lapse, would have a sudden and dramatic impact on the situation of the Union industry. These imports would be expected to undercut and, in any event, exercise a downward pressure on the Union prices and distort competition in the market. As a consequence, it is likely that should the measures be allowed to lapse, the injury to the Union industry would recur.

### 3. Spare capacity, trade flows and attractiveness of the Union market, and pricing behaviour of the PRC

- (101) As described in recital 44 the capacity of Chinese production of ISF in 2012 accounted for 6,6 million tonnes. It has to be noted that 2012 was considered by Chinese fasteners industry as a difficult year as due to the adverse impact of several economic factors (inflation, slowdown in Chinese economy and Eurozone crisis) it was the first year since 2000 when Chinese production capacity marked a decrease (from 6,8 million tonnes in 2011).
- (102) In any case, regardless of the future scenarios (stagnation or growth) it still has to be noted that even the current Chinese capacity of production of 6,6-6,8 million tonnes was only exploited in 75 % in the years 2010-2012. This leaves a spare capacity in China (1,6-1,7 million tonnes) which is already extremely high, and exactly in the same range as the whole consumption recorded in the Union market in the same years.
- (103) Chinese worldwide export of ISF was relatively stable during the period considered at a level of 2,2-2,6 million tonnes which corresponded to 40-50 % of Chinese sales. It is clear thus that export constitutes an important part of the activity of the Chinese producers of ISF. According to development plans announced by CFIA for the sector, an expected increase in demand on the domestic market will likely lead the share of exports to drop to the level of 30-40 % of production. However, this decrease should be seen against the background of overall increase in the capacity of production as explained in recital 101 and the fact that this spare capacity in any case is as large as the entire Union consumption. Moreover, the CFIA forecast does not provide any timeframe for the reduction of Chinese export share, nor a concrete indication that this shift would have already started. As a consequence to that, the development plan reported by CFIA should be considered as a too vague and undetermined programme, especially if opposed to the eventual expiry of measures, which would have an immediate effect. Therefore, the presence of this plan cannot at this stage affect the conclusions concerning the likely recurrence of injury, should the measures be left to expire.
- (104) Currently, the Chinese presence on the Union market is very limited and it does not exceed 0,5 % of the market share in terms of volume. Nevertheless, the Union market remains attractive for the Chinese producers, in view of the higher prices in the EU market. This can be proven by attempts of the Chinese exporting producers to circumvent EU antidumping measures. As indicated in recital 3 this behaviour resulted already in the extension of the measures on the Chinese export via Malaysia.
- (105) Additionally, the export oriented Chinese industry is facing more and more problems in finding channels to their usual export markets as a growing number of them has recently imposed antidumping measures on exports of different types of ISF from China as explained in recital 47.
- (106) Thus, it can be reasonably expected that, as a consequence to the attractiveness of the Union market with its size and price levels, should the measures be repealed, a substantial part of the current Chinese export would be re-directed to the Union. It is worth recalling that before the original measures were imposed Chinese market share in the Union market amounted to 26 %.
- (107) Finally, with regard to the level of the Chinese export prices, it is recalled that original investigation found very high levels of dumping and injury margins calculated on the basis of the export prices of the Chinese exporters. On the basis of Chinese export prices to Croatia in 2012 and Q1 of 2013, that is before accession of Croatia to EU and extension of EU protective measures on this country, it can be concluded that the level of Chinese export prices which lead to the imposition of measures in the original investigation remains quite similar. Furthermore, trade defence actions taken by other third countries against export of Chinese ISF confirm that unfair price behaviour of Chinese exporting producers is continued and is not limited only to Union market.

### 4. Conclusion

- (108) The findings of the investigation have highlighted several elements of concern, including large spare capacity available in the PRC, continuation of dumping and underselling practices worldwide, planned development of production capacity, product range and product complexity in the PRC, as well as growing trade barriers in other main third countries markets. On the other hand, the Union consumption has been stagnating in the last 5 years, due to low demand in many downstream sectors. This has led to a state of vulnerability of the Union industry which is characterised by a certain degree of spare capacity, low profits and business uncertainty (as witnessed

in particular by the decreasing investments). In this scenario, it is considered that the repeal of the measures would with all probability lead to the sudden return of Chinese dumped imports, and that this would weaken the position of the Union industry in their core market, pushing the Union industry again in a state of injury.

- (109) Parties claimed that the Union industry has doubled its profit and cash flow compared to 2010 and that therefore its profit cannot be qualified as low. Furthermore, it is observed that the Union industry does not need further investments as it invested significantly in the past.
- (110) Although the Union industry indeed doubled its profit, the latter remained lower than both the profit in the original IP (4,4 %) and the target profit of 5 %. The same reasoning applies to the cash flow that remained 14 % below the level of the original IP. Finally, the viability of the Union industry depends on continuing investments in up-to-date machinery and a wider product range. The claims are therefore rejected.
- (111) If the measures were to be repealed, under the present market situation, it is likely that the temporary improvement in the performance of the Union industry would quickly deteriorate. As discussed above, the conditions would be extremely favourable for an increase of the imports from the PRC to the Union market at dumped prices and in considerable volumes. That would likely undermine the positive developments in the Union market reached over the period considered. The likely dumped imports would be able to exercise pressure on the Union industry's sales prices and make it lose market share and, as a consequence to that, would negatively impact the Union industry's financial performance which is still vulnerable. It is recalled that in the period considered in the original investigation (1 January 2003-30 September 2007), that is before imposition of the anti-dumping measures, the Union industry had to limit production in certain segments of the product concerned due to massive imports from China <sup>(1)</sup>. This had a significant negative impact on capacity utilisation and profitability.
- (112) Following final disclosure, one interested party claimed that the Commission failed to establish in its likelihood of recurrence of injury analysis the volume effect of Chinese exports and its link with the measures. The interested party argued that:
- (i) imports from other sources substituted imports from China; these imports are sold at prices below those of the Union industry and nevertheless the Union industry did not suffer material injury;
  - (ii) the decrease of the level of the measures after the implementation of the WTO recommendations did not result in the increased volumes of imports from China on the Union market;
  - (iii) imports of other types of fasteners from China, not being subject of the anti-dumping measures also recorded a serious decline in volumes as from 2009 when the original measures were imposed;
  - (iv) taking into account growing demand on the Chinese domestic market, the likelihood of future increase of Chinese exports to the Union is limited; and
  - (v) the market for fasteners will continue to grow in China and also in other Asian markets which will reduce the likelihood of a significant increase of exports to the EU.
- (113) In reply to these arguments it is noted that:
- (i) the likely injurious effect of Chinese imports cannot be compared to the effect of imports from third countries, such as Taiwan, Vietnam and Thailand. Indeed, as indicated in recital 74 above, there is evidence suggesting that Chinese exporters were still selling on the Croatian market (prior to this country's accession to the EU) at similar average prices as the ones registered in the original investigation; these prices are therefore far lower than the ones reported from these third countries during the RIP. Moreover, as indicated in recital 115 below, the Union industry is selling significant volumes both of standard and special products, and therefore it is likely that Chinese exports (consisting both of standard and special products) will be able to cause injury should the duties in force be terminated;
  - (ii) taking into account the limited reduction in the level of the duties in force following the implementation of the WTO recommendations namely from 85 % before the amendment to 74,1 % after, an important increase in imports from China was not to be expected;

<sup>(1)</sup> Regulation (EC) No 91/2009, recital 160.

- (iii) the alleged decrease in import volumes of fasteners not subject to the measures is not supported by the statistical data available. Indeed, a stable monthly amount of 20-30 thousand tonnes was maintained in the period 2009-2013, while import volume of fasteners subject to the measures dropped immediately in February 2009 from over 60 thousand tonnes per month to an almost non-existing level;
- (iv) the expected change of ratio of volumes of Chinese domestic sales vs. export sales, which will reflect the growth of Chinese domestic demand, will be counter-balanced by an increase of the total Chinese capacity of production and sales volumes, as explained in recital 101; and
- (v) the claim that Asian demand for fasteners is on the rise is based on an outdated source, predicting the world demand for fasteners being of a size of USD 83 billion in 2016. New market research published by Fastener Industry News Inc. in December 2014 <sup>(1)</sup> puts the world market demand at USD 81 billion in 2018 therefore envisaging smaller growth over a longer period of time. Furthermore, the growth in demand in the Asian-Pacific region is accompanied with the growth in capacity in several countries other than China (ex. Indonesia, Malaysia, Thailand and Vietnam). In addition the installation of additional production capacity for fasteners has relatively low entry barriers (in terms of time, capital and know-how) and therefore the supply can react relatively quickly to the growing demand.

Therefore, the above claims have to be rejected.

- (114) The same interested party argued that the likelihood of recurrence of injury analysis of the Commission did not take into account the fact that the low-end products imported from China cannot exercise price pressure on high-end products, mainly produced by Union producers.
- (115) In reply to this argument it should be recalled that Union production covers the complete range of fasteners, with some companies focusing on specific types (standard or special) while others offering the full range. In particular, in the sampled companies, a significant part of sales is composed by standard fasteners and for three of them, a majority of the sales in the RIP is constituted by standard products. Therefore, the allegation that the European industry would only produce special or high end fasteners, and therefore be sheltered from injurious imports from China, is clearly wrong, as it is contradicted by the evidence collected and verified during the investigation. Furthermore, it is also known that the Chinese fasteners sector envisages the development of higher-end products, as explained in recital 78. It is therefore very likely that the product mix of future Chinese exports will equally consist of the full range from low to high-end products, and the price pressure will be felt by the Union industry in its entirety, affecting its production capacity utilisation. Therefore, this argument had to be rejected.
- (116) Finally, two other interested parties raised the argument that in its analysis the Commission assumed wrongly that the prices from China will be as low as in the original investigation. According to the parties in question this would not be the case because there was a significant increase in prices recorded in China mainly due to the increase in cost of raw materials and labour and development of the environmental standards. Consequently any price undercutting will be lower and will not justify the extension of the measures at such high levels.
- (117) Without prejudice to the fact that the level of measures could not be changed in the context of an expiry review and the domestic Chinese prices and costs were considered unreliable in the original investigation as the result of the Chinese producers failing to obtain market economy treatment, the following should be noted. First, the lack of cooperation from Chinese producers did not allow the Commission to verify their costs and the alleged changes that occurred in China. The interested parties in question did not provide any evidence or substantiated facts in their submissions. Secondly, reference is made to the level of prices observed in Croatia prior to its accession to the Union, which clearly indicated that Chinese exporters have been keeping charging prices very similar to those observed during the original investigation (see recital 74). Therefore, the argument above had to be rejected.

## G. UNION INTEREST

### 1. Introduction

- (118) In accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the existing measures would be against the Union interest as a whole. The determination of the Union interest was based on an appreciation of the various interests involved, i.e. those of the Union industry, of importers and of users. The interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

<sup>(1)</sup> The full text of the article is available at: <http://globalfastenernews.com/main.asp?SectionID=31&SubSectionID=42&ArticleID=11630>

- (119) As this investigation is a review of the existing measures, it allowed for assessment of any undue negative impact of the existing anti-dumping measures on the interested parties.

## 2. Interest of the Union industry

- (120) It was concluded in recital 108 above that the Union industry would be likely to experience a serious deterioration of its situation in case the anti-dumping measures were allowed to lapse. Therefore, the continuation of measures would benefit the Union industry because the Union producers should be able to maintain their sales volumes, market share, profitability and overall positive economic situation. By contrast, the discontinuation of the measures would seriously threaten the viability of the Union industry because there are reasons to expect a shift of the Chinese imports to the Union market at dumped prices and in considerable volumes that would cause recurrence of injury.

## 3. Interest of importers

- (121) All known importers were informed about the initiation of the review. However, only two importers cooperated in the investigation and replied Commission's questionnaires. The investigation revealed that importers can easily buy from different sources that are currently available on the market, in particular from the Union industry and major third countries' exporters selling at non-dumped prices. Also, none of the two cooperating importers objected to the extension of current antidumping measures although they have questioned their high levels. With this regard it is noted that expiry review investigation on the basis of Article 11(2) of the basic Regulation cannot lead to the modification of the level of the measures. Taking into account the above as well as absence of interest from importers in general, it was concluded that it would not be against their interest to maintain measures.
- (122) Following final disclosure, two interested parties, namely two associations of Union distributors of fasteners, claimed that the imposition of the duties in force at such high level did not result in restoring fair competition on the Union market but rather prevented Chinese imports from entering the Union market. These interested parties claimed that any extension of the measures will result in a further narrowing of the international sourcing options available to Union users and importers. In response to this argument it is first noted that anti-dumping measures are not imposed to prevent or block imports from a targeted country but primarily to restore fair competition on the market. The level of the duties in force is the result of the calculations of the dumping and injury margins which were established on the basis of the findings made during the original investigation. Secondly, the Commission disagrees with the claim that the duties in force are limiting the sources of supply in the Union market. The available import statistics show that imports from third countries increased after the measures on China were introduced. The investigation did not find elements pointing to the fact that these trends will not be maintained in the future. Therefore, the above arguments had to be rejected.
- (123) Furthermore, one of these associations stated that, although it considers the original measures not entirely appropriate and having caused radical and unnecessary distortion of the fastener market, their abrupt removal now would prove as deeply disruptive as their original imposition. This indicates that the fastener distributors have been able to adjust their supply chains, taking into account the measures in force.

## 4. Interest of the users

- (124) Although the users did not cooperate, it was nonetheless possible to identify the views and the position of the users from the information provided by the Union industry and by the importers. It appears that the users can be firstly divided in two categories: high-end users, which need fasteners with very high quality standards, and other users. High end users could normally find the products they need from Union producers and from some highly specialised exporting producers. On the other hand, the other users' category (which might also include high end users in need of cheaper products for less demanding applications) is the category of users which normally resorted to Chinese products. This category of users is normally served by importers, and according to the views collected while visiting cooperating importers, this category of users is now sufficiently supplied by imports from other countries, including Taiwan, Thailand and Vietnam. On the basis of this reconstruction, and also considering that no user decided to intervene in the present investigation, it is concluded that the extension of the measures would not go against the interest of the users, which seemed to adapt well and without consequences to the presence of measures on ISF from the PRC.

## 5. Conclusion on Union interest

- (125) In view of the above, it is concluded that there are no compelling reasons of Union interest against the maintenance of the current anti-dumping measures.

## H. ANTI-DUMPING MEASURES

- (126) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.
- (127) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of certain iron and steel fasteners originating in the PRC, imposed by Regulation (EC) No 91/2009, as last amended by Implementing Regulation (EU) No 924/2012, should be maintained.
- (128) As outlined under recital 3 above, the anti-dumping duties in force on imports of the product concerned from the PRC were extended to cover, in addition, imports of the same product consigned from Malaysia, whether declared as originating in Malaysia or not. The anti-dumping duty to be maintained on imports of the product concerned, as set out in recital 3, should continue to be extended to imports of ISF consigned from Malaysia, whether declared as originating in Malaysia or not. The exporting producers who were exempted from the measures as extended by Implementing Regulation (EU) No 723/2011 should also be exempted from the measures as imposed by this Regulation.
- (129) In order to minimise the risk of circumvention due to the high difference in the duty rates amongst Chinese exporters, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties. These special measures, which only apply to companies for which an individual duty rate is introduced, include the following: the presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex II to this Regulation. Imports not accompanied by such an invoice shall be made subject to the residual anti-dumping duty applicable to all other producers.
- (130) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of certain iron or steel fasteners, other than of stainless steel, i.e. wood screws (excluding coach screws), self-tapping screws, other screws and bolts with heads (whether or not with their nuts or washers, but excluding screws turned from bars, rods, profiles or wire, of solid section, of a shank thickness not exceeding 6 mm and excluding screws and bolts for fixing railway track construction material), and washers, currently falling within CN codes 7318 12 90, 7318 14 91, 7318 14 99, 7318 15 59, 7318 15 69, 7318 15 81, 7318 15 89, ex 7318 15 90, ex 7318 21 00 and ex 7318 22 00 (TARIC codes 7318 15 90 21, 7318 15 90 29, 7318 15 90 71, 7318 15 90 79, 7318 15 90 91, 7318 15 90 98, 7318 21 00 31, 7318 21 00 39, 7318 21 00 95, 7318 21 00 98, 7318 22 00 31, 7318 22 00 39, 7318 22 00 95 and 7318 22 00 98) and originating in the People's Republic of China.

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

Company	Duty (%)	TARIC additional code
Biao Wu Tensile Fasteners Co., Ltd, Shanghai	43,4	A924
CELO Suzhou Precision Fasteners Co., Ltd, Suzhou	0,0	A918

Company	Duty (%)	TARIC additional code
Changshu City Standard Parts Factory and Changshu British Shanghai International Fastener Co., Ltd, Changshu	38,3	A919
Golden Horse (Dong Guan) Metal Manufactory Co., Ltd, Dongguan City	22,9	A920
Kunshan Chenghe Standard Components Co., Ltd, Kunshan	63,7	A921
Ningbo Jinding Fastener Co., Ltd, Ningbo City	64,3	A922
Ningbo Yonghong Fasteners Co., Ltd, Jiangshan Town	69,7	A923
Yantai Agrati Fasteners Co., Ltd, Yantai	0,0	A925
Bulten Fasteners (China) Co., Ltd, Beijing	0,0	A997
Companies listed in Annex I	54,1	A928
All other companies	74,1	A999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the duty rate applicable to 'all other companies' shall apply.

4. The definitive anti-dumping duty applicable to 'all other companies', as set out in paragraph 2, is hereby extended to imports of the same iron or steel fasteners consigned from Malaysia, whether declared as originating in Malaysia or not (TARIC codes 7318 12 90 11, 7318 12 90 91, 7318 14 91 11, 7318 14 91 91, 7318 14 99 11, 7318 14 99 20, 7318 14 99 92, 7318 15 59 11, 7318 15 59 61, 7318 15 59 81, 7318 15 69 11, 7318 15 69 61, 7318 15 69 81, 7318 15 81 11, 7318 15 81 61, 7318 15 81 81, 7318 15 89 11, 7318 15 89 61, 7318 15 89 81, 7318 15 90 21, 7318 15 90 71, 7318 15 90 91, 7318 21 00 31, 7318 21 00 95, 7318 22 00 31 and 7318 22 00 95), with the exception of those produced by the companies listed below:

Company	TARIC additional code
Acku Metal Industries (M) Sdn. Bhd	B123
Chin Well Fasteners Company Sdn. Bhd	B124
Jinfast Industries Sdn. Bhd	B125
Power Steel and Electroplating Sdn. Bhd	B126
Sofasco Industries (M) Sdn. Bhd	B127
Tigges Fastener Technology (M) Sdn. Bhd	B128
TI Metal Forgings Sdn. Bhd	B129
United Bolt and Nut Sdn. Bhd	B130
Andfast Malaysia Sdn. Bhd.	B265

5. The application of exemptions granted to the companies specifically mentioned in paragraph 4 of this Article shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in Annex II. If no such invoice is presented, the anti-dumping duty as imposed by paragraph 4 of this Article shall apply
6. 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, 26 March 2015.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX I

## COOPERATING EXPORTING PRODUCERS NOT INCLUDED IN THE SAMPLE

## TARIC Additional Code A928

Abel Manufacturing Co., Ltd	Shanghai
Autocraft Industrial (Shanghai) Ltd	Shanghai
Changshu Fuxin Fasteners Manufacturing Co., Ltd	Changshu
Changshu Shining Sun Fasteners Manufacturing Co., Ltd	Changshu
Changzhou Oread Fasteners Co., Ltd	Changzhou
Chun Yu (Dongguan) Metal Products Co., Ltd	Dongguan
Cixi Zhencheng Machinery Co., Ltd	Cixi
Dongguan Danny & Kuen Metal & Co., Ltd	Dongguan
Foshan Nanhai Gubang Metal Goods Co., Ltd	Foshan
Gem-year industrial Co., Ltd	Jiashan
Guangzhou Tianhe District Zhonggu Hardware Screw Manufacture	Guangzhou
Haining Xinxin Hardware Standard Tools Co., Ltd	Haining
Haiyan Flymetal Hardware Co., Ltd	Jiaying
Haiyan Haitang Fasteners Factory	Jiaying
Haiyan Hardware Standard Parts Co., Ltd	Jiaying
Haiyan Lianxiang Hardware Products Co., Ltd	Jiaying
Haiyan Mengshi Screws Co., Ltd	Jiaying
Haiyan Self-tapping Screws Co., Ltd	Jiaying
Haiyan Sun's Jianxin Fasteners Co., Ltd	Jiaying
Haiyan Xinan Standard Fastener Co., Ltd	Jiaying
Haiyan Xinglong Fastener Co., Ltd	Jiaying
Hangzhou Everbright Metal Products Co., Ltd	Hangzhou
Hangzhou Spring Washer Co., Ltd	Hangzhou
Hott Metal Part and Fasteners Inc.	Changshu
J. C. Grand (China) Corporation	Jiaying
Jiangsu Jiangyu Metal Work Co., Ltd	Dongtai
Jiashan Yongda Screw Co., Ltd	Jiashan
Jiaying Triumph Hardware Co., Ltd	Haining
Jiaying Victor Screw Co., Ltd	Jiaying
Jinan Star Fastener Co., Ltd	Jinan

Jin-Well Auto-parts (zhejiang) Co., Ltd	Jiashan
Kinfast Hardware Co., Ltd	Haining
Ningbo Alliance Screws and Fasteners Co., Ltd	Ningbo
Ningbo Anchor Fasteners Industrial Co., Ltd	Ningbo
Ningbo Dafeng Machinery Co., Ltd	Ningbo
Ningbo Development Zone Yonggang Fasteners Co., Ltd	Ningbo
Ningbo Fastener Factory	Ningbo
Ningbo Haixin Hardware Co., Ltd	Ningbo
Ningbo Haixin Railroad Material Co., Ltd	Ningbo
Ningbo Jinhui Gaoqiang Fastener Co., Ltd	Ningbo
Ningbo Jinpeng High Strength Fastener Co., Ltd	Ningbo
Ningbo Jintai Fastener Co., Ltd	Ningbo
Ningbo Jinwei Standard Parts Co., Ltd	Ningbo
Ningbo Jiulong Fasteners Manufacture Co., Ltd	Ningbo
Ningbo Londex Industrial Co., Ltd	Ningbo
Ningbo Minda Machinery & Electronics Co., Ltd	Ningbo
Ningbo Ningli High-Strength Fastener Co., Ltd	Ningbo
Ningbo Qunli Fastener Manufacture Co., Ltd	Ningbo
Ningbo Special — Wind — Fasteners (China) Co., Ltd	Ningbo
Ningbo Xinxing Fasteners Manufacture Co., Ltd	Ningbo
Ningbo Yonggang Fasteners Co., Ltd	Ningbo
Ningbo Zhenhai Xingyi Fasteners Co., Ltd	Ningbo
Ningbo Zhongbin Fastener Manufacture Co., Ltd	Ningbo
Ningbo Zhongjiang High Strength Bolt Co., Ltd	Ningbo
Robertson Inc. (Jiaxing)	Jiashan
Shanghai Boxed Screw Manufacturing Company Limited	Shanghai
Shanghai Fenggang Precision Inc.	Shanghai
Shanghai Foreign Trade Xiasha No. 2 Woodscrew Factory Co., Ltd	Shanghai
Shanghai Great Diamond Fastener Co., Ltd	Shanghai
Shanghai Hang Hong Metal Products Co., Ltd	Shanghai
Shanghai Hangtong Fasteners Co., Ltd	Shanghai
Shanghai Huaming Hardware Products Co., Ltd	Shanghai
Shanghai Moregood C&F Fastener Co., Ltd	Shanghai

Shanghai Moresun Fasteners Co., Ltd	Shanghai
Shanghai Qingpu Ben Yuan Metal Products Co., Ltd	Shanghai
Shanghai Ren Sheng Standardized Item Manufacture Ltd, Co	Shanghai
Shanghai Shuyuan Woodscrews Factory	Shanghai
Shanghai SQB Automotive Fasteners Company Ltd	Shanghai
Shanghai Tapoo Hardware Co., Ltd	Shanghai
Shanghai Yifan High-Intensity Fasteners Co., Ltd	Shanghai
Shanxi Jiaocheng Zhicheng Foundry Ltd	Jiaocheng
Shenzhen Top United Steel Co., Ltd	Shenzhen
Sundram Fasteners (Zhejiang) Limited	Jiaxing
Sunfast (Jiaxing) Enterprise Co., Ltd	Jiaxing
Suzhou Escort Hardware Manufacturing Co., Ltd	Suzhou
Taicang Rongtong Metal Products Co., Ltd	Taicang
Tangshan Huifeng Standard Component Make Co., Ltd	Tangshan
Tangshan Xingfeng Screws Co., Ltd	Tangshan
Tapoo Metal Products (Shanghai) Co., Ltd	Shanghai
Tianjin Jiuri Manufacture & Trading Co., Ltd	Tianjin
Wenzhou Excellent Hardware Apparatus Packing Co., Ltd	Wenzhou
Wenzhou Junhao Industry Co., Ltd	Wenzhou
Wenzhou Tian Xiang Metal Products Co., Ltd	Wenzhou
Wenzhou Yili Machinery Development Co., Ltd	Wenzhou
Wenzhou Yonggu Fasteners Co., Ltd	Wenzhou
Wuxi Huacheng Fastener Co., Ltd	Wuxi
Wuxi Qianfeng Screw Factory	Wuxi
Xingtai City Ningbo Fasteners Co., Ltd	Xingtai
Yueqing Quintessence Fastener Co., Ltd	Yueqing
Zhejiang Jingyi Standard Components Co., Ltd	Yueqing
Zhejiang New Oriental Fastener Co., Ltd	Jiaxing
Zhejiang Qifeng Hardware Make Co., Ltd	Jiaxing
Zhejiang Rising Fasteners Co., Ltd	Hangzhou
Zhejiang Yonghua Fasteners Co., Ltd	Rui' An
Zhejiang Zhongtong Motorkits Co., Ltd	Shamen
Zhongshan City Jinzhong Fastener Co., Ltd	Zhongshan

## ANNEX II

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3) and (5):

- (1) The name and function of the official of the entity issuing the commercial invoice.
- (2) The following declaration:

*I, the undersigned, certify that the (volume) of fastener products 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.*

*(Date and signature)*

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