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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1647

of 21 August 2023

imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 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) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾, and in particular Article 18 thereof,

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

- (1) Anti-subsidy measures on imports of certain coated fine paper ('CFP') originating in the People's Republic of China (the 'PRC' or 'China' or 'country concerned') were originally imposed in 2011 by Council Implementing Regulation (EU) No 425/2011 ⁽²⁾ ('the original measures'). The investigation leading to the original measures is referred to as 'the original investigation'.
- (2) The original measures took the form of an ad valorem duty rate ranging from 4% to 12% for imports from individually named exporters, with a residual country wide rate of 12%.
- (3) Following an anti-dumping investigation, by Implementing Regulation (EU) No 451/2011 ⁽³⁾, the Council also imposed a definitive anti-dumping duty on imports of certain coated fine paper originating in the PRC.
- (4) On 4 July 2017, following an expiry review ('the expiry review') in accordance with Article 18 of Regulation (EU) 2016/1037 ('the basic Regulation'), the Commission extended the measures as established in the original investigation for five years by Commission Implementing Regulation (EU) 2017/1187 ⁽⁴⁾ ('the expiry review Regulation').
- (5) The countervailing duties currently in force range from 4% to 12%.

⁽¹⁾ OJ L 176, 30.6.2016, p.55⁽²⁾ OJ L 128, 14.5.2011, p.18⁽³⁾ Council Implementing Regulation (EU) No 451/2011 of 6 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 1).⁽⁴⁾ Council Implementing Regulation (EU) 2017/1187 of 3 July 2017 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 171, 4.7.2017, p. 134).

1.2. Request for an expiry review

- (6) Following the publication of a notice of impending expiry ⁽⁵⁾ of the countervailing measures in force on the imports of certain coated fine paper originating in the PRC, the European Commission ('the Commission') received a request for the initiation of an expiry review pursuant to Article 18 of the basic Regulation.
- (7) The request was lodged on 31 March 2022 by five Union producers (Arctic Paper Grycksbo AB, Burgo Group SpA, Fedrigoni SpA, Lecta Group and Sappi Europe SA), jointly referred to as 'the applicants', representing more than 50% of the total Union production of certain coated fine paper.
- (8) 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 subsidisation and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (9) Having determined that sufficient evidence existed for the initiation of an expiry review, on 30 June 2022 the Commission initiated an expiry review of the measures in force with regard to imports into the Union of certain coated fine paper originating in the People's Republic of China on the basis of Article 18 of the basic Regulation. It published a Notice of Initiation in the Official Journal of the European Union ⁽⁶⁾ ('the Notice of Initiation'). In view of Article 18(2) of the basic Regulation, the Commission prepared a memorandum on sufficiency of evidence containing the Commission's assessment on all the evidence at its disposal and on the basis of the investigation was initiated. That memorandum can be found in the file for inspection by interested parties.
- (10) Prior to the initiation of the expiry review, and in accordance with Article 10(7) of the basic Regulation, the Commission notified the Government of China ('GOC') that it had received a properly documented review request and invited the GOC for consultations with the aim of clarifying the situation as regards the content of the review request and arriving at a mutually agreed solution. However, no response was received from the GOC.

1.4. Separate anti-dumping review investigation

- (11) By means of a notice published in the Official Journal of the European Union on 30 June 2022 ⁽⁷⁾, the Commission also announced the initiation of an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 ⁽⁸⁾ of the definitive anti-dumping measures in force with regard to imports into the Union of certain coated fine paper originating in the PRC.

1.5. Review investigation period and period considered

- (12) The investigation of the likelihood of continuation or recurrence of subsidisation covered the period from 1 January 2021 to 31 December 2021 ('review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of recurrence of injury covered the period from 1 January 2018 to the end of the review investigation period (the 'period considered').

1.6. Interested parties

- (13) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the Union industry, the known exporting producers and the Government of the People's Republic of China ('PRC') about the initiation of the investigation and invited them to participate.

⁽⁵⁾ OJ C 398, 1.10.2021, p.18

⁽⁶⁾ OJ C 248, 30.6.2022, p. 119

⁽⁷⁾ OJ C 248, 30.6.2022, p. 130

⁽⁸⁾ OJ L 176, 30.06.2016, p.21.

- (14) In parallel, upon initiation, the Commission made the questionnaires for the exporting producers, the unrelated importers, the users and the Union producers available online. It also sent the macro data questionnaire to the complainants. Questionnaires were also made available to unrelated importers and users on the same DG Trade's website ⁽⁹⁾.
- (15) All parties were invited to make their views known, submit information and provide supporting evidence within the time limits set out in the Notice of Initiation. Interested parties had also the opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.7. Sampling

1.7.1. *Sampling of exporting producers in the PRC*

- (16) In the Notice of Initiation of the expiry review investigation, the Commission stated that it might sample exporting producers in accordance with Article 27 of the basic Regulation.
- (17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. No exporting producer came forward.
- (18) In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that would be interested in participating in the investigation. However, no response was provided.
- (19) Consequently, the Commission informed the authorities of the PRC that absent cooperation, it intended to resort to the use of facts available under Article 28 of the basic Regulation when examining the continuation or recurrence of subsidisation. The authorities of the PRC did not respond.

1.7.2. *Sampling of Union producers*

- (20) In the Notice of Initiation of the expiry review investigation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the representativity in terms of volume of production and sales of the like product in the EU between 1 January and 31 December 2021. This sample consisted of 3 Union producers. The sampled Union producers accounted for approximately 41 % of the estimated total volume of production and 37 % of the estimated sales of the like product in the Union. The Commission invited interested parties to comment on the provisional sample. No comments were received on the provisional sample and the provisional sample was therefore confirmed. The sample is representative of the Union industry.

1.7.3. *Sampling of unrelated importers*

- (21) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation. However, no importer co-operated with the Commission and provided the requested information.

1.8. Questionnaires and verification visits

- (22) The Commission sent a questionnaire to the Government of the People's Republic of China ('GOC'). No questionnaire reply was received.

⁽⁹⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

- (23) The Commission sent questionnaires to the three sampled Union producers. At the day of initiation, the same questionnaires were made available online on DG Trade's website ⁽¹⁰⁾. In addition, the Commission sent a questionnaire to the applicants concerning macroeconomic data. Questionnaires were also made available to unrelated importers and users on the same DG Trade's website ⁽¹¹⁾.
- (24) Questionnaire replies were received from the three sampled Union producers. In addition, the applicants provided the Commission with macroeconomic data. No reply was received from any of the unrelated importers. None of the users provided replies to the questionnaire or came forward during the investigation.
- (25) The Commission verified all the information deemed necessary for the determination of the likelihood of continuation or recurrence of subsidisation and injury and of the Union interest. Verification visits were carried out at the premises of the following Union companies:
- Union producers
- Sappi Europe SA, Brussels, Belgium for Sappi Gratkorn GmbH (Austria)
 - Burgo Group S.p.A. (Italy)
 - Condat SAS (part of Lecta Group) (France)

1.9. Disclosure

- (26) On 14 June 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to impose countervailing duties. All parties were granted a period within which they could make comments on that disclosure.

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

- (27) The product under review is the same as in the original investigation and in the previous expiry review, namely certain coated fine paper ('CFP') which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheet or rolls, and with a weight of 70 g/m² or more but not exceeding 400 g/m² and brightness of more than 84 (measured according to ISO 2470-1).
- (28) The product under review does not include:
- Rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD).
 - Multi-ply paper and multi-ply paperboard.

2.2. Product concerned

- (29) Product concerned by the expiry review investigation is the product under review originating in China currently falling under CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20).

2.3. Like product

- (30) As established in the original investigation, as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical and technical characteristics, as well as the same basic uses:
- the product concerned when exported to the Union;

⁽¹⁰⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

⁽¹¹⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

- the product under review produced and sold by the exporting producers on the domestic market of the PRC;
- the product under review produced and sold by the exporting producers to the rest of the world; and
- the product under review produced and sold in the Union by the Union industry.

- (31) The Commission concluded that these products are like products within the meaning of Article 2(c) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF SUBSIDISATION

- (32) In accordance with Article 18 of the basic Regulation, and as stated in the Notice of Initiation, the Commission examined whether the expiry of the existing duties would be likely to lead to a continuation of subsidisation.

3.1. Non-cooperation and the use of facts available in accordance with Article 28(1) of the basic Regulation

- (33) On 29 September 2022, the Commission sent a questionnaire to the GOC. The GOC was also asked to forward a questionnaire for banks and other financial institutions known by the GOC to have provided loans to the industry concerned or to producers, distributors and other suppliers providing inputs for the production of the product concerned. The Commission did not receive any reply either from the GOC or from any financial institution to which the GOC was asked to forward a questionnaire.
- (34) Furthermore, no Chinese producer of CFP cooperated with the Commission in this investigation.
- (35) By Note Verbale of 18 January 2023, the Commission informed the Chinese authorities of the consequences of non-cooperation and gave them the opportunity to comment. No comments were received. The Commission, in accordance with Article 28 of the basic Regulation, considered the use of facts available necessary in order to examine the continuation of subsidy practices of the PRC in the paper industry generally and the coated fine paper in particular.
- (36) On the use of facts available, the Commission noted that Article 28 of the basic Regulation is similar to Article 12.7 of the SCM Agreement ⁽¹²⁾. The Appellate Body has recalled that Article 12.7 of the SCM Agreement permits the use of facts on record solely for the purpose of replacing information that may be missing, in order to arrive at an accurate subsidization or injury determination. Accordingly, the Appellate Body has explained that 'there has to be a connection between the 'necessary information' that is missing and the particular 'facts available' on which a determination under Article 12.7 is based.' Therefore, 'an investigating authority must use those 'facts available' that 'reasonably replace the information that an interested party failed to provide', with a view to arriving at an accurate determination.' The Appellate Body has further explained that 'the facts available' refers to those facts that are in the possession of the investigating authority and on its written record. As determinations made under Article 12.7 are to be made on the basis of 'the facts available', 'they cannot be made on the basis of non-factual assumptions or speculation.' Furthermore, in reasoning and evaluating which facts available can reasonably replace the missing information, 'all substantiated facts on the record must be taken into account' by an investigating authority. The Appellate Body has explained that ascertaining the 'reasonable replacements for the missing 'necessary information' involves a process of reasoning and evaluation' on the part of the investigating authority. Where there are several facts available to an investigating authority that it needs to choose from, 'it would seem to follow naturally that the process of reasoning and evaluation would involve a degree of comparison' in order to arrive at an accurate determination. The evaluation of the 'facts available' that is required, and the form it may take, depend on the particular circumstances of a given case, including the nature, quality, and amount of evidence on the record and the particular determinations to be made. The nature and extent of the explanation and analysis required will necessarily vary from determination to determination ⁽¹³⁾.

⁽¹²⁾ The WTO Agreement on Subsidies and Countervailing Measures

⁽¹³⁾ WT/DS437/AB/R, United States — Countervailing Duty Measures on Certain Products from China, Appellate Body Report of 18 December 2014, paragraphs 4.178 — 4.179. This Appellate Body Report quoted WT/DS295/AB/R, Mexico — Definitive AntiDumping Measures on Beef and Rice, Appellate Body Report of 29 November 2005, paragraph 293; and WT/DS436/AB/R, United States — Countervailing Measures on Certain Hot-Rolled Carbon Steel Flat Products from India, Appellate Body Report of 8 December 2014, paragraphs 4.416-4.421.

(37) Accordingly, the Commission used for its analysis all facts available to it, in particular:

- the request for an expiry review under Article 18 of the basic Regulation concerning anti-subsidy measures on imports of coated fine paper originating in the PRC;
- the findings of the original investigation ⁽¹⁴⁾ and previous review investigation ⁽¹⁵⁾ carried out by the Commission regarding the same product;
- the findings of the most recent anti-subsidy investigations carried out by the Commission concerning encouraged industries in the PRC, such as pneumatic tyres ⁽¹⁶⁾ (tyres), electric bicycles ⁽¹⁷⁾ ('the e-bikes'), organic coated steel products ⁽¹⁸⁾ ('OCS'), optical fibre cables ⁽¹⁹⁾ ('OFC'), aluminium converter foil ⁽²⁰⁾, glass fibre fabrics ⁽²¹⁾ (GFF) and the expiry review of the countervailing measures on filament glass fibre products ⁽²²⁾ ('GFR') originating in the PRC where various subsidy schemes relevant for this review investigation were examined.

3.2. Subsidies and subsidy programmes examined in the current expiry review

- (38) In view of the lack of cooperation from the GOC and Chinese producers the Commission decided to examine under Article 28 of the basic Regulation whether there was continuation of subsidisation as follows. First, the Commission examined whether the subsidies countervailed in the original and previous expiry investigations continued to confer benefit to the CFP industry in the PRC. Second, the Commission analysed whether that industry benefitted from subsidies which were not countervailed in the original or previous expiry review investigations ('additional subsidies' or 'new subsidies'), as alleged in the request.
- (39) The Commission decided that, in view of the findings below confirming the existence of continued subsidisation with respect to most of the subsidies countervailed in the original and previous expiry review investigations, as well as the existence of some new additional subsidies, there was no need to investigate all subsidies alleged to exist by the applicants. Indeed, pursuant to Article 18 of the basic Regulation, the Commission should examine whether there is evidence of continued subsidisation, regardless of its amount.

⁽¹⁴⁾ Council Implementing Regulation (EU) No 452/2011 of 6 May 2011 imposing a definitive anti-subsidy duty on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 18).

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2017/1187 of 3 July 2017 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 171, 4.7.2017, p. 134).

⁽¹⁶⁾ Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing a definitive countervailing duty on imports of certain pneumatic tyres, new or retreated, of rubber, of a kind used for busses or lorries and with a load index exceeding 121 originating in the People's Republic of China (OJ L 283, 12.11.2018, p. 1).

⁽¹⁷⁾ Commission Implementing Regulation (EU) No 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5).

⁽¹⁸⁾ Commission Implementing Regulation (EU) 2019/688 of 2 May 2019 imposing a definitive countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 39).

⁽¹⁹⁾ Commission Implementing Regulation (EU) 2022/72 of 18 January 2022 imposing definitive countervailing duties on imports of optical fibre cables originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2011 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 12, 19.1.2022, p. 34).

⁽²⁰⁾ Commission Implementing Regulation (EU) 2021/2287 of 17 December 2021 imposing definitive countervailing duties on imports of aluminium converter foil originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2170 imposing definitive anti-dumping duties on imports of aluminium converter foil originating in the People's Republic of China (OJ L 458, 22.12.2021, p. 344).

⁽²¹⁾ Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 1).

⁽²²⁾ Commission Implementing Regulation (EU) 2021/328 of 24 February 2021 imposing a definitive countervailing duty on imports of continuous filament glass fibre products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council (OJ L 65, 25.2.2021, p. 1).

3.3. Subsidies countervailed in the original and previous expiry review investigations

3.3.1. Preferential lending

- (40) In the original investigation ⁽²³⁾ the Commission established that the ad valorem subsidy amount with regard to this measure was 5,37 % for the APP Group ⁽²⁴⁾ and 1,26 % for the Chenming Group ⁽²⁵⁾.

3.3.1.1. Government intervention in favour of the coated fine paper industry

- (41) In the original and previous review investigations the Commission first examined whether preferential lending forms part of the implementation of the GOC's central planning, which aims to encourage the development of the paper making industry.
- (42) The coated fine paper industry that was subject to the Commission's investigation constitutes part of a wider category of the paper industry, also referred to as the paper making industry. The applicants alleged that the GOC continues to subsidise its paper industry and referred to a number of policy and planning documents as well as legislation, which form the basis for continuation of State support for this industry.
- (43) In the original and previous review investigations the Commission established the existence of specific policy plans with respect to the paper industry. These plans stipulated that the government authorities closely monitor the performance of the paper industry and implement special policies (e.g., implementing decrees) for the fulfilment of the goals of the policy plans. Furthermore, the investigation also established that the specific policy plans provide for preferential lending to the paper making industry.
- (44) In the previous review investigation the Commission also established that the financial market in the PRC continued to be distorted by the interventions of the GOC. The findings of the original investigation based on government plans in force at that time are upheld in the current expiry review investigation. Both the 14th Five-Year Plan ⁽²⁶⁾ applicable during the RIP and the previous 11th, 12th and 13th Five-Year Plan continue to indicate the paper industry as an 'Encouraged industry'.
- (45) The 13th Five-Year Plan (2016-2020) confirmed the continuation of subsidisation, as it singled out the paper industry as an 'Encouraged industry'.
- (46) The 14th Five-Year Plan (2021-2025) ⁽²⁷⁾ aims at speeding up the transformation and upgrading of enterprises in key industries such as the chemical industry and papermaking, and improving the green manufacturing system.
- (47) Under the 'Made in China 2025' Initiative, the Chinese light industry, to which the paper industry belongs, is eligible for support to finance its technological upgrading, the acquisition of modern production equipment, and the acceleration of its green transformation. Chinese CFP producers such as the Chenming Group make express references in their financial statements ⁽²⁸⁾ to the implementation of the goals set out in the 'Made in China 2025' Plan.

⁽²³⁾ See recital (60) of Implementing Regulation (EU) No 452/2011.

⁽²⁴⁾ The APP group: Sinar Mas Paper (China) Investment Co., Ltd, Gold East Paper (Jiangsu) Co., Ltd, Gold Huasheng Paper (SuZhou Industrial Park) Co., Ltd, Ningbo Zhonghua Paper Industry Co., Ltd, Ningbo Asia Pulp & Paper Co., Ltd.

⁽²⁵⁾ The Chenming Group: Shandong Chenming Paper Holdings Limited, Shouguang Chenming Art Paper Co.Ltd.

⁽²⁶⁾ China's 12th Five-Year Plan (2011-2015) was adopted on 14 March 2011.

⁽²⁷⁾ 14th Five-Year Plan, covering the years 2021-2025 passed by the Chinese parliament, the National People's Congress, in March 2021

⁽²⁸⁾ http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ_STOCK/2019/2019-3/2019-03-30/5140126.PDF pages 13 and 37
http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ_STOCK/2020/2020-3/2020-03-28/5976095.PDF pages 11 and 36

- (48) In the original investigation the Commission established, with reference to 'Decision No 40 of the State Council' ⁽²⁹⁾ ('Decision No 40'), that this act is an order from the State Council, i.e. the highest administrative body in the PRC, and remains legally binding on other public bodies and economic operators. It classified the industrial sectors into 'Encouraged', 'Restricted' and 'Eliminated' Projects. This Act represents a binding industrial policy document that shows how the GOC maintains a policy of supporting groups of enterprises or industries, such as the paper industry, classified as an 'Encouraged industry'. The Commission based on the applicant's request confirmed that Decision No 40 was still in force during the review investigation period ⁽³⁰⁾.
- (49) With respect to the number of industries listed as 'Encouraged', there are 26 in total, representing only a portion of the Chinese economy. Furthermore, only certain activities within these 26 sectors are given 'Encouraged' status. Article 17 of Decision No 40 also stipulates that the 'Encouraged investment projects' shall benefit from specific privileges and incentives (financial support, import duty exemption, VAT exemption and tax exemption). With reference to the 'Restricted' and 'Eliminated' Projects, Decision No 40 empowers the State authorities to intervene directly to regulate the market. In fact, Articles 18 and 19 require the relevant authority to stop financial institutions from supplying loans and also order the State price administrative department to raise the electricity price and instruct the electricity supply companies to stop supplying electricity to 'Restricted' and 'Eliminated' Projects. It is obvious from the above that Decision No 40 provides binding rules and instructions to all economic institutions and entities in the form of directives on the promotion and support of encouraged industries, one of which is the papermaking industry ⁽³¹⁾.
- (50) The Commission established in the review investigation that a number of policy documents indicate the paper industry explicitly as an 'Encouraged' industry. This concerns in particular the 14th Five-Year Plan for the Paper Industry. This plan is implemented by the 14th Five-Year Industrial Technology Innovation Program issued by the Ministry of Industry and Information Technology. The Program also refers to promotion of 'industrial restructuring and upgrading (...) of the paper industry and its related industries'. Similarly, the above mentioned Decision No 40 indicates support for the development and modernisation of the paper industry. Thus, rather than general statements of encouragement, these policy plans direct entities to comply with the public policy objective of supporting the development of the coated fine paper industry.
- (51) In addition, Article 34 of the Commercial Banking Law [2015], which applies to all financial institutions operating in China, states that '[c]ommercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State.' ⁽³²⁾ This indicates that decisions are made by the banks as well as by other financial institutions pursuant to government directives and public objectives.
- (52) Finally, the Commission recalled its findings in the original and previous review investigations concerning the role of the National Development and Reform Commission ('NDRC'). The NDRC is an agency of the State Council coordinating macroeconomic policy and managing Government investments. The State Council, the highest governmental administrative body, issued, inter alia, the 2007 Papermaking Plan, to be followed by the NDRC. The original investigation also established that the NDRC collects, on a permanent basis, detailed information from companies. The existence of a systematic mechanism to collect company-related data to be used in government plans and projects reveals that these plans and projects are considered an important element of the State's industrial policy.
- (53) It follows from the above that decisions made by financial institutions with respect to the paper industry (and thus including the coated fine paper industry) continue to take into consideration the need to fulfil the stated goals of the relevant policy plans.

⁽²⁹⁾ Decision No 40 of the State Council on Promulgating and Implementing the Temporary Provisions on Promoting Industrial Structure Adjustments.

⁽³⁰⁾ See Annex 19 of the expiry review request concerning the Decision of the State Council on Promulgating the Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"

⁽³¹⁾ For a similar conclusion see Regulation 452/2011, recital (76), and Regulation 2017/1187, recital (45), which observe that Decision No 40 is legally binding for public bodies as well as economic operators in China.

⁽³²⁾ See GFR, recital (76)

- (54) Taking into account the above-listed documents and their provisions, on which there was no evidence or indications that they are no longer in place, the Commission reiterated its conclusion from the original and the previous review investigations that the Chinese coated fine paper industry continued to be a key industry during the review investigation period, the development of which continues to be actively pursued and directed by the GOC as a strategic policy objective.

3.3.1.2. State-owned banks acting as public bodies

- (55) The Commission concluded in the original and review investigations ⁽³³⁾ that the financing market in China was distorted by government intervention and that interest rates charged by non-government banks and other financial institutions were likely to be aligned with government rates. The investigation did not bring to light any element contradicting the above finding, nor did the GOC provide evidence in the course of the current investigation that this situation had changed.
- (56) Additionally, based on information in the review request, several national and regional, general and sector specific plans, encourage government authorities at all levels and State-owned financial institutions to foster the paper industry in general and the CFP industry in particular.
- (57) In addition to the Commercial Banking Law, Article 15 of the General Rules on Loans, which are implemented by the People's Bank of China, provides that [i]n accordance with the State's policy, relevant departments may subsidise interest on loans, with a view to promoting the growth of certain industries and economic development in some areas ⁽³⁴⁾.
- (58) The GOC's support to its paper industry has been, and continues to be, focused on financing its energy transformation and reducing the negative environmental impact resulting from its production activities. It comes therefore as no surprise that Chinese CFP producers have benefitted from preferential lending by Chinese State-owned banks.
- (59) The Commission, on the basis of the available information as referred to in recital (37), established that most of the major banks continued to be State-owned. The GOC is the majority shareholder in the four largest banks in the PRC: the Industrial and Commercial Bank of China ('ICBC'), the Bank of China ('BOC'), the China Construction Bank ('CCB') and the Agricultural Bank of China ('ABC'). In previous investigations ⁽³⁵⁾, the GOC claimed that it held less than 50% shares in the Bank of Communications. However, in the same investigations, the Commission established that the following banks were partially or fully owned by the State itself or by State-held legal persons: Agricultural Bank of China, Bank of Beijing, Bank of China, Bank of Communications, Bank of Jiangsu, Bank of Kunlun, Bank of Nanjing, Bank of Ningbo, Bank of Qingdao, Bank of Shanghai, Bank of Tianjin, Bank of Yantai, CCB, China Bohai Bank, China CITIC Bank, China Construction Bank, China Development Bank, China Everbright Bank, China Guangfa Bank, China Industrial Bank, China Industrial International Trust Limited, China Merchants Bank, China Merchants Bank Financial Leasing Co., Ltd., China Minsheng Bank, Chongqing Rural Commercial Bank, Daye Trust

⁽³³⁾ See recitals (82) to (89) of Implementing Regulation (EU) No 452/2011 and recitals 55 to 59 of Implementing Regulation (EU) 2017/1187.

⁽³⁴⁾ See Recital 100 of Implementing Regulation (EU) 2017/969

⁽³⁵⁾ Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China (OJ L 146, 9.6.2017, p. 17) ('HRF case'), Commission Implementing Regulation (EU) 2018/1690 of 9 November 2018 imposing definitive countervailing duties on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries and with a load index exceeding 121 originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2018/1579 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163 (OJ L 283, 12.11.2018, p. 1) ('Tyres case') and Commission Implementing Regulation (EU) 2019/72 of 17 January 2019 imposing a definitive countervailing duty on imports of electric bicycles originating in the People's Republic of China (OJ L 16, 18.1.2019, p. 5) ('E-bikes case'), Commission Implementing Regulation (EU) 2020/776 of 12 June 2020 imposing definitive countervailing duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt and amending Commission Implementing Regulation (EU) 2020/492 imposing definitive anti-dumping duties on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt (OJ L 189, 15.6.2020, p. 33) ('GFF case').

Co., Ltd., Dongying Bank, EverGrowing Bank, Fudian Bank, Guangdong Development Bank, Guosen Securities Co., Hang Fung Bank, Ltd., Hangzhou Bank, Hankou Bank, Hengfeng Bank Co., Ltd., Huaxia Bank, Hubei Bank, Industrial and Commercial Bank of China (ICBC), Minsheng Securities Co., Ltd., Postal Savings Bank, Qilu Bank, Shanghai Pudong Development Bank, Shanghai Rural Commercial Bank, Shenyang Rural Commercial Bank, Sinotruk Finance Co. Ltd. and Zheshang Bank. The Commission further concluded on the same basis that there was evidence of formal indicia of government control in the State-owned banks. For example, with respect to EXIM, its public policy mandate is established in 'The Notice of Establishing Export-Import Bank of China' issued by the State Council and the Articles of Association of EXIM. The State, as 100% shareholder of EXIM, controls EXIM by nominating the Members of its Board of Supervisors. Those Members represent the interest of the State, including policy considerations in the meetings of EXIM. There is no Board of Directors. The State directly nominates the management of EXIM ⁽³⁶⁾. According to its website ⁽³⁷⁾, EXIM is "dedicated to supporting China's foreign trade, investment and international economic cooperation" and "it is committed to reinforcing financial support to key sectors and weak links in the Chinese economy to ensure sustainable and healthy economic and social development".

- (60) No evidence has been provided in the course of this investigation showing that companies are granted loans according to proper credit rating evaluations. Thus, the Commission has no information contradicting the previous finding that the State-owned banks are supporting encouraged industries and/or implementing national policies, as mentioned above in recitals (58) and (59).
- (61) On the basis of the above, the Commission concluded that the specific public policy objectives, as provided in the legal framework set out above, are being implemented by State-owned banks in the exercise of governmental functions with respect to the paper industry, thereby acting as public bodies in the sense of Article 2(b) of the basic Regulation read in conjunction with Article 3(1)(a)(i) of the basic Regulation.
- (62) In sum, financial institutions in China operate in a general legal environment that directs them to align themselves with the GOC's industrial policy objectives when making financial decisions ⁽³⁸⁾.
- (63) In addition, even if the State-owned banks were not to be considered as public bodies, the Commission found that those banks as well as privately owned banks would also be considered entrusted and directed by the GOC to carry out functions normally vested in the government ⁽³⁹⁾, within the meaning of Article 3(1)(a)(iv) of the basic Regulation in view of the normative framework described before in recitals (51) and (52). Thus, their conduct would be attributed to the GOC in any event. For the same reasons, the loans granted by other financial institutions to companies in the paper sector would be attributed to the GOC.

3.3.1.3. Benefit

- (64) In the absence of cooperation from the Chinese producers, the Commission had no company-specific information on which the amount of subsidy conferred during the review investigation period could be calculated.
- (65) In the original and review investigations, the Commission established that the paper industry benefited from preferential loans. The Commission established the amount of benefit to be the difference between the amount that the company paid on the government loan and the amount that the company would have paid for a comparable commercial loan obtainable on the market. This amount was then allocated over the total turnover of the cooperating exporting producers. The ad valorem subsidy amount established under this measure was 5,37 % for the APP Group and 1,26 % for the Chenming Group.
- (66) In the current investigation, the Commission, on the basis of available information, found no indication that the preferential lending for producers of coated fine paper in the PRC ceased to continue.

⁽³⁶⁾ See recital (226) of Commission Implementing Regulation (EU) 2022/72.

⁽³⁷⁾ Introduction_The Export-Import Bank of China (eximbank.gov.cn)

⁽³⁸⁾ See Commission Implementing Regulation (EU) 2021/328 recital (75)

⁽³⁹⁾ See recital (266) of Commission Implementing Regulation (EU) 2022/72.

- (67) The Commission notes that the applicants in its request and subsequent submissions provided examples of further loans received by the exporting producers including during the review investigation period, in particular:
- the APP Group benefitted from support in the form of preferential financing by Chinese Banks. In May 2018, Gold East Paper (Jiangsu) issued the "IFC-Singuan One Belt and One Road Asset Supported Special Plan". The related accounts receivable are used as the basic assets. As of 31 December 2018, monetary funds with a book value of RMB 114 608 963 were deposited into the account of the China National Financial Securities One Belt One Road Assets Special Plan ⁽⁴⁰⁾. At the end of 2019 and 2020, those funds amounted to RMB 2 659 400 562 and RMB 86 455 882, respectively ⁽⁴¹⁾. These funds correspond to 0,01%, 26% and 0,01% of Gold East Paper's annual turnover of RMB 9,1 billion in 2018, RMB 10 billion in 2019 and RMB 9,1 billion in 2020.
 - Based on its Annual Reports, in 2018, Jiangxi Chenming Paper Co., Ltd., a subsidiary of the Chenming Group, started a market-based and legal debt-to-share business with China Zheshang Bank in order to lower its gearing ratio, optimise its capital structure and promote its comprehensive capital strength. As a result of this, Jinagxi Chenming's capital increased by RMB 500 million ⁽⁴²⁾. In 2020, the Chenming Group received a short-term loan from Guangdong Nanyue Bank worth RMB 1 232 million ⁽⁴³⁾.
 - Private banks also provided credit lines to CFP producers during the period under consideration. For instance, in 2018, 2019 and 2020, the Chenming Group received bank credits amounting to RMB 81 750 million, RMB 82 720 million and RMB 83 165 million, respectively ⁽⁴⁴⁾.
- (68) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to establish that the loans identified by the applicants had been provided under normal market conditions. However, on the basis of the information available, the Commission found that the Chinese exporting producers continued benefitting from preferential loans. Indeed, the paper industry continued to be identified as an 'encouraged industry'. In addition, in recent investigations the Commission established that the preferential loans for encouraged industries had been provided at interest rates well below the ones that would have been charged in the absence of distortions on the financial market, including the absence of valid credit ratings ⁽⁴⁵⁾.
- (69) Therefore, without the need to quantify the exact amount of subsidisation conferred through preferential lending, the Commission concluded that the GOC continued to provide preferential loans at favourable interest rates in line with the policy stipulated in specific plans and directives referring to the paper industry. The direct transfer of funds in the form of preferential loans continued to be available to companies in the paper industry during the review investigation period.

3.3.1.4. Specificity

- (70) As demonstrated in recitals (66) to (69) above, several legal documents which are specifically targeted at companies in the paper sector direct the financial institutions. On the basis of these documents it is demonstrated that the financial institutions only provide preferential lending to a limited number of industries which comply with the relevant policies of the GOC.
- (71) The Commission therefore concluded that the subsidies in the form of preferential lending are not generally available but are specific within the meaning of Article 4(2)(a) of the basic Regulation. Moreover there was no evidence submitted by any of the interested parties suggesting that the preferential lending is based on objective criteria or conditions under Article 4(2)(b) of the basic Regulation.

⁽⁴⁰⁾ See applicants' request, Annex 20

⁽⁴¹⁾ See applicants' request, Annex 20

⁽⁴²⁾ See applicants' request, Annex 16

⁽⁴³⁾ See applicants' request, Annex 16

⁽⁴⁴⁾ See applicants' request, Annex 16

⁽⁴⁵⁾ See recital (274) of Commission Implementing Regulation (EU) 2022/72.

3.3.1.5. Conclusion

- (72) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of preferential loans during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.2. Income tax Programmes

3.3.2.1. Preferential tax policies for companies that are recognised as high or new technology enterprises

- (73) The Commission in the original investigation established that the *ad valorem* subsidy amount with regard to this subsidy was 1,22% for the APP Group and 0,58% for the Chenming Group.
- (74) This subsidy allows a company that applies successfully for the Certificate of High and New Technology Enterprise to benefit from a reduced income tax rate of 15%, compared to the ordinary rate of 25%.

3.3.2.1.1. Legal Basis

- (75) The subsidy is provided as preferential tax treatment in Article 28 of the Enterprise Income Tax Law of the PRC (n. 63 promulgated on 16 March 2007) ⁽⁴⁶⁾, which provides that “the rate of enterprise income tax of high and new technological enterprises needing special support of the State shall be reduced to 15%”. Article 93 of the Implementation Rules for the Enterprise Income Tax Law clarifies that:

“The important high and new technology enterprises to be supported by the state as referred to in Clause 2 of Article 28 of the Enterprise Income Tax Law refer to the enterprises which own key intellectual property rights and satisfy the following conditions:

1. Complying with the scope of the Key State Supported High and New Technology Areas;
2. The proportion of the research and development expense in the sales revenue shall be no less than the prescribed proportion;
3. The proportion of the income from high-tech technology/product/service in the enterprise’s total revenue shall be no less than the prescribed proportion;
4. The proportion of the technical personnel in the enterprise’s total employees shall be no less than the prescribed proportion;
5. Other conditions prescribed in the Measures for the Administration of High-Tech Enterprise Identification.

Measures for the Administration of High-Tech Enterprise Identification and Key State Supported High and New Technology Areas shall be jointly formulated by the technology, finance and taxation departments under the State Council and come into effect after approved by State Council” ⁽⁴⁷⁾ ⁽⁴⁸⁾.

3.3.2.1.2. Eligibility

- (76) Article 10 of the Administrative Measures for the determination of High and New Tech Enterprises lists the eligibility criteria for the companies to benefit from this reduced tax income rate. If the company fulfils all the conditions set out in Article 10, it has to submit an application to the relevant authorities according to the procedure in Article 11 of the same Act.

⁽⁴⁶⁾ Implementing Regulations of the Enterprise Income Tax Law of the People’s Republic of China - Order of the State Council of the People’s Republic of China No 714.

⁽⁴⁷⁾ See recital (466) of Commission Implementing Regulation (EU) 2022/72

⁽⁴⁸⁾ See recital (476) of Commission Implementing Regulation (EU) 2021/2287

3.3.2.1.3. Practical implementation

- (77) Any company that intends to apply for this reduced tax income rate has to proceed to an on-line application to the local Science and Technology Bureau that will make a preliminary examination. Subsequently, the local Science and Technology Bureau will make a recommendation to the provincial Science and Technology department. Before taking any decision on the issuance of the certificate of High and New Tech Enterprise, the latter can also decide to carry out an investigation directly at the premises of the applicants.

3.3.2.1.4. Findings of the original, previous expiry review and the current investigations.

- (78) As found in the original investigation, the reduced tax income rate should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue, which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this reduced tax income rate only to certain enterprises and industries classified as encouraged, such as those belonging to the coated fine paper industry.
- (79) The Commission did not have any indications or evidence suggesting that the coated fine paper industry stopped benefitting from this reduced tax income rate or that the subsidies and subsidy programmes at issue will be terminated in the near future. Therefore, on the basis of information provided by the applicants ⁽⁴⁹⁾ in the request, as well as recent investigations ⁽⁵⁰⁾ and publicly available information ⁽⁵¹⁾, the Commission established that the coated fine paper industry continued to benefit from preferential tax policies for companies that are recognised as high or new technology enterprises (and thus including the coated fine paper industry).
- (80) The expiry review request contained additional evidence that certain Chinese CFP producers continued to benefit from numerous tax exemptions and refunds.
- (81) In 2018, 2020 and the first half of 2021, the Chenming Group reported having received tax rebates amounting to approximately RMB 61 million, RMB 111 million and RMB 1 million, respectively ⁽⁵²⁾.
- (82) In 2018, 2019, 2020 and the first half of 2021, the Chenming Group reported under the section "Government grants" tax refunds amounting to RMB 20 million, RMB 80 million, RMB 72 million and RMB 9 million, respectively ⁽⁵³⁾.
- (83) The combined value of these tax rebates / refunds amounts to approximately RMB 81 million, RMB 192 million, RMB 72 million and RMB 10 million, which represent 0,28%, 0,63%, 0,23% and 0,06% of the company's revenue and 3,32%, 11,56%, 4,19% and 0,51% of its net profit for the years 2018, 2019, 2020 and the first half of 2021, respectively ⁽⁵⁴⁾. Similarly, in 2020, Gold East Paper (Jiangsu) reported tax refunds and deductions amounting to RMB 68 million, which represents 0,73% of its revenue and 2,18% of its profit for that year ⁽⁵⁵⁾. Consequently, even though it was impossible to determine based on publicly available data under which specific tax exemption or refund those benefits were provided, it is clear that the benefits in question continued to be provided and were significant.

⁽⁴⁹⁾ See applicants' request recitals 221, 223 and 224.

⁽⁵⁰⁾ See recital (503) of Commission Implementing Regulation (EU) 2021/2287 and recital (496) of Commission Implementing Regulation (EU) 2022/72

⁽⁵¹⁾ 2015 Annual Report of the Chenming Group, page 14.

⁽⁵²⁾ Chenming Group 2018 Annual Report, page 157, 2019 Annual Report, page 146, and 2021 Interim Report, page 159.

⁽⁵³⁾ Chenming Group 2018 Annual Report, page 254, 2019 Annual Report, page 253, 2020 Annual Report, page 266, and 2021 Interim Report, page 160.

⁽⁵⁴⁾ Chenming Group 2018 Annual Report, pages 5, 157 and 254, 2019 Annual Report, pages 5 and , 146 and 253, 2020 Annual Report, pages 6 and 266, and 2021 Interim Report, pages 6, 159 and 160.

⁽⁵⁵⁾ Gold East Paper (Jiangsu) 2020 Annual Report, pages 65, 69 and 97

- (84) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which it could calculate the amount of subsidy conferred during the review investigation period. However, in view of the findings of the previous investigations referred to in recital (78) and the information contained in the expiry review request as referred to in recitals (79) to (83), and absent any indication to the contrary, the Commission concluded that CFP producers continued to be subsidised.

3.3.2.1.5. Conclusion

- (85) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of preferential tax policies for companies recognised as high or new technology enterprises during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.2.2. Preferential tax policies for research & development

- (86) The Commission in the original investigation established the *ad valorem* subsidy amount with regard to this preferential tax treatment at 0,02 % for the APP Group and 0,05 % for the Chenming Group.
- (87) The tax offset for research and development entitles companies to preferential tax treatment for their R & D activities in certain high technology priority areas determined by the State when certain thresholds for R & D spending are met.
- (88) More specifically, R & D expenditures incurred to develop new technologies, new products and new techniques, which do not form intangible assets and are accounted for in the current term profit and loss, are subject to an additional 75% deduction after being deducted in full in light of the actual situation. Where the above-mentioned R & D expenditures form intangible assets, they are subject to amortization based on 175% of the intangible asset costs. Since January 2021, the additional pre-tax deduction for R & D expenses was increased to 100% ⁽⁵⁶⁾.

3.3.2.2.1. Legal Basis

- (89) The preferential tax treatment is provided for in Article 30(1) of the Enterprise Income Tax Law of the PRC (n. 63 promulgated on 16 March 2007), Article 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC, as well as the following notices:
- Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on Improving the Policy of Pre-tax Deduction of R & D Expenses (Cai Shui [2015] No 119);
 - Circular on Raising the Proportion of Pre-tax Super Deduction of Research and Development Expenses (Cai Shui [2018] No 99);
 - Announcement [2015] No 97 of the State Administration of Taxation on Relevant Issues concerning Policies of Additional Pre-tax Deduction of Research and Development Expenses of Enterprises;
 - Announcement 2017 No 40 of the State Administration of Taxation on Issues Concerning the Eligible Scope of Calculation of Additional Pre-tax Deduction of Research and Development Expenses; and
 - The 2016 Catalogue of High-tech Fields Supported by the State ⁽⁵⁷⁾.

⁽⁵⁶⁾ Announcement [2021] No 13 of the Ministry of Finance and the State Taxation Administration on Further Improvements to the Policy of Weighted Pre-tax Deduction for Research and Development Expenses.

⁽⁵⁷⁾ See recital (487) of Commission Implementing Regulation (EU) 2021/2287

3.3.2.2.2. Eligibility

- (90) This preferential tax treatment provides a benefit to companies that are recognised as carrying out R & D projects. Only R & D projects of companies of New and High Tech Sectors Receiving Primary Support from the State and projects listed in the Guide to Key Fields of High Tech Industrialization under the current Development Priority promulgated by the National Development and Reform Commission are eligible for the scheme.

3.3.2.2.3. Practical implementation

- (91) Any company that intends to apply for this preferential tax treatment needs to file detailed information about the R & D projects with the local Science and Technology Bureau. After examination, the tax bureau will issue the notice of approval. The amount subject to corporate income tax is decreased by 50 % of actual expenses for approved projects.

3.3.2.2.4. Findings of the original, previous expiry review and current investigation

- (92) As found in the original ⁽⁵⁸⁾ and in the previous review ⁽⁵⁹⁾ investigations, the preferential tax treatment should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to certain enterprises and industries classified as encouraged, such as those belonging to the coated fine paper industry.
- (93) Neither the GOC nor the exporting producers provided evidence suggesting that the coated fine paper industry stopped benefitting from this preferential tax treatment or that the subsidies and subsidy programmes at issue will be terminated in the near future. The Commission, on the basis of information provided by the applicants ⁽⁶⁰⁾ in the request, established that the coated fine paper industry continued to benefit from preferential tax policies for R & D during the RIP. Indeed, the preferential tax treatment continues to provide a benefit to companies which are formally recognised as High and New Technology Enterprises.
- (94) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which it could calculate the amount of subsidy conferred during the RIP. However, in view of the findings reached in the previous investigations referred to in recital (92), the overall tax benefits found by the applicants referred to in recitals (79) to (83) and absent any information to the contrary, the Commission considered that the CFP producers continued to be subsidised during the review investigation period.

3.3.2.2.5. Conclusion

- (95) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of preferential tax policies for research and development during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.2.3. Dividend tax exemption between qualified resident enterprises

- (96) In the original investigation, the Commission established the ad valorem subsidy amount with regard to this scheme at 1,34 % for the APP Group and 0,21 % for the Chenming Group.

⁽⁵⁸⁾ See recital (335) of Council Implementing Regulation (EU) No 452/2011.

⁽⁵⁹⁾ See recital (82) of Commission Implementing Regulation (EU) 2017/1187.

⁽⁶⁰⁾ See paragraph 221 of the applicants' request.

- (97) The dividend tax exemption concerns resident enterprises in the PRC which are shareholders in other resident enterprises in the PRC. The former are entitled to a tax exemption on income from certain dividends paid by the latter.

3.3.2.3.1. Legal Basis

- (98) This dividend tax exemption is provided for in Article 25 and Article 26 of the Enterprise Income Tax Law of the PRC and further explained in Article 83 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC, Decree n. 512 of the State Council of the PRC, promulgated on 6 December 2007.
- (99) The legal basis for the programme is Article 26(2) of the EIT Law, along with the Implementation Rules for the Enterprise Income Tax Law of the PRC.
- (100) Article 25 of the EIT, which stands as a chapeau for Chapter IV 'Preferential Tax Policies', provides that 'The State will offer income tax preferences to Enterprises engaged in industries or projects the development of which is specially supported and encouraged by the State'. Furthermore, Article 26(2) specifies that the tax exemption is applicable to income from equity investments between 'eligible resident enterprises', which appears to limit its scope of application to only certain resident enterprises.

3.3.2.3.2. Eligibility

- (101) This dividend tax exemption provides a benefit to all resident companies which are shareholders in other resident enterprises in China.
- (102) This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as the legislation itself limits the application of this exemption only to qualified resident enterprises which have the major support of, and the development of which is encouraged by the State.

3.3.2.3.3. Practical implementation

- (103) The companies may make use of this dividend tax exemption directly through their tax return.

3.3.2.3.4. Findings of the current investigation

- (104) In the original ⁽⁶¹⁾ and previous review ⁽⁶²⁾ investigations, the Commission found that this dividend tax exemption should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of the Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to resident enterprises in the PRC receiving dividend income from other resident enterprises in the PRC, as opposed to those enterprises which invest in foreign enterprises.
- (105) There was no evidence at the Commission's disposal suggesting that the coated fine paper industry stopped benefiting from this dividend tax exemption or that the subsidies and subsidy programmes at issue will be terminated in the near future. The Commission, on the basis of information provided by the applicants in the request ⁽⁶³⁾ as well as recent investigations ⁽⁶⁴⁾, established that the coated fine paper industry continues to benefit from the dividend tax exemption.
- (106) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the previous findings reached in the previous investigations referred to in recital (104) the overall tax benefits found by the applicants referred to in recitals (79) and (100), and absent any information to the contrary, the Commission considered that the CFP producers continued to be subsidised during the review investigation period.

⁽⁶¹⁾ See recital (129) of Council Implementing Regulation (EU) No 452/2011

⁽⁶²⁾ See recital (91) of Commission Implementing Regulation (EU) 2017/1187

⁽⁶³⁾ See recital 211, 216, 233 and 235 of applicants' request

⁽⁶⁴⁾ See recital (499) of Commission Implementing Regulation (EU) 2021/2287 and recital (571) of Commission Implementing Regulation (EU) 2022/776.

3.3.2.3.5. Conclusion

- (107) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of dividend tax exemption between qualified resident enterprises during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.3. *Indirect Tax and Import Tariff Programmes*

3.3.3.1. Value-Added Tax (VAT) and tariff exemptions on imported equipment

- (108) In the original investigation, the Commission established the ad valorem subsidy amount with regard to this measure at 1,17% for the APP Group and 0,61% for the Chenming Group.
- (109) This measure provides benefits in the form of VAT exemption and duty-free imports of capital goods to the Foreign Invested Enterprises ('FIEs') or domestic companies which are able to obtain the Certificate of State-Encouraged projects issued by the Chinese authorities in line with relevant investment, tax and customs-related legislation.

3.3.3.1.1. Legal Basis

- (110) The VAT and tariff exemptions are based on a set of legal provisions, i.e. Circular of the State Council on Adjusting Tax Policies on Imported Equipment No 37/1997, Announcement of the Ministry of Finance, the General Administration of Customs and the State Administration of Taxation [2008] No 43, Notice of the NDRC on the relevant issues concerning the Handling of Confirmation letter on Domestic or Foreign-funded Projects encouraged to develop by the State No 316/2006 dated 22 February 2006 and on the Catalogue on non-duty-exemptible Articles of importation for either FIEs or domestic enterprises-2008.

3.3.3.1.2. Eligibility

- (111) Eligibility is limited to applicants, either FIEs or domestic enterprises, which are able to obtain the Certificate of State-Encouraged projects.

3.3.3.1.3. Practical implementation

- (112) According to the Notice of the NDRC on the relevant issues concerning the Handling of Confirmation letter on Domestic or Foreign-funded Projects encouraged to develop by the State, No 316/2006, dated 22 February 2006, Article I.1. foreign investment projects complying 'with encouraged foreign invested projects with technique transfer in 'Guiding Catalogue of Foreign Investment Industries' and 'Industrial Catalogue for Foreign Investment in the Central and Western Regions' are exempted from custom duties as well as imported value-added taxes, except those listed in the catalogue of 'Catalogue of Import Commodities Not Enjoying Tax Exemption of the Foreign Invested Projects'. The Projects Confirmation Letter for foreign investment projects of the encouragement category with the total investment of USD 30 million or more shall be issued by the NDRC. The Project Confirmation Letter for foreign investment projects of the encouragement category with the total investment of less than USD 30 million shall be issued by the commissions or economic municipalities at the provincial level. Once they have received the Project Confirmation Letter of the encouragement category, the companies present the certificates and other application documents to their local customs authorities in order to be eligible for customs and VAT exemption on equipment imports.

3.3.3.1.4. Findings of the original, previous expiry review and current investigation

- (113) In the original ⁽⁶⁵⁾, the previous review ⁽⁶⁶⁾ and in other investigations ⁽⁶⁷⁾, the Commission found that the VAT and tariff exemptions should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of the Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to enterprises that invest under specific business categories defined exhaustively in law (i.e. catalogue for guidance of industries for foreign investment and catalogue of key industries, products and technologies which the state currently encourages development).
- (114) No evidence was provided suggesting that the coated fine paper industry stopped benefitting from these VAT and tariff exemptions or that that the subsidies and subsidy programmes at issue will be terminated in the near future. The Commission, on the basis of facts available and in particular the Commission's conclusions about this subsidy in past investigations ⁽⁶⁸⁾, established that the coated fine paper industry continues to benefit from a VAT and tariff exemption on imported equipment.
- (115) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which it could calculate the amount of subsidy conferred during the RIP. However, in view of the findings reached in the previous investigations referred to in recital (113), the overall tax benefits found by the applicants referred to in recital (112), and absent any information to the contrary, the Commission considered that the CFP producers continued to be subsidised during the review investigation period.

3.3.3.1.5. Conclusion

- (116) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of VAT and tariff exemptions on imported equipment during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.3.2. VAT rebates on domestically produced equipment

- (117) In the original investigation, the Commission established the ad valorem subsidy amount with regard to this subsidy at 0,03 % for the APP Group and 0,05 % for the Chenming Group.
- (118) This measure provides benefits in the form of VAT rebates paid for purchase of domestically produced equipment by FIEs.

3.3.3.2.1. Legal Basis

- (119) VAT rebates are based on a set of legal provisions:
- Provisional Measures for the Administration of Tax Refunds for Purchases of Domestically manufactured Equipment by FIEs,
 - Trial Measures for Administration of Tax Rebate from the Purchase of Chinese-made Equipment for Foreign-invested Projects, and
 - Notice of the Ministry of Finance and the State Administration of Taxation on the Cancellation of the Rebate Policy for Domestic Equipment Purchased by Foreign-invested Enterprises.

⁽⁶⁵⁾ See recital (142) of Council Implementing Regulation (EU) No 452/2011

⁽⁶⁶⁾ See recital (100) of Commission Implementing Regulation (EU) 2017/1187

⁽⁶⁷⁾ See recital (189) of Commission Implementing Regulation (EU) 2019/688

⁽⁶⁸⁾ Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013, Solar panels original investigation, recital (336) to (342); Council Implementing Regulation (EU) No 215/2013 of 11 March 2013 organic coated steel, recital (293) to (298).

3.3.3.2.2. Eligibility

- (120) Eligibility is limited to FIEs that purchase domestically-manufactured equipment and fall under the encouraged category.

3.3.3.2.3. Practical implementation

- (121) The programme is aimed to refund VAT paid for purchase of domestically produced equipment by FIE if the equipment does not fall into the Non-Exemptible Catalogue and if the value of the equipment does not exceed the total investment limit on an FIE according to the 'trial Administrative measures on Purchase of Domestically Produced Equipment'.
- (122) In the original investigation ⁽⁶⁹⁾, all cooperating producers benefited from this measure.

3.3.3.2.4. Findings of the original, previous expiry review and current investigation

- (123) In the original and previous review ⁽⁷⁰⁾ investigation, the Commission found that the VAT rebates should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(4)(b) of the basic Regulation, given that the subsidy is contingent upon the use of domestic over imported goods.
- (124) In the current investigation, the applicants provided evidence that, according to the Mass Entrepreneurship and Innovation Preferential Subsidies Policy, VAT rebates on FIE purchases of Chinese-made equipment are one of 83 subsidies available to important industries ⁽⁷¹⁾.
- (125) Neither the GOC nor the exporting producers provided evidence suggesting that the coated fine paper industry stopped benefitting from these VAT rebates and tariff exemptions or that that the subsidies and subsidy programmes at issue will be terminated in the near future. The Commission, on the basis of recent investigations ⁽⁷²⁾, established that the coated fine paper industry continues to benefit from VAT rebates for the purchase of domestically-produced equipment.
- (126) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which it could calculate the amount of subsidy conferred during the RIP. However, in view of the previous findings reached in the previous investigations referred to in recital (123), the overall tax benefits found by the applicants referred to in recital (124) above and absent any information to the contrary, the Commission considered that the CFP producers continued to be subsidised during the review investigation period.

3.3.3.2.5. Conclusion

- (127) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of VAT rebates on domestically produced equipment during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

⁽⁶⁹⁾ See recital (152) of Council Implementing Regulation (EU) No 452/2011

⁽⁷⁰⁾ See recital (111) of Commission Implementing Regulation (EU) 2017/1187

⁽⁷¹⁾ See Mass Entrepreneurship and Innovation Preferential Subsidies Policy, subsidies 47 to 49, Applicants' request, Annex 34 Mass entrepreneurship and innovation

⁽⁷²⁾ Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013, Solar panels expiry review, recitals (384) to (392); Commission implementing regulation (EU) 2019/688 organic coated steel Recital (189)

3.3.4. Grant Programmes

3.3.4.1. Introduction

- (128) The Commission in the original investigation established that the coated fine paper industry benefited from various grant programmes. In particular, the Commission in the original investigation assessed five programmes reported by the cooperating exporting producers and found all of them countervailable. The Commission also took note of six further programmes reported by the cooperating exporting producers but did not assess them in view of the small amount of benefits involved.

3.3.4.2. Findings of the original, previous expiry review and current investigation

- (129) In the original ⁽⁷³⁾, the previous review ⁽⁷⁴⁾ and other investigations ⁽⁷⁵⁾, the Commission found that the coated fine paper producers have benefited as part of the GOC's plans to support the paper industry from several grants which should be considered a subsidy within the meaning of Article 3(1)(a)(i) and Article 3(2) of the basic Regulation in the form of provision of funds which confers a benefit upon the recipient companies. Most recently the US authorities confirmed in the Sunset Review concerning US imports of uncoated fine paper (UFP) ('UFP from China') the continued provision of grants ⁽⁷⁶⁾.
- (130) Neither the GOC nor the exporting producers provided evidence suggesting that the coated fine paper industry stopped benefitting from these grants or that the subsidies and subsidy programmes at issue will be terminated in the near future. The Commission, on the basis of information provided by the applicants ⁽⁷⁷⁾ in the request as well as recent investigations ⁽⁷⁸⁾, established that the coated fine paper industry continues to benefit from grants as an encouraged industry.
- (131) According to the applicants' request, Chinese CFP producers continue to benefit from grants. For instance, in 2019 and 2020, the Chenming Group received Government awards amounting to RMB 228 million and RMB 800 000, which represent 0,75% and 0,003% of the Group's revenue and 13,76% and 0,05% of its profit for those periods, respectively ⁽⁷⁹⁾.
- (132) On the basis of the above, the Commission concluded that the GOC continues to provide various grants to the coated fine paper industry and that producers of coated fine paper in the PRC continue to benefit from these grants, without the need to quantify precisely the amount of benefits conferred. Those grants are deemed specific within the meaning of Article 4(2) of the basic Regulation and they also appear to have been granted on an ad hoc basis.

3.3.4.3. Conclusion

- (133) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of grants during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.5. Government Provision of Goods and Services for less than adequate remuneration: provision of land

- (134) In the original investigation the Commission established that the coated fine paper industry in the PRC benefited from provision of land and more specifically the land-use rights ('LURs') at less than adequate remuneration.

⁽⁷³⁾ See recital (176) of Council Implementing Regulation (EU) No 452/2011

⁽⁷⁴⁾ See recital (119) of Commission Implementing Regulation (EU) 2017/1187

⁽⁷⁵⁾ See recital (445) of Commission Implementing Regulation (EU) 2021/2287, see recital (192) of Commission Implementing Regulation (EU) 2022/72

⁽⁷⁶⁾ See US CVD Sunset Review Uncoated Paper from China (2022) https://www.usitc.gov/publications/701_731/pub5275.pdf, page 9.

⁽⁷⁷⁾ See recitals 43, 46 and 56 of the applicants' request

⁽⁷⁸⁾ See recital (445) of Commission Implementing Regulation (EU) 2021/2287, see recital (192) of Commission Implementing Regulation (EU) 2022/72

⁽⁷⁹⁾ See Chenming Group 2019 Annual Report, pages 5 and 253, and 2020 Annual Report, pages 6 and 266.

- (135) The amount of subsidisation found in the original investigation with regard to this measure was established at 2,81% for APP group and 0,69% for the Chenming group.

3.3.5.1. Legal Basis

- (136) The applicants provided evidence in the request that the GOC continued providing land-use rights to the coated fine paper industry for less than adequate remuneration. The legal basis for this claim are the following documents ⁽⁸⁰⁾:
- the Property Law,
 - the Land Administration Law,
 - the Law on Urban Real Estate Administration,
 - the Interim Regulations Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas,
 - the Regulation on the Implementation of the Land Administration Law, and
 - the Provisions on the Assignment of State-Owned Construction Land-Use Right through Bid Invitation, Auction and Quotation, No 39, dated 28 September 2007.

3.3.5.2. Practical implementation

- (137) According to Article 2 of the Land Administration Law, all land is government-owned since, according to the Chinese Constitution and relevant legal provisions, land belongs collectively to the People of China. No land can be sold but land-use rights may be assigned according to the law: the State authorities assign it through public bidding, quotation or auction.

3.3.5.3. Findings of the original, previous expiry review and recent investigation

- (138) In the original investigation ⁽⁸¹⁾, the Commission found that the provision of land-use rights by the GOC should be considered a subsidy within the meaning of Article 3(1)(a)(iii) and Article 3(2) of the basic Regulation in the form of provision of goods which confers a benefit upon the recipient companies.
- (139) Neither the GOC nor the exporting producers provided evidence suggesting that the coated fine paper industry stopped benefitting from the provision of land-use rights for less than adequate remuneration or that the subsidies and subsidy programmes at issue will be terminated in the near future.
- (140) Furthermore, the Commission also recently found in several investigations, including GFF from China ⁽⁸²⁾ and Aluminium converter foil from China ⁽⁸³⁾, that Chinese producers are eligible to receive refunds from local authorities to compensate for the prices, which they paid for the LURs. In this regard, in 2019, The Chenming Group reported an increase of its land-use rights amounting to RMB 163 million. In 2020, that amount went up to RMB 219 million, i.e., an increase of RMB 56 million ⁽⁸⁴⁾.
- (141) Consequently, on the basis of the available information, the Commission concluded that the rates paid for land use continued to be subsidised because the system imposed by the GOC does not adhere to market principles. As the paper industry continued to be an 'Encouraged industry' under the 13th Five-Year Plan and the 14th Five-Year Plan, the Commission, on the basis of the available information established that the preferential assignment of land continues. The provision of land-use rights by the GOC to the paper industry as one of the encouraged industries shows that the subsidy is specific within the meaning of Article 4(2) of the basic Regulation.

⁽⁸⁰⁾ See recital (125) of Commission Implementing Regulation (EU) 2021/328 and recital (539) of Commission Implementing Regulation (EU) 2021/2287

⁽⁸¹⁾ See recital (251) of Council Implementing Regulation (EU) No 452/2011

⁽⁸²⁾ See Commission implementing Regulation (EU) 2020/776 GFF, recital 498

⁽⁸³⁾ Commission implementing Regulation (EU) 2021/2287, ACF, recital 544.

⁽⁸⁴⁾ See Chenming Group 2019 and 2020 Interim Report, page 217 and 229 respectively

- (142) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which it could calculate the amount of subsidy conferred during the RIP. However, in view of the findings reached in the previous investigations referred to in recital (138) the overall tax benefits found by the applicants referred to in recital (136), and absent any information to the contrary, the Commission considered that the CFP producers continued to be subsidised during the review investigation period.

3.3.5.4. Conclusion

- (143) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from provision of land for less than adequate remuneration during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.3.6. *Export insurance programmes for the coated fine paper industry*

3.3.6.1. Legal Basis

- (144) The legal bases for this programme are the following:

- the Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang Ji Fa[2004] No 368), issued jointly by MOFCOM and Sinosure,
- the Export Directory of Chinese High and New Technology Products of 2006,
- the so-called ‘840 plan’ included in the Notice by the State Council of 27 May 2009,
- the so-called ‘421 plan’ included in the Notice on the issues to implement special Arrangements for financing of insurance on the export of large complete sets of equipment, issued jointly by the Ministry of Commerce and the Ministry of Finance on 22 June 2009.

3.3.6.2. Sinosure is a public body

- (145) In the previous review investigation ⁽⁸⁵⁾ and recital (458) of Commission Implementing Regulation (EU) 2022/72, the Commission concluded that Sinosure is a public body within the meaning of Article 2(b) of the basic Regulation. In particular, as in the context of preferential lending above, the conclusion that Sinosure is vested with authority to exercise governmental functions is based on facts available relating to State ownership, formal indicia of government control as well as evidence showing that the GOC continues exercising meaningful control over the conduct of Sinosure.
- (146) As confirmed in the previous review investigation and in other recent investigations ⁽⁸⁶⁾, the government exercises full ownership and financial control over Sinosure. Sinosure is a State sole proprietorship, owned 100% by the State Council. The Articles of Association (‘AoA’) state that the business competent department of the company is the Ministry of Finance, and also requires Sinosure to submit financial and accounting reports and the fiscal budget report to the Ministry of Finance for examination and approval.
- (147) With regard to government control, as a state sole proprietorship, Sinosure does not have a Board of Directors. As for the Board of Supervisors, all of the supervisors are appointed by the State Council and execute their duties according to the ‘Interim Regulation on the Board of Supervisors of Important State-owned Financial Institution.’ The senior management of Sinosure is also appointed by the government. Sinosure’s website ⁽⁸⁷⁾ shows that the Chairman of Sinosure is the Secretary of the Party Committee, and the majority of the Senior Management are also Members of the Party Committee.
- (148) The legal basis for subsidies provided by Sinosure are the following:

- the Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang JiFa [2004] No.368), issued jointly by MOFCOM and Sinosure;

⁽⁸⁵⁾ See recital (130) of Commission Implementing Regulation (EU) 2017/1187

⁽⁸⁶⁾ See Commission Implementing Regulation (EU) 2022/72, OFC, rec. 453, Commission Implementing Regulation (EU) 2018/1690 Tyres, rec 429.

⁽⁸⁷⁾ <https://www.sinosure.com.cn/en/Sinosure/Profile/index.shtml>.

- the Export Directory of Chinese High and New Technology Products of 2006; the so-called 840 plan included in the Notice by the State Council of 27 May 2009;
- the so-called 421 plan included in the Notice on the issues to implement special arrangements for financing of insurance on the export of large complete sets of equipment, issued jointly by the Ministry of Commerce and the Ministry of Finance on 22 June 2009; and
- the Notice on Cultivation and Development of the State Council on Accelerating Emerging Industries of Strategic Decision (GuoFa[2010] No.32 of 18 October 2010), issued by the State Council and its Implementing Guidelines (GuoFa[2011] No.310 of 21 October 2011) ⁽⁸⁸⁾.

- (149) On its website, Sinasure states that it promotes Chinese exports of goods, especially the exporting of high-tech products. According to a study undertaken by the Organisation for Economic Cooperation and Development ('OECD'), the Chinese high-tech industry, of which the ACF industry is part, received 21 % of the total export credit insurance provided by Sinasure ⁽⁸⁹⁾. Furthermore, Sinasure has taken an active role in fulfilling the 'Made in China 2025' initiative, guiding enterprises to use national credit resources, carrying out scientific and technological innovation and technological upgrading, and helping "going out" enterprises become more competitive in the global market ⁽⁹⁰⁾.
- (150) The institutional framework and other documents issued by the GOC under which Sinasure operates further show that Sinasure is vested with the authority to carry out governmental policies. The Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang Ji Fa [2004] No 368 of 26 July 2004) was issued jointly by MOFCOM and Sinasure in 2004 and still governs Sinasure's activities. Among the objectives of this Notice is the promotion of the export of high and new technology and of high value-added products through the further use of export credit insurance.
- (151) As set out in recitals (46), (57) and (113), the Commission established that the coated fine paper industry is regarded by the GOC as a key industry, whose development is actively pursued by the State as a public policy objective. It is recalled that the paper industry is one of the 26 industries which are classified as 'Encouraged', as stated in recital (46), (57) and above. The Commission noted that the activity of export credit insurance performed by Sinasure is an integral part of the broader financial sector where it is established that government intervention directly interferes in and distorts the normal functioning of the financial market in the PRC, see also recitals (148) and (149).
- (152) The Commission is aware of other documents proving that Sinasure directly carries out governmental policies benefitting, inter alia, the exporting producers. The so-called 840 plan is detailed in the Notice by the State Council of 27 May 2009 ⁽⁹¹⁾. This name refers to the use of USD 84 billion as export insurance and it is one of the six measures launched by the State Council in 2009 to stabilize export demand further to the global crisis and the consequent increased demand for export credit insurance. The six measures include notably an improved coverage of export credit insurance, the provision of short-term export credit insurance on a scale of USD 84 billion in 2009 and a reduction of the premium rate. As the only policy institution underwriting export credit insurance, Sinasure is indicated as the executor of the plan. As for the reduction of the insurance premium, Sinasure was required to ensure that the average rate of short-term export credit insurance would be reduced by 30% on the basis of the overall average rate in 2008.
- (153) The so-called '421 plan' was included in the Notice on the issues to implement special arrangements for financing of insurance on the export of large complete sets of equipment issued jointly by the Ministry of Commerce and the Ministry of Finance on 22 June 2009. This was also an important policy supporting China's 'going out' policy in response to the 2009 global financial crisis and provided USD 42,1 billion of financing insurance to support the export of large complete sets of equipment. Sinasure and some other financial institutions would manage and

⁽⁸⁸⁾ See recital (105) of the Commission Implementing Regulation (EU) 2021/328

⁽⁸⁹⁾ OECD Study on Chinese export credit policies and programmes, page 7, para 32, available at [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECG\(2015\)3&doclanguage=en](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECG(2015)3&doclanguage=en), last accessed on 18 August 2021.

⁽⁹⁰⁾ See Sinasure website, Company profile, Supporting 'Made in China', <https://www.sinasure.com.cn/en/Responsibility/smic/index.shtml>, last accessed on 17 August 2021.

⁽⁹¹⁾ http://www.gov.cn/jdhd/2009-05/27/content_1326023.htm

provide the funding. Enterprises covered by this document could enjoy the preferential financial measures, including export-credit insurance. Due to the non-cooperation of the GOC, the Commission was unable to obtain additional details on the application of this notice. In the absence of evidence to the contrary, the Commission considered that the paper industry is also covered by this document.

- (154) By the end of 2019, Sinosure had supported exports, domestic trade and investments with a total value of more than USD 4.6 trillion. It has also facilitated the lending of RMB 3.6 trillion by more than 200 banks ⁽⁹²⁾.
- (155) Sinosure also plays a very active role in supporting companies involved in the Belt and Road Initiative, such as APP. This includes introducing special measures to increase the speed of settlement of cases in terms of damage assessment, and helping export enterprises to control risks to the greatest extent and to alleviate financial pressure effectively ⁽⁹³⁾.
- (156) On the basis of the above elements and in the absence of cooperation from the GOC, the Commission concluded that Sinosure is a public body as it is vested with authority to exercise governmental functions. The same conclusions were reached in previous anti-subsidy investigations concerning encouraged industries in the PRC ⁽⁹⁴⁾.
- (157) As Sinosure is a public body vested with government authority and executes governmental laws and plans, the provision of export credit insurance to coated fine paper producers constitutes a financial contribution in the form of potential direct transfer of funds from the government within the meaning of Article 3(1)(a)(i) of the basic Regulation.

3.3.6.3. Benefit

- (158) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on which the amount of subsidy conferred during the review investigation period could be calculated.

3.3.6.4. Based on the information provided in the request as well as on the findings in recent investigations, the Commission concluded that a benefit within the meaning of Articles 3(2) and 6(c) of the basic Regulation exists since Sinosure, as a policy mandate, provides export credit insurance on terms more favourable than the recipient could normally obtain on the market, or provides insurance cover that would otherwise not be available at all on the market. Specificity

- (159) The subsidies are contingent upon export performance within the meaning of Article 4(4)(a) of the basic Regulation, and therefore specific.

3.3.6.5. Conclusion

- (160) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from the export credit insurance provided by Sinosure in the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

⁽⁹²⁾ See Sinosure profile <https://www.sinosure.com.cn/en/Sinosure/Profile/index.shtml>

⁽⁹³⁾ China Credit Insurance Corporation (SINOSURE) Releases the National Risk Analysis Report for 2020 : Axton Global

⁽⁹⁴⁾ See recital (112) of Commission Implementing Regulation (EU) 2021/328 and recital (458) of Commission Implementing Regulation (EU) 2022/72.

3.3.7. VAT rebates for products furnished with at least 70% recycled fibre and agricultural residues

3.3.7.1. Legal Basis

- (161) From 1 July 2015, the VAT refund or exemption scheme for production and labour services which comprehensively utilise resources is consolidated under the 'Notice of Ministry of Finance and State Administration of Taxation to Print and Issue Catalogue of Products and Labour Services with Comprehensive Utilization of Resources (CaiShui [2015] No 78)'. Domestic sales of coated fine paper are subject to a 17% VAT rate. According to the Notice, companies receive a 50% VAT rebate for products furnished with at least 70% recycled fibre and agricultural residues, such as bagasse, waste paper and crop straw.

3.3.7.2. Eligibility

- (162) According to unverified information provided by the GOC in the framework of the previous review investigation ⁽⁹⁵⁾, pursuant to the Notice referred to above, the VAT refund policies are applicable to sales of products, the production of which used the recycled, reused or redundant materials or energy from other productions.

3.3.7.3. Practical implementation

- (163) According to unverified information provided by the GOC in the framework of the previous review investigation ⁽⁹⁶⁾, the programme is administered by the State Administration of Taxation of the People's Republic of China with the assistance of other competent authorities, and is implemented by the local tax authorities within their respective jurisdictions. Enterprises that apply for the VAT refund have to file their application with other relevant documents to the taxation authority for examination. After the application is approved, the applicants can receive the benefits.

3.3.7.4. Findings of the previous review investigation

- (164) In the previous review investigation ⁽⁹⁷⁾ the Commission found that the VAT rebates for products furnished with at least 70% recycled fibre and agricultural residues by the GOC should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. On the basis of the information available, the Commission further concluded that the subsidy was specific in accordance with Article 4(2) of the basic Regulation.
- (165) Neither the GOC nor the exporting producers provided evidence suggesting that the coated fine paper industry stopped benefitting from this VAT rebate or that the subsidies and subsidy programmes at issue will be terminated in the near future. Indeed, the Notice referred to in recital (161), (162) and (163) specifically mentions paper as products utilising resources such as bagasse, waste paper and crop straw, and stating that the producers have to comply with technical regulations specific to the pulp and paper industry.
- (166) Also, there was no evidence at the Commission's disposal that this scheme has been discontinued vis-à-vis producers of coated fine paper.
- (167) On the basis of the above the Commission concluded that the GOC provides subsidies in the form of VAT rebates for products furnished with at least 70% recycled fibre and agricultural residues to the coated fine paper industry and that producers of coated fine paper in the PRC continued to benefit from these rebates during the RIP.

⁽⁹⁵⁾ See recital (148) of Commission Implementing Regulation (EU) 2017/1187

⁽⁹⁶⁾ See recital (149) of Commission Implementing Regulation (EU) 2017/1187

⁽⁹⁷⁾ See recital (150) of Commission Implementing Regulation (EU) 2017/1187

3.3.7.5. Conclusion

- (168) In light of the above, the Commission concluded that the coated fine paper industry continued to benefit from subsidies in the form of VAT rebates for products furnished with at least 70% recycled fibre and agricultural residues during the RIP. In view of the existence of financial contributions, a benefit to the exporting producers and specificity, this subsidy scheme continues to be considered countervailable.

3.4. Overall conclusion regarding the continuation of subsidisation

- (169) On the basis of all the above, the Commission concluded that producers of coated fine paper in the PRC continued benefitting from countervailable subsidies during the RIP.

3.5. Development of imports should measures be repealed

3.5.1. *Production capacity and spare capacity in the PRC*

- (170) To analyse production capacity and spare capacity in the PRC and given the non-cooperation of the GOC and any Chinese exporting producers, the Commission relied on the information provided by the applicants in their request for review, as specified in the recitals below, concerning the CFP as well as of the Coated Wood-Free paper industry (CWF), the wider sector to which CFP belongs.
- (171) As data at CWF was more readily available, the applicants used it to calculate the CFP proportion of the production and capacity numbers.
- (172) Based on the applicants' request ⁽⁹⁸⁾, in 2021, global CWF demand was approximately 17,3 million tonnes and global capacities were approximately 20,7 million tonnes. Global CFP demand was calculated by the applicants to be approximately 12,1 million tonnes and capacities approximately 14,5 million tonnes.
- (173) In 2021, according to the applicant, EU CWF paper demand was approximately 3,2 million tonnes and EU CWF paper capacities were approximately 5 million tonnes. EU CFP demand was calculated by the Commission at approximately 2,64 million tonnes and EU CFP capacities at just over 4 million tonnes.
- (174) The 2021 Chinese CWF capacities were approximately 6,8 million tonnes and Chinese demand was 4.7 million tonnes. Chinese CFP capacities were therefore 4,8 million tonnes and domestic demand for the product concerned was approximately 3,3 million tonnes ⁽⁹⁹⁾.
- (175) Therefore, China had spare CFP capacities ⁽¹⁰⁰⁾ of at least 0,9 million tonnes and overcapacities ⁽¹⁰¹⁾ of approximately 1,5 million tonnes in 2021, a figure which corresponds to approximately 56 % of the total EU CFP demand. Looking at CWF overall, Chinese overcapacities were over 2 million tonnes in 2021 (more than 80 % of EU consumption). No reduction of overcapacities has been observed. Consequently, should the measures be allowed to lapse, it can be assumed that even higher spare capacity could be easily redirected from CWF to CFP production and sold on the Union market.
- (176) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacity which they could use to produce even more CFP products and which could be exported to the Union market if measures were repealed. The Commission also found that this export potential could increase as a result of the expected decline in global and domestic demand in the PRC, in line of the developments in the last decade, as described in section 5 of the expiry review request.

⁽⁹⁸⁾ See Applicants' request, Annex 7, RISI CWF capacities and demand reports.

⁽⁹⁹⁾ See Expiry review request, Annex 7, RISI CWF capacities and demand reports.

⁽¹⁰⁰⁾ Spare capacities are considered to be the difference between the existing Chinese CFP capacities, Chinese CFP demand and Chinese CFP exports from the request (see Annex 8, Svan data).

⁽¹⁰¹⁾ Overcapacities are considered to be the difference between the existing Chinese CFP capacities and domestic Chinese CFP demand.

3.5.2. *Attractiveness of the Union market*

- (177) As indicated in recital (172) to (175) the investigation showed that Union demand for CFP remained significant. Although Union consumption declined over the period considered, the Union market remains the second largest market in the world (second to the Chinese market) accounting for approximately 20% of global consumption. Furthermore, domestic demand in the PRC is forecast to decrease, suggesting a strong incentive for Chinese producers to find alternative markets which could absorb these Chinese overcapacities.
- (178) In addition, several countries have put measures ⁽¹⁰²⁾ in place for paper products against China, including South Korea, India and the USA, as referred to in the expiry review request.
- (179) Furthermore, based on facts available and in particular on the request, the Commission identified 27 countries where the Chinese exporters sold the product under review during the review investigation period at prices below the Union industry's target prices. Chinese exports to these countries represented about 10 % of the Chinese export to third countries in volume.
- (180) Consequently, given the significant spare capacities found, the possibility to increase spare capacity by switching to coated fine paper from other types of paper, the limited access of Chinese coated fine paper producers to important third countries' markets, the price at which Chinese exporting producers could sell on the Union market, as well as the forecasted decrease in the domestic consumption in the PRC, it is likely that the subsidised imports will be re-directed to the Union should the measures be allowed to lapse. Therefore, should the measures be allowed to lapse, the subsidised imports will likely come into the Union in higher volumes and in prices that undersell Union industry prices.
- (181) Given the above considerations, the Commission concluded that, if measures were repealed, it would be likely that the exports from the PRC would be directed to the Union market.

3.6. **Conclusion on the likelihood of continuation of subsidisation**

- (182) The Commission, on the basis of the facts available, concluded that there is sufficient evidence that subsidisation of the CFP industry in the PRC continued during the review investigation period and is likely to continue in the future. No evidence showed that the subsidies and subsidy programmes at issue will be terminated in the near future.
- (183) The subsidisation of the coated fine paper industry allowed the Chinese producers to maintain their production capacities at a level far exceeding domestic demand, in spite of shrinking markets in China and worldwide.
- (184) Therefore, the Commission found that the repeal of the countervailing measures is likely to result in a return of significant volumes of subsidised imports of the product concerned into the Union market. Various subsidy programmes continued to be offered by the GOC to the coated fine paper industry, and the Commission has sufficient evidence that the coated fine paper industry benefited from a number of them during the RIP.

4. INJURY

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

- (185) During the review investigation period, the like product was manufactured by 17 producers in the Union. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.

⁽¹⁰²⁾ See Annex 10 of the applicants' request.

- (186) The total Union production during the review investigation period was established at around 3 700 000 tonnes. The Commission established the figure on the basis of the answer to the macroeconomic data questionnaire provided by the Union industry. As indicated in recital (20), three Union producers were selected in the sample representing about 41 % of the total Union production of the like product during the review investigation period.

4.2. Union consumption

- (187) The Commission established the Union consumption on the basis of the macroeconomic data questionnaire provided by the Union industry and Eurostat data.
- (188) Union consumption developed as follows:

Table 1

Union consumption (tonnes)

	2018	2019	2020	Review Investigation period
Total Union consumption	3 433 636	3 268 584	2 453 924	2 576 925
Index	100	95	71	75

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (189) The Union consumption decreased by 5 % in 2019, followed by a further sharp decrease of 24 percentage points in 2020 linked to the COVID-19 outbreak. 2021 was marked by a slight increase of 4 percentage points, although by far not enough to get back to the levels observed before the crisis, resulting in an overall decrease in Union consumption of 25 % over the period considered. Looking at the longer trend, the estimated Union consumption during the review investigation period was 44 % lower than the one found during the investigation period in the original investigation (4 572 057 tonnes). The decline in Union consumption reflects decreasing graphic paper demand in general, which is mainly the result of the development of digital media, which is replacing traditional print media.

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the country concerned

- (190) The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established on the basis of the macroeconomic data questionnaire provided by the Union industry and Eurostat data. Eurostat data were previously checked with the available information.
- (191) Imports into the Union from the country concerned developed as follows for the exporters currently subject to the duties:

Table 2

Import volume (tonnes) and market share

	2018	2019	2020	Review Investigation period
Volume of imports from the country concerned (tonnes)	232	242	127	197
Index	100	104	54	85

Market share	0,007%	0,007%	0,005%	0,008%
Index	100	109	76	113

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (192) During the period considered, the volume of imports into the Union from the PRC was negligible. In fact, since the imposition of the measures in 2011, imports into the Union from the PRC have dropped to insignificant levels.

4.3.2. Prices of the imports from the country concerned

- (193) As indicated in the recital above, due to the negligible volume of imports of CFP from the PRC into the Union during the review investigation period, the prices of these sales were not considered as representative and could not be used to draw any conclusions concerning prices of imports from the PRC into the Union and the pricing behaviour of the exporting producers.

4.4. Imports from third countries other than China

- (194) The imports of coated fine paper from third countries other than China originated mainly from South Korea and the USA.
- (195) The (aggregated) volume of imports into the Union as well as the market share and price trends for imports of coated fine paper from other third countries developed as follows:

Table 3

Imports from third countries

	2018	2019	2020	Review Investigation period
Volume (tonnes)	7 500	6 065	35 584	24 398
Index	100	81	474	325
Market share	0,22%	0,19%	1,45%	0,95%
Index	100	85	664	433
Average price (EUR/tonne)	832	931	648	685
Index	100	112	78	82

Source: Eurostat

- (196) Though the total volume of imports into the Union from countries other than the PRC increased over the period considered, it remained at a very low level, as is reflected in their total market share, which increased from 0,22% to 0,95% over this period. The average prices of these imports were higher than the average prices of the Union industry. These imports from third countries have therefore not contributed to the EU injury situation.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (197) In accordance with Article 3(5) of the basic Regulation, 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.
- (198) As mentioned in recital (20), sampling was used for the assessment of the economic situation of the Union industry.

- (199) 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 macroeconomic data questionnaire provided by the Union industry. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were checked and found to be representative of the economic situation of the Union industry.
- (200) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the subsidy amounts, and recovery from past subsidisation.
- (201) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2018	2019	2020	Review Investigation period
Production volume (tonnes)	4 968 337	4 582 940	3 300 705	3 703 442
Index	100	92	66	75
Production capacity (tonnes)	5 451 528	5 121 138	4 595 798	4 044 648
Index	100	94	84	74
Capacity utilisation	91,1%	89,5%	71,8%	91,6%
Index	100	98	79	100

Source: The macroeconomic data questionnaire provided by the Union industry

- (203) The production and production capacity have decreased respectively by 25 % and 26 % over the period considered. This reduction in production and production capacity is a long-term trend linked to the adaptation of the industry to a decreasing demand related to the digitalisation of our society.
- (204) Already before the period considered, Union producers had undertaken major restructuring efforts aimed at addressing the structural overcapacity resulting from the digitalisation and these efforts continued during the period considered. Both as a result of certain mill closures and the conversion of other mills to produce paper products other than CFP, the Union industry decreased its CFP production capacity by approximately 1 400 000 tonnes over the period considered.
- (205) By continuously reducing its production capacity, the Union industry was able to keep its capacity utilisation relatively stable during the period considered. With the exception of the year 2020, for which capacity utilisation was lower as compared to previous and following years, mainly due to the reduction in production following the 2020 COVID-19 outbreak.

- (206) The investigation established that high capacity utilisation is an important factor in the long-term viability of the paper industry because of high investments in fixed assets and the resulting impact on average manufacturing costs.

4.5.2.2. Sales volume and market share

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

Table 5

Sales volume and market share (tonnes)

	2018	2019	2020	Review Investigation period
Total Sales volume on the Union market (tonnes)	3 425 903	3 262 278	2 418 213	2 552 330
Index	100	95	71	75
Market share	99,8 %	99,8 %	98,5 %	99,0 %
Index	100	100	99	99

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (208) Over the period considered, the sales volume in the Union market decreased by 25 %. It decreased by 5 % between 2018 and 2019 and in 2020, due to the COVID-19 pandemic, sales dropped sharply by an additional 24 percentage points. In 2021, there was a small rebound of 4 percentage points but not up to the levels of sales observed in 2018. The decreasing sales were related to the decreasing demand for the product concerned, which could be linked to the digitalisation of our society.
- (209) Since there were almost no imports of the product concerned during the period considered, the market share of the Union industry remained stable at around 99.

4.5.2.3. Growth

- (210) During the period considered, the Union industry did not witness any growth of production and sales. On the contrary, these economic indicators closely followed the downward trend of the Union consumption.

4.5.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2018	2019	2020	Review Investigation period
Number of employees	6 677	6 405	5 793	5 175
Index	100	96	87	78
Productivity (tonne/employee)	744	716	570	716
Index	100	96	77	96

Source: Macroeconomic data questionnaire provided by the Union industry

- (212) During the period considered, the number of employees decreased by 22 %. This decrease was steady and regular over the period. It reflects the longer-term restructuring efforts undertaken by the Union industry to address the structural overcapacity, as explained in recital (204).
- (213) The substantial reductions in the workforce were matched by comparable reductions in the production. As a consequence, the productivity, measured as output (tonnes) per person employed per year, only recorded a slight decrease by 4 % during the period considered. In 2020, the productivity fell sharply by 19 percentage points due to the sudden drop in demand caused by the COVID-19 pandemic. As a result, the productivity hit its lowest level in 2020.

4.5.2.5. Magnitude of the subsidisation and recovery from past subsidy

- (214) As explained in recital (142), it was not possible to establish an affirmative determination of the amount of subsidisation during the review investigation period. The investigation therefore focused on the likelihood of continuation of subsidisation should the countervailing measures be repealed (see recitals (182), (183) and (184)).
- (215) In the previous expiry review, the Union industry showed signs of recovery from the effects of past subsidisation. During the period considered of the current expiry review investigation, there were no such signs of recovery, since the Union industry was facing a difficult situation, with the need to restructure added to the negative effects of the COVID-19 pandemic.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

Table 7

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

	2018	2019	2020	Review Investigation period
Average unit sales price in the Union	654	667	616	650
Index	100	102	94	99
Unit cost of production	674	662	639	712
Index	100	98	95	106

Source: Verified questionnaire replies of the sampled Union producers

- (217) The average unit sales price of the Union industry to unrelated customers in the Union remained rather stable over the period considered and decreased only 1 %. After a slight increase of 2 % in 2019, prices decreased by 8 percentage points in 2020, the year of the COVID-19 outbreak, when a lower demand dragged prices downwards. In the review investigation period prices increased again by 5 percentage points due to an increase in demand.

- (218) The unit cost of production of the Union industry decreased slightly by 2% between 2018 and 2019. The further decrease by 3 percentage points in 2020 was due to the fall in the prices of raw materials and energy. In 2021, the prices of raw materials and energy increased significantly, leading to an increase in the costs of production by 11 percentage points, resulting in an overall increase of 6% over the period considered.

4.5.3.2. Labour costs

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

Table 8

Average labour costs per employee

	2018	2019	2020	Review Investigation period
Average labour costs per employee (EUR)	72 907	72 704	68 780	76 280
Index	100	100	94	105

Source: Verified questionnaire replies of the sampled Union producers

- (220) The average labour costs per employee were stable over the period 2018-2019. They decreased by 6 % in 2020 as compared to 2019. They increased immediately afterwards, in the review investigation period to a level 5 % higher than in 2018.

4.5.3.3. Inventories

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

Table 9

Inventories

	2018	2019	2020	Review Investigation period
Closing stocks (tonnes)	151 882	139 168	122 377	107 146
Index	100	92	81	71
Closing stocks as a percentage of production	3,06%	3,04%	3,71%	2,89%
Index	100	99	121	95

Source: Verified questionnaire replies of the sampled Union producers

- (222) The closing stocks of the Union industry decreased by 29 % over the period considered. This is in line with the decrease in the production and production capacities.

- (223) In terms of percentage of production, the level of closing stocks hovered around 3 % over the period.

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

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

Table 10

Profitability, cash flow, investments and return on investments

	2018	2019	2020	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 3,6%	- 0,8%	- 5,6%	- 9,5%
Index	- 100	- 24	- 158	- 267
Cash flow (EUR)	53 230 728	116 531 955	68 541 389	30 295 619
Index	100	219	129	57
Investments (EUR)	21 327 970	39 328 573	20 843 097	32 601 304
Index	100	184	98	153
Return on investments	- 7,2%	- 1,7%	- 8,7%	- 24,5%
Index	- 100	- 23	- 122	- 341

Source: Verified questionnaire replies of the sampled Union producers

- (225) 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 Union industry has been loss making during the whole period considered. As a reference, it is noted that in the original investigation, the target profit for the industry was established at 8 % ⁽¹⁰³⁾. During the period considered, the Union industry's profitability decreased from -3,6 % to -9,5 %. 2019 was, comparatively, the best year, when the profitability of the Union industry reached -0,8 %, due to a combination of lower cost of production and strong sales prices. In 2020, profitability dropped sharply to a level of -5,6%, to decrease further in the review investigation period to -9,5 %.
- (226) The net cash flow is the ability of the Union producers to self-finance their activities. During the period considered, cash flow was positive and to a large extent its trend reflected the evolution of profitability, with 2019 being the best year.
- (227) In view of the falling demand for CFP both in the Union and abroad during the period considered, the Union industry did not invest in new capacity. The investments that were made focused on maintenance, capital replacement, improving energy efficiency, and on measures aimed at restructuring and complying with environmental protection standards.
- (228) The return on investments is the profit in percentage of the net book value of investments. It developed similarly to the profit over the period considered.
- (229) Given the cost of existing debt, the profitability of the Union industry and continuously falling demand for CFP, the Union industry's ability to raise capital remained limited over the period considered.

⁽¹⁰³⁾ Recital 158 of Implementing Regulation (EU) No 451/2011.

4.6. Conclusion on injury

- (230) During the period considered, injury indicators showed a negative picture. Production capacity and production were declining, sales were declining, and employment was declining. Profit and return on investment were negative during the whole period concerned, with 2020 and 2021 being the worst years of the period.
- (231) The negative trends in production and sales volumes were the result of the continuously falling demand for CFP both in the Union and abroad, that required the Union industry to continue with restructuring, including closing paper mills and converting others for the production of other types of paper.
- (232) Future demand for CFP is expected to decline and the situation of the Union industry will remain difficult, with further decreases in production and production capacity that will have to take place.
- (233) The measures in place ensured protection to the Union industry, allowing it to maintain a high market share during the period considered. The Union industry was however not able to raise CFP prices sufficiently above cost-covering levels to generate profit. This was due in 2018-2019 to rising prices of raw materials (especially pulp) and the difficulty to pass on increasing prices to the Union industry customers. In 2020, the fall in demand and prices linked to the COVID-19 pandemics hit the Union industry, which recorded significant losses. While 2021 was characterised by increasing prices of raw materials and energy, leading to an increase of the costs of production of 11 % and a further deterioration of the bottom lines. In addition, during the whole period considered, the Union industry had to restructure its activities and the production capacity was cut by 26 % over the period considered. This came at an additional cost.
- (234) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period. The injury to the Union industry observed during this period could however not have been caused by subsidised imports from the PRC due to their very limited volume. It was mainly caused by the declining demand for CFP and the related high restructuring costs, both of which had a significant bearing on the Union industry's profitability.

5. LIKELIHOOD OF RECURRENCE OF INJURY

- (235) The Commission concluded in recital (234) that the Union industry suffered material injury during the review investigation period. The Commission also concluded in recital (234) that the injury to the Union industry observed during the review investigation period could not have been caused by subsidised imports from the PRC due to their very limited volume. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the subsidised imports from the PRC if the current measures were allowed to lapse.
- (236) As mentioned in recital (177), the Union market is the second largest CFP market in the world. Indeed, its overall size and the existence of large CFP buyers make it very attractive to Chinese CFP producers, because such large deliveries would allow them to utilize their spare production capacity, which in turn would lower their unit production costs. Accordingly, if measures were repealed, given the economic benefits of utilizing spare production capacity in the PRC, it is likely that the Chinese exporting producers would offer CFP at low prices in the Union market, putting pressure on Union industry prices and profitability.
- (237) The Commission also analysed the pricing behaviour of the Chinese exporting producers on third countries markets in order to determine the price effects on the Union industry should the measures be allowed to lapse.

- (238) In the absence of cooperation from the Chinese exporting producers, the Commission used the facts available in accordance with Article 18 of the basic Regulation to establish the Chinese export prices to third countries. For this purpose, the data contained in the review request, based on Svan Data ⁽¹⁰⁴⁾, was used and, in particular Chinese export data related to commodity code 4810 19. The reason was that the applicant explained in the expiry review request that exports of the product concerned were mainly exported under Chinese commodity code 4810 19.
- (239) For comparison purposes, the Commission determined the following prices:
- the weighted average sales price of the Union industry charged to unrelated customers in the Union, adjusted to an ex-works level: 661 EUR/tonne ⁽¹⁰⁵⁾,
 - the EU target price: 774 EUR/tonne ⁽¹⁰⁶⁾, and
 - Chinese export prices as reported by the applicant in the request covering the same period as the review investigation period, with adjusted ocean freight costs ⁽¹⁰⁷⁾ to obtain a likely EU landed price ⁽¹⁰⁸⁾.
- (240) First, the Commission compared the weighted average sales price of the Union industry charged to unrelated customers in the Union, adjusted to an ex-works level, with the Chinese export prices to third countries other than the Union, adjusted to a Union landed price during the RIP. The price comparison based on the data established in recital (239) showed that for export prices to 8 third countries were below the Union industry prices. These exports represented about 1 % of Chinese exports in volume. This small percentage is due to the depressed prices of CFP in the Union.
- (241) Second, the Commission also analysed whether the Chinese weighted export prices to third countries other than the Union, adjusted to a Union landed price undersold the Union industry when compared with the Union industry target price during the RIP. In view of the lack of cooperation by Chinese exporters, the Commission based its analysis on data in the expiry review request. The analysis identified 27 third countries where the Chinese exporting producers sold the product concerned during the review investigation period at prices below the average Union industry's target price. Chinese exports to these countries represented about 10 % of the total Chinese exports to other third countries in volume. Furthermore, as indicated in recital (178), major third countries markets are foreclosed for exports from China due to their duties in place.
- (242) In conclusion, the analysis demonstrated – on the basis of facts available - that the Chinese exporting producers were able to sell at prices below the Union target price. In view of the significant spare capacities available in China, it was also noted that large volumes of CFP could potentially be produced to be sold on the EU market. The Commission thus concluded that, should measures be allowed to lapse, the Chinese exporters would be able to exercise significant price pressure and thus cause injury to the Union industry.
- (243) The investigation also showed that the Union industry was injured and vulnerable. It was also noted that the industry is currently restructuring as is reflected in the decrease in production capacity over the period considered, with some companies reconverted some of their production lines to produce other types of paper.
- (244) The investigation has also confirmed the findings of the original investigation that high-capacity utilisation is an important factor in the long-term viability of paper producers because the production process is capital-intensive. Any recurrence of subsidised imports and resulting price pressure would deprive the Union industry from the cash flow necessary to finance restructuring efforts to adapt to declining world demand for CFP. It would also undermine the positive effects of past restructuring efforts and lead to the further deterioration of all injury indicators.

⁽¹⁰⁴⁾ Svan data is a market research consultancy (<https://svandata.com/>)

⁽¹⁰⁵⁾ Based on data from the sampled Union producers

⁽¹⁰⁶⁾ Based on Ibid. It is the costs of production of the sampled Union producers to which the target profit was added.

⁽¹⁰⁷⁾ During the RIP, freight costs were at abnormally high levels. Hence, the Commission used 2019 freight costs to calculate the theoretical Chinese landed prices. In accordance with the data from the expiry review request (Annex 28), the freight costs from China to the EU on average in 2019 amounted to 63 EUR per ton and the customs handling cost to 8 EUR per ton.

⁽¹⁰⁸⁾ Data from the application's request. The EU landed price was calculated as the Chinese FOB prices to which ocean freight and customs handling costs were added.

- (245) On this basis, it is concluded that the absence of measures would likely result in a significant increase of subsidised imports from the PRC at injurious prices and material injury would be likely to recur.

6. UNION INTEREST

- (246) In accordance with Article 31 of the basic Regulation, the Commission examined whether maintaining the existing anti-subsidy measures would be clearly 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, unrelated importers, traders and users.

6.1. Interest of the Union industry

- (247) The investigation found that the Union industry was injured and in a vulnerable situation. The challenges created by the continuously falling demand for CFP will necessitate continued restructuring plans, including the closure of paper mills and the conversion of others for the production of other types of paper.
- (248) Under the price pressure from subsidised imports from the PRC, the Union industry would not be able to get CFP prices above cost-covering levels and generate the necessary income to finance its restructuring efforts and adjust to the challenges created by the continuously falling demand for CFP.
- (249) On this basis, the Commission concluded that the continuation of the anti-subsidy measures in force would be in the interest of the Union industry.

6.2. Interest of unrelated importers and traders

- (250) There was no cooperation from unrelated importers and traders. Based on the fact that during the period considered there were almost no imports of CFP from the PRC, the Commission concluded that imports of the product concerned do not represent a major proportion of the business activities of unrelated importers and traders and that there were no factors suggesting that they would be disproportionately affected if measures were maintained.

6.3. Interest of users

- (251) No individual user cooperated and submitted a questionnaire reply.
- (252) The Commission did receive two written submissions, one from Unitedprint.com, a Union user of CFP and one from an association of the printing industry, Intergraf⁽¹⁰⁹⁾ (supported by The Royal Dutch Association of Printing and Allied Industries).
- (253) The submission of Intergraf explained that the Union's printing industry was suffering from the replacement of paper media with digital media, as well as from massive imports of printed products, in particular from the PRC. According to Intergraf, the anti-dumping and anti-subsidy measures undermine the Union printers' competitiveness, which is not protected by similar trade measures and has to respect strict environmental standards.
- (254) Intergraf claimed that more than EUR 700 million of printed paper is exported from China to the EU yearly. This includes a large variety of print products that are not printed on CFP. Based on the information available, the Commission could not assess what part of the products imported from the PRC was printed on CFP and what was printed on other types of paper.
- (255) The original investigation found that most products that are printed on CFP are 'time sensitive' products, such as magazines, brochures, direct mail and inserts that are less susceptible to being imported from the PRC because of the time needed for transportation. Information submitted by the applicants in this review confirmed that the findings of the original investigation were still valid.

⁽¹⁰⁹⁾ Intergraf represents 21 national printing federations. The European printers represented by Intergraf are users of CFP and potentially importers of CFP from China.

- (256) Accordingly, the Commission concluded that while it is likely that some print materials are printed on CFP outside the Union because of anti-dumping and countervailing duties, their impact on the economic situation of the Union's printing industry is limited.
- (257) Intergraf also pointed to shortages of supplies of CFP and large increase of prices, especially since mid-2021. This was also noted in the submission from Unitedprint.com. With the information provided, the Commission could not assess the respective volumes of supply and demand and therefore the alleged market imbalance. The Commission could also not evaluate whether the mentioned price increase could be passed to their customers or not. The Commission also notes that in 2021, in a post-COVID-19 context, there were shortages on a number of raw material markets.

6.4. Conclusion on Union interest

- (258) 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 CFP originating in China.

7. ANTI-SUBSIDY MEASURES

- (259) On the basis of the conclusions reached by the Commission on continuation of subsidy, recurrence of injury and Union interest, the anti-subsidy measures on CFP from China should be maintained.
- (260) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual countervailing duties. The companies with individual countervailing 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 countervailing duty applicable to 'all other companies'.
- (261) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of countervailing 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.
- (262) Should the exports by one of the companies benefitting 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 23(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.
- (263) The individual company countervailing duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual countervailing duty rates.

- (264) A company may request the application of these individual countervailing duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹¹⁰⁾. 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.
- (265) All interested 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 make representations subsequent to this disclosure.
- (266) The Commission received a submission from the EU industry that further substantiated the Commission's findings that the Chinese exporting producers were able to sell at prices below the Union target price. It was therefore not deemed necessary to amend the text of the present Regulation.
- (267) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹¹¹⁾ 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.
- (268) 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 countervailing duty is imposed on imports of coated fine paper, which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m² or more but not exceeding 400 g/m² and brightness of more than 84 (measured according to ISO 2470-1), currently falling under CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20) and originating in the People's Republic of China.

The definitive countervailing duty is not imposed on rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking — accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD). The definitive countervailing duty is not imposed on multi-ply paper and multi-ply paperboard.

2. The rates of the definitive countervailing 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	Countervailing duty (%)	TARIC additional code
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC; Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	12%	B001

⁽¹¹⁰⁾ European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽¹¹¹⁾ 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).

Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC; Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC	4%	B013
All other companies	12%	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product under review) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented, the duty applicable to all other companies shall apply.

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, 21 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1648**of 21 August 2023****imposing a definitive anti-dumping duty on imports of certain coated fine paper originating in the People's Republic of China 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⁾, and in particular Article 11(2) thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and measures in force**

- (1) By Implementing Regulation (EU) No 451/2011 ⁽²⁾, the Council imposed anti-dumping duties on imports of certain coated fine paper originating in the People's Republic of China ('the PRC' or 'country concerned') ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.
- (2) Following an anti-subsidy investigation, by Implementing Regulation (EU) No 452/2011 ⁽³⁾, the Council also imposed a definitive countervailing duty on imports of certain coated fine paper originating in the PRC.
- (3) The anti-dumping measures took the form of an *ad valorem* duty rate ranging from 8 % to 35,1 % for imports from individually named exporters, with a country-wide residual duty rate of 27,1 % for all other exporters.
- (4) Following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽⁴⁾ ('the basic Regulation'), on 3 July 2017, the Council re-imposed the definitive anti-dumping measures on imports of certain coated fine paper originating in the PRC by Regulation (EU) No 2017/1188 ⁽⁵⁾, ('the 'previous expiry review').
- (5) The anti-dumping duties currently in force are at rates ranging between 8 % and 35,1 % on imports from the sampled exporting producers, and a duty rate of 27,1 % on all other companies from the PRC.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Implementing Regulation (EU) No 451/2011 of 6 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 1).

⁽³⁾ Council Implementing Regulation (EU) No 452/2011 of 6 May 2011 imposing a definitive anti-subsidy duty on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 18).

⁽⁴⁾ 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, OJ L 176, 30.06.2016, p.21.

⁽⁵⁾ No 2017/1188 of 3 July 2017 imposing a definitive anti-dumping duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of the Regulation (EU) 2016/1036 of the European Parliament and of the Council.

1.2. Request for an expiry review

- (6) Following the publication of a notice of impending expiry ⁽⁶⁾ of the anti-dumping measures in force on the imports of certain coated fine paper originating in the PRC, the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation. The request for review was submitted on 31 March 2022 by Arctic Paper Grycksbo AB, Burgo Group SpA, Fedrigoni SpA, Lecta Group and Sappi Europe SA ('the applicants') on behalf of the Union industry of certain coated fine paper in the sense of Article 5(4) of the basic Regulation.
- (7) 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, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 30 June 2022, an expiry review with regard to imports to the Union of certain coated fine paper originating in the PRC, 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 ⁽⁷⁾ ('the Notice of Initiation').

1.4. Separate anti-subsidy investigation

- (9) By a notice published in the Official Journal of the European Union on 30 June 2022, the Commission also announced the initiation of an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 ⁽⁸⁾ of the definitive countervailing measures in force with regard to imports into the Union of certain coated fine paper originating in the People's Republic of China.

1.5. Review investigation period and period considered

- (10) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 January 2021 to 31 December 2021 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2018 to the end of the review investigation period ('the period considered').

1.6. Interested parties

- (11) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicants, other known Union producers, exporting producers, importers and users in the Union known to be concerned, as well as the Chinese authorities 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.

1.7. 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.

⁽⁶⁾ OJ C 280, 25.8.2015, p. 7.

⁽⁷⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

⁽⁸⁾ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.7.2009, p. 93). This Regulation has been codified by Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 55).

(a) Sampling of Union producers

- (14) In the Notice of Initiation of the expiry review investigation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 17(1) of the basic Regulation, the Commission selected the sample based on the representativity in terms of volume of production and sales of the like product in the EU between 1 January and 31 December 2021. This sample consisted of 3 Union producers. The sampled Union producers accounted for approximately 41 % of the estimated total volume of production and 37 % of the estimated sales of the like product in the Union. In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No comments were received, and the provisional sample was therefore confirmed. The sample is representative of the Union industry.

(b) Sampling of unrelated importers

- (15) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation of the expiry review investigation.
- (16) No unrelated importers came forward and provided the requested information.

(c) Sampling of exporting producers in the PRC

- (17) In the Notice of Initiation of the expiry review investigation, the Commission stated that it might sample exporting producers in accordance with Article 17(2) of the basic Regulation.
- (18) To decide whether sampling was necessary and if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide information specified in the Notice of Initiation. No exporting producer, however, came forward and provided the requested information.
- (19) In addition, the Commission asked the Mission of the PRC to the European Union to identify and/or contact other exporting producers, if any, that might be interested in participating in the investigation. However, no response was provided.

1.8. Questionnaires, replies to the questionnaires

- (20) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a) (b) of the basic Regulation to the Government of the People's Republic of China ('GOC'). No questionnaire reply was received.
- (21) The Commission sent questionnaires to the three sampled Union producers. At the day of initiation, the same questionnaires were made available online on DG Trade's website ⁽⁹⁾. In addition, the Commission sent a questionnaire to the applicants concerning macroeconomic data. Questionnaires were also made available to unrelated importers and users on the same DG Trade's website ⁽¹⁰⁾.
- (22) Questionnaire replies were received from the three sampled Union producers. In addition, the applicants provided the Commission with macroeconomic data. The exporting producers did not provide a questionnaire reply. No reply was received from any of the unrelated importers. None of the users provided replies to the questionnaires.
- (23) Because there was no cooperation from the Chinese exporting producers or the GOC, the findings regarding dumping and injury were made on the basis of facts available pursuant to Article 18 of the basic Regulation. The Mission of the People's Republic of China to the European Union was informed accordingly. No comments were received.

⁽⁹⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

⁽¹⁰⁾ <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2616>

1.9. Verification visits

- (24) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest.
- (25) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:
- Union producers
 - Sappi Europe SA, Brussels, Belgium for Sappi Gratkorn GmbH (Austria ⁽¹¹⁾)
 - Burgo Group S.p.A. (Italy)
 - Condat SAS (part of Lecta Group) (France)

1.10. Disclosure

- (26) On 14 June 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure.
- (27) The comments made by interested parties were considered by the Commission and taken into account, where appropriate. The parties who so requested were granted a hearing.

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

- (28) The product under review is the same as in the original investigation and in the previous expiry review, namely certain coated fine paper ('CFP'), which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheet or rolls, and with a weight of 70 g/m² or more but not exceeding 400 g/m² and brightness of more than 84 (measured according to ISO 2470-1).
- (29) The product under review does not include:
- Rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking — accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD).
 - Multi-ply paper and multi-ply paperboard.

2.2. Product concerned

- (30) Product concerned by the expiry review investigation is the product under review originating in China currently falling under CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20).

2.3. Like product

- (31) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical and technical characteristics, as well as the same basic uses:
- the product concerned when exported to the Union;
 - the product under review produced and sold by the exporting producers on the domestic market of the PRC;

⁽¹¹⁾ While the production is taking place in Austria, the headquarter of the group is located in Brussels, Belgium. The verification visit took place at the headquarter.

- the product under review produced and sold by the selected producer in Brazil, which served as a representative country;
 - the product under review produced and sold by the exporting producers to the rest of the world; and
 - the product under review produced and sold in the Union by the Union industry.
- (32) The Commission concluded that 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

3.1. Preliminary remarks

- (33) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether the expiry of the measures in force would likely lead to a continuation or recurrence of dumping from the PRC.
- (34) As mentioned in recital (23), no exporter/producer from China cooperated in the expiry review investigation. Consequently, and thus, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on the facts available, in particular information in the request for review and statistical data from Eurostat, Global Trade Atlas ('GTA') ⁽¹²⁾, the Brazilian Institute of Geography and Statistics ⁽¹³⁾, the Brazilian Ministry of Mine and Energy ⁽¹⁴⁾ and publicly available information from the official website of the Brazilian company Sylvamo Ltda. ⁽¹⁵⁾.

3.2. Dumping of imports during the review investigation period

- (35) During the review investigation period, the statistical data show that imports of CFP from the PRC into the Union were less than 200 tonnes. The Commission concluded that these quantities were not representative, as they represented less than 1% of the total imports of the product concerned into the Union. Therefore, no meaningful analysis of dumping based on the Chinese imports to the Union during the review investigation period could be made. The investigation therefore focused on the likelihood of recurrence of dumping.

3.3. Normal value

3.3.1. *Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation for the imports of the product under review originating in the PRC*

- (36) With regard to the PRC, given the sufficient evidence available at the initiation of the expiry review investigation tending to show the existence of significant distortions within the meaning of Article 2(6a), point (b) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.
- (37) In order to obtain the necessary information for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the Official Journal of the European Union. No questionnaire reply was received from the GOC and no submission from interested parties on the application of Article 2(6a) of the basic Regulation was received.

⁽¹²⁾ <http://www.gtis.com/gta/secure/default.cfm>

⁽¹³⁾ <https://www.ibge.gov.br/estatisticas/economicas/industria/9042-pesquisa-industrial-anual.html?=&t=destaques>

⁽¹⁴⁾ Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) <https://www.gov.br/mme/pt-br/assuntos/secretarias/petroleo-gas-natural-e-biocombustiveis/publicacoes-1/boletim-mensal-de-acompanhamento-da-industria-de-gas-natural/2021/12-boletim-de-acompanhamento-da-industria-de-gas-natural-dezembro-de-2021.pdf>

⁽¹⁵⁾ Sylvamo 2021-Annual-Report.pdf

- (38) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Indonesia as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation, for the purpose of determining the normal value based on undistorted prices or benchmarks.. During the investigation period, Indonesia transitioned from an upper middle income country to a lower income country ⁽¹⁶⁾. Therefore Commission stated that it would examine other possibly appropriate countries in accordance with the criteria set out in the first indent of Article 2(6a) of the basic Regulation.
- (39) On 20 February 2023, the Commission informed the interested parties by a Note on the relevant sources it intended to use for the determination of the normal value, with Brazil as the representative country. It also informed the interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company Sylvamo Ltda., a Brazilian producer in the representative country. Comments were received only from the applicants and are addressed in section 3.3.4 below.
- (40) According to Article 2(6a)(a) of the basic Regulation, '*in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks*', and '*shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits*' ('administrative, selling and general costs' is referred to hereinafter as 'SG&A').
- (41) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.3.2. Existence of significant distortions

3.3.2.1. Introduction

- (42) Article 2(6a)(b) of the basic Regulation stipulates that 'significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, *inter alia*, to the potential impact of one or more of the following elements:
- the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;
 - state presence in firms allowing the state to interfere with respect to prices or costs;
 - public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;
 - the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;
 - wage costs being distorted;
 - access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'.
- (43) As the list in Article 2(6a)(b) of the basic Regulation is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provide the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

⁽¹⁶⁾ New World Bank country classifications by income level: 2021-2022

- (44) Article 2(6a)(c) of the basic Regulation provides that '[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'.
- (45) Pursuant to this provision, the Commission has issued a country report concerning the PRC ('the Report') ⁽¹⁷⁾, showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials, and labour) as well as in specific sectors (such as steel and chemicals). The Report was added to the investigation file at the initiation stage and interested parties were invited to rebut, comment, or supplement the evidence contained in the investigation file at the time of initiation.
- (46) The request, referencing the Report and its findings on market distortions, indicated that the Report's observations about pricing and allocation of factors of production, such as land, energy, capital, and material inputs being influenced by the State in a very significant manner are particularly true for the Chinese sector of CFP.
- (47) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand, nor has the Commission received any comments from the Chinese exporting producers.
- (48) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of Article 2(6a) point (b) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC.

3.3.2.2. Significant distortions affecting the domestic prices and costs in the PRC

- (49) The Chinese economic system is based on the concept of a 'socialist market economy'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*' ⁽¹⁸⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽¹⁹⁾.
- (50) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing first sentence of the provision: '[t]he socialist system is the basic system of the People's Republic of China' a new second sentence was inserted which reads: '[t]he defining feature of socialism with Chinese characteristics is the

⁽¹⁷⁾ Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD 483 final/2.

⁽¹⁸⁾ Report – Chapter 2, p. 6-7.

⁽¹⁹⁾ Report – Chapter 2, p. 10.

leadership of the Communist Party of China.’⁽²⁰⁾ This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.

- (51) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market⁽²¹⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.
- (52) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.3.2.5 below)⁽²²⁾.
- (53) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial and policy banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government’s industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.3.2.8 below)⁽²³⁾. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP⁽²⁴⁾.
- (54) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market-based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies⁽²⁵⁾. Similarly, in the area of investment, the GOC maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry⁽²⁶⁾.
- (55) In sum, the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles⁽²⁷⁾.

⁽²⁰⁾ Available at: Constitution of the People’s Republic of China (npc.gov.cn) (accessed on 22 March 2023).

⁽²¹⁾ Report – Chapter 2, p. 20-21.

⁽²²⁾ Report – Chapter 3, p. 41, 73-74.

⁽²³⁾ Report – Chapter 6, p. 120-121.

⁽²⁴⁾ Report – Chapter 6, p. 122 -135.

⁽²⁵⁾ Report – Chapter 7, p. 167-168.

⁽²⁶⁾ Report – Chapter 8, p. 169-170, 200-201.

⁽²⁷⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

3.3.2.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country

- (56) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.
- (57) While in the coated paper industry, the degree of State ownership does not appear to be significant, the GOC maintains shareholding in a number of producers, such as in the largest papermaking enterprise in China, Shandong Chenming Paper Holding ⁽²⁸⁾. Indeed, Chenming Paper Holding is held by Chenming holdings (15,2%) in turn held (45,2%) by the fully state-owned entity Shandong Shouguang Jinxin Investment Development Holding Group Co., Ltd. ⁽²⁹⁾. In addition, given that CCP interventions into operational decision making have become the norm also in private companies ⁽³⁰⁾, with CCP claiming leadership over virtually every aspect of the country's economy, the influence of the State by means of CCP structures within companies effectively results in economic operators being under control and policy supervision of the government, given how far the State and Party structures have grown together in the PRC.
- (58) This is apparent also at the level of the China Paper Association the sectoral industry association. According to Art. 3 of its Articles of Association, China Paper Association 'adheres to the overall leadership of the Communist Party of China' and 'accepts the business guidance, supervision, management by the entities in charge of registration, and party building leadership and by the administrative departments in charge of industry' ⁽³¹⁾.
- (59) Consequently, even privately owned producers in the sector of the product under review are prevented from operating under market conditions. Indeed, both public and privately owned enterprises in the sector are subject to policy supervision and guidance as also set out in section 3.3.2.5 below.

3.3.2.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the state to interfere with respect to prices or costs

- (60) Apart from exercising control over the economy by means of ownership of state-owned enterprises ("SOEs") and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, ⁽³²⁾ CCP cells in enterprises, State-owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ⁽³³⁾) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has been reinforcing its claims to control business decisions in companies as a matter of political principle ⁽³⁴⁾, including exercising pressure on private companies to put 'patriotism' first and to follow party discipline ⁽³⁵⁾. In 2017, it was reported that party cells existed in 70% of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ⁽³⁶⁾. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

⁽²⁸⁾ Available at: <http://www.chinapaper.net/news/show-70464.html> (accessed on 22 March 2023).

⁽²⁹⁾ Available at: https://aiqicha.baidu.com/company_detail_29610125830115 and https://aiqicha.baidu.com/company_detail_79823144545100 (accessed on 22 March 2023).

⁽³⁰⁾ See for example Art. 33 of the CCP Constitution, Article 19 of the Chinese Company Law or the Guidelines on stepping up the United Front work in the private sector for the new era issued by the General Office of the CCP's Central Committee in 2020.

⁽³¹⁾ Available at: http://www.chinappi.org/associ_rule.html (accessed on 22 March 2023).

⁽³²⁾ Report – Chapter 5, p. 100-1.

⁽³³⁾ Report – Chapter 2, p. 26

⁽³⁴⁾ See for example: Blanchette, J. - Xi's Gamble: *The Race to Consolidate Power and Stave off Disaster*; Foreign Affairs, vol. 100, no. 4, July/August 2021, pp. 10-19.

⁽³⁵⁾ Report – Chapter 2, p. 31-2.

⁽³⁶⁾ Available at: <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU> (accessed on 22 March 2023).

- (61) In addition, on 15 September 2020 a document titled General Office of CCP Central Committee's Guidelines on stepping up the United Front work in the private sector for the new era ('the Guidelines') ⁽³⁷⁾ was released, which further expanded the role of the party committees in private enterprises. Section II.4 of the Guidelines state: '[w]e must raise the Party's overall capacity to lead private-sector United Front work and effectively step up the work in this area'; and section III.6 states: '[w]e must further step up Party building in private enterprises and enable the Party cells to play their role effectively as a fortress and enable Party members to play their parts as vanguards and pioneers.' The Guidelines thus emphasise and seek to increase the role of the CCP in companies and other private sector entities ⁽³⁸⁾.
- (62) The investigation has confirmed that overlaps between managerial positions and CCP membership / Party functions are commonplace in the coated paper industry. For example, the Chairman of the Board of Directors of Shandong Chenming Paper Group Co., Ltd. holds in parallel the position Secretary of the enterprise's Party Committee. ⁽³⁹⁾ An article on the website of Shandong Chenming Paper further outlined the commitment of the group to implement the decisions taken during the 20th National Congress of the Communist Party of China and '[to] fully, accurately, and comprehensively implement the new development concept, focus on the main business, strengthen the industry, remain committed and determined, and reach new great achievements on the road to the Chinese-style modernization'. ⁽⁴⁰⁾ During a meeting with the Group's Chairman of the Board of Directors, the Secretary of the Municipal Party Committee reassured that 'the Municipal Party Committee and the Municipal Government will keep optimizing the business environment, [...] coordinate and solve the difficulties and problems in the production and operational processes of enterprises in a timely manner, and fully support Chenming in stabilizing and increasing production to achieve an even better development'. ⁽⁴¹⁾
- (63) The Group's Chairman of the Board of Directors further 'expressed his gratitude to the Municipal Party Committee and Municipal Government for their support to the company's development' and confirmed that 'the company will seize opportunities and actively cooperate with the Municipal Party Committee and the Municipal Government as regards the layout and the development of the forest industry'. ⁽⁴²⁾ Such an involvement can also be confirmed in other companies in the coated paper industry. The Chairman of the Board of Directors and General Manager of the Shandong Sun Paper Co., Ltd. for example, which is also the Secretary of the Party Committee, ⁽⁴³⁾ stated that 'Without the Party's reform and opening up policy, there would be no development of Sun Paper; without the support of the Party and the government, there would be no glory of Sun Paper'. ⁽⁴⁴⁾
- (64) The State's presence and intervention in the financial markets (see also 3.3.2.8 below) as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ⁽⁴⁵⁾. Thus, the State presence in firms, in the coated paper and other industries (such as the financial and input industries) allow the GOC to interfere with respect to prices and costs.

3.3.2.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces

- (65) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the

⁽³⁷⁾ Available at: www.gov.cn/zhengce/2020-09/15/content_5543685.htm (accessed on 22 March 2023).

⁽³⁸⁾ Chinese Communist Party asserts greater control over private enterprise, available at: <https://on.ft.com/3mYxP4j> (accessed on 22 March 2023).

⁽³⁹⁾ Available at: <http://www.chenmingpaper.com/about/dszjj.aspx> (accessed on 22 March 2023).

⁽⁴⁰⁾ Available at: <http://www.chenmingpaper.com/about/djgzxx.aspx?id=17455> (accessed on 22 March 2023).

⁽⁴¹⁾ Available at: https://www.zhanjiang.gov.cn/yaowen/content/post_1620284.html (accessed on 22 March 2023).

⁽⁴²⁾ Ibid.

⁽⁴³⁾ Available at: https://dzrb.dzng.com/articleContent/37_1087334.html (accessed on 22 March 2023).

⁽⁴⁴⁾ Ibid.

⁽⁴⁵⁾ Report – Chapters 14.1 to 14.3.

corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽⁴⁶⁾.

- (66) The Chinese authorities have enacted a number of policies guiding the functioning of the sector of the product under review. To start with, coated paper related technologies are listed among the encouraged industries in China's 2019 Catalogue for Guiding Industry Restructuring ⁽⁴⁷⁾, which signals the authorities' intentions to create a regulatory environment conducive to the sector's development and which also potentially paves way to the industry's access to finance. Additionally, the Catalogue also specifies key production targets, for example concerning various forms of wood pulp ⁽⁴⁸⁾, refers to the development of advanced pulping and papermaking equipment ⁽⁴⁹⁾ and mentions various paper and wood pulp production sectors to be eliminated if annual capacities are not met ⁽⁵⁰⁾. Moreover, the national 14th Five-Year Plan ("FYP") ⁽⁵¹⁾, invites the industry to 'accelerate the transformation and upgrading of enterprises in key industries such as chemical industry and papermaking' ⁽⁵²⁾. The 14th FYP on forestry and grass development ⁽⁵³⁾ emphasizes the objective to '[s]trengthen traditional industries [to p]romote the deep processing of wood [...] support the green and digital transformation of economic sectors such as forests, wood and bamboo processing, forestry chemicals, pulp and paper' ⁽⁵⁴⁾ and to 'accelerate the elimination of obsolete production capacities[...] promote technological transformation and improve the utilization rate of energy and raw materials'. ⁽⁵⁵⁾
- (67) In addition, the national level policies regarding the coated paper industry are implemented at sub-central levels through corresponding planning documents. The Shandong Province 14th FYP ⁽⁵⁶⁾ on building a strong manufacturing province mentions that '[b]y the end of the '14th Five-Year Plan', [...] the scale of the iron and steel, non-ferrous metals, home appliances, papermaking and other industries will rank among the top three in the country' ⁽⁵⁷⁾ further asking for optimized fiscal and tax financial support ⁽⁵⁸⁾ and explicitly stating that '[t]he provincial, municipal, and county finance administration departments shall strengthen the coordination of funds, and comprehensively adopt methods such as equity investment, loan interest discounts, and ex-post rewards and subsidies to increase support for the manufacturing industry' ⁽⁵⁹⁾. In the Shandong Province Action plan for a strong province in advanced manufacturing 2022-2025 ⁽⁶⁰⁾, the local government states that '[t]he Province's Leading Small Group for the construction of a strong manufacturing province shall play a comprehensive and coordinating role, and relevant departments directly under the authority of the provincial government shall duly perform their duties. The main responsible comrades of the Party committees and governments at the city and county levels shall rely on research and deployment, and take the lead in promoting implementation.' ⁽⁶¹⁾ The Jiangsu province's carbon peak action plan applicable to Jiangsu's industries and key sectors ⁽⁶²⁾ also contains the instructions to '[a]ccelerate the transformation and upgrading of traditional industries [...] such as [...] papermaking'. ⁽⁶³⁾ Through these and other means, the Chinese authorities therefore direct and control virtually every aspect of the development and functioning of the sector.

⁽⁴⁶⁾ Report – Chapter 4, p. 41-42, 83.

⁽⁴⁷⁾ See Section, Section I.19 of the Guiding Catalogue, available at: www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf (accessed on 22 march 2023).

⁽⁴⁸⁾ Ibid.

⁽⁴⁹⁾ Ibid.

⁽⁵⁰⁾ See Section, Section III.12 of the Guiding Catalogue, available at: www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf (accessed on 22 march 2023).

⁽⁵¹⁾ Available at: http://www.gov.cn/xinwen/2021-03/13/content_5592681.htm (accessed on 23 March 2023).

⁽⁵²⁾ Ibid.

⁽⁵³⁾ Available at: https://www.forestry.gov.cn/html/ghzj/ghzj_1609/20210831153731850408848/file/20210831154858339457752.pdf (accessed on 23 March 2023).

⁽⁵⁴⁾ Ibid.

⁽⁵⁵⁾ Ibid.

⁽⁵⁶⁾ Available at: http://www.shandong.gov.cn/art/2021/9/7/art_97902_429688.html (accessed on 23 March 2023).

⁽⁵⁷⁾ Ibid.

⁽⁵⁸⁾ Ibid.

⁽⁵⁹⁾ Ibid.

⁽⁶⁰⁾ Available at: http://www.shandong.gov.cn/art/2022/11/11/art_107851_121997.html (accessed on 23 March 2023).

⁽⁶¹⁾ Ibid.

⁽⁶²⁾ Available at: https://gxt.jiangsu.gov.cn/art/2023/1/17/art_6278_10729235.html (accessed on 23 March 2023).

⁽⁶³⁾ Ibid.

- (68) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives concerning the coated paper industry. Such measures impede market forces from operating freely.

3.3.2.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

- (69) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁶⁴⁾.
- (70) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC. ⁽⁶⁵⁾ All land is owned by the State (collectively owned rural land and State-owned urban land) and its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁶⁶⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁶⁷⁾.
- (71) Much like other sectors in the Chinese economy, the producers of the product under review are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies, too, are subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. Those considerations, based on the evidence available, appear to be fully applicable also in the forestry and wood production sector. The present investigation revealed nothing that would call those findings into question.
- (72) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the sector of the product under review.

3.3.2.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

- (73) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining ⁽⁶⁸⁾. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ⁽⁶⁹⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration. ⁽⁷⁰⁾ Those findings lead to the distortion of wage costs in the PRC.

⁽⁶⁴⁾ Report – Chapter 6, p. 138-149.

⁽⁶⁵⁾ Report – Chapter 9, p. 216.

⁽⁶⁶⁾ Report – Chapter 9, p. 213-215.

⁽⁶⁷⁾ Report – Chapter 9, p. 209-211.

⁽⁶⁸⁾ Report – Chapter 13, p. 332-337.

⁽⁶⁹⁾ Report – Chapter 13, p. 336.

⁽⁷⁰⁾ Report – Chapter 13, p. 337-341.

- (74) No evidence was submitted to the effect that the coated paper industry would not be subject to the Chinese labour law system described. The sector is thus affected by the distortions of wage costs both directly (when making the product concerned or the main raw material for its production), as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

3.3.2.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

- (75) Access to capital for corporate actors in the PRC is subject to various distortions. Firstly, the Chinese financial system is characterised by the strong position of State-owned banks ⁽⁷¹⁾, which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly, to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP) ⁽⁷²⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the GOC. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ⁽⁷³⁾. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷⁴⁾.
- (76) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations ⁽⁷⁵⁾, suggests that these provisions play only a secondary role in the application of the various legal instruments.
- (77) For example, the GOC has clarified that even private commercial banking decisions must be overseen by the CCP and remain in line with national policies. One of the State's three overarching goals in relation to banking governance is now to strengthen the Party's leadership in the banking and insurance sector, including in relation to operational and management issues ⁽⁷⁶⁾. Also, the performance evaluation criteria of commercial banks have now to, notably, take into account how entities 'serve the national development objectives and the real economy', and in particular how they 'serve strategic and emerging industries'. ⁽⁷⁷⁾

⁽⁷¹⁾ Report – Chapter 6, p. 114-117.

⁽⁷²⁾ Report – Chapter 6, p. 119.

⁽⁷³⁾ Report – Chapter 6, p. 120.

⁽⁷⁴⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

⁽⁷⁵⁾ See: Commission Implementing Regulation (EU) 2021/328, of 24 February 2021 imposing a definitive countervailing duty on imports of continuous filament glass fibre products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council, recitals 71-75, OJ L 65/1, 25.02.2021. and: Commission Implementing Regulation (EU) 2021/2287, of 17 December 2021 imposing definitive countervailing duties on imports of aluminium converter foil originating in the People's Republic of China and amending Implementing Regulation (EU) 2021/2170 imposing definitive anti-dumping duties on imports of aluminium converter foil originating in the People's Republic of China, recitals 151-188, OJ L 458/344, 22.12.2021.

⁽⁷⁶⁾ See official policy document of the China Banking and Insurance Regulatory Commission (CBIRC) of 28 August 2020: *Three-year action plan for improving corporate governance of the banking and insurance sectors (2020-2022)*, available at: <http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=925393&itemId=928> (accessed on 22 March 2023). The Plan instructs to 'further implement the spirit embodied in General Secretary Xi Jinping's keynote speech on advancing the reform of corporate governance of the financial sector'. Moreover, the Plan's section II aims at promoting the organic integration of the Party's leadership into corporate governance: 'we shall make the integration of the Party's leadership into corporate governance more systematic, standardised and procedure-based [...] Major operational and management issues must have been discussed by the Party Committee before being decided upon by the Board of Directors or the senior management.'

⁽⁷⁷⁾ See CBIRC's *Notice on the Commercial banks performance evaluation method*, issued on 15 December 2020. http://jrs.mof.gov.cn/gongzuotongzhi/202101/t20210104_3638904.htm (accessed on 22 March 2023).

- (78) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ⁽⁷⁸⁾.
- (79) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷⁹⁾. This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (80) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the growth in corporate leverage in the State sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (81) Thirdly, although nominal interest rate liberalisation was achieved in October 2015, price signals are still not the result of free market forces but are influenced by government-induced distortions. The share of lending at or below the benchmark rate still represented at least one-third of all lending as of the end of 2018 ⁽⁸⁰⁾. Official media in the PRC have recently reported that the CCP called for 'guiding the loan market interest rate downwards'. ⁽⁸¹⁾ Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (82) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly, with the GOC a number of times opting to either avoid defaults, thus creating so called 'zombie' companies, or to transfer the ownership of the debt (e.g., via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (83) In essence, despite the steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (84) In the present investigation, the Commission found that, apart from the above public policies supporting the coated paper industry, the GOC supports financially companies in the sector. In the Shandong Chenming Paper Holding 2022 annual report, the company lists a number of government grants for 2022, distributed among the following four projects:
- Huanggang Forestry, Pulp and Paper Integration Project;
 - Zhanjiang Forestry, Pulp and Paper Integration Project;
 - Financial subsidies for technical upgrading project;
 - Environmental Protection Fund Grant ⁽⁸²⁾.

⁽⁷⁸⁾ See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan, October 2016, WP/16/203

⁽⁷⁹⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

⁽⁸⁰⁾ See OECD (2019), OECD Economic Surveys: China 2019, OECD Publishing, Paris. p. 29, available at: https://doi.org/10.1787/eco_surveys-chn-2019-en (accessed on 22 March 2023).

⁽⁸¹⁾ See: http://www.gov.cn/xinwen/2020-04/20/content_5504241.htm (accessed on 22 March 2023).

⁽⁸²⁾ Available at: <http://www.chenmingpaper.com/Uploadfile/pdf/20220901105117731.pdf> (accessed on 23 March 2023).

- Similarly, Nanning Sun, a wholly owned subsidiary of Shandong Sun Paper Co., Ltd., also benefitted from ‘strong support of various preferential investment policies of the local government’ for the set-up of a Forest-Pulp-Paper Integration and Supporting Industrial Park Project in Nanning, as outlined on Shandong Sun Papers 2021 annual report. ⁽⁸³⁾
- In sum, the sector of the product under review is affected by the government intervention in the financial system in the sense of Article 2(6a) (b), sixth indent of the basic Regulation. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

3.3.2.9. Systemic nature of the distortions described

- (85) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.3.2.2 - 3.3.2.5 as well as in Part I of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.3.2.6 - 3.3.2.8 and in Part II of the Report.
- (86) The Commission recalls that, in order to produce the product under review, certain inputs are needed. When the producers of coated paper purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (87) As a consequence, not only the domestic sales prices of the product under review are not appropriate for use within the meaning of Article 2(6a) (a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

3.3.2.10. Conclusion

- (88) The analysis set out in sections 3.3.2.1. to 3.3.2.9., which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the sector of the product under review, showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (89) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a) (a) of the basic Regulation, as described in the following section.

⁽⁸³⁾ Available at: <http://www.cninfo.com.cn/new/disclosure/detail?plate=szse&orgId=9900001223&stockCode=002078&announcementId=1212942863&announcementTime=2022-04-15%2018:00> (accessed on 23 March 2023).

3.3.3. Representative country

3.3.3.1. General remarks

- (90) The choice of the representative country should be based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- a level of economic development similar to the People's Republic of China. For this purpose, the Commission gives preference to countries with a gross national income similar to China, on the basis of the database of the World Bank; ⁽⁸⁴⁾
 - production of the product under review in that country ⁽⁸⁵⁾;
 - availability of relevant public data;
 - where there is more than one such country, preference shall be given, where appropriate, to countries with an adequate level of social and environmental protection.
- (91) As explained in recital (39), the Commission issued a Note on the sources for the determination of the normal value, on 20 February 2023. This note described the facts and evidence underlying the relevant criteria, as well as informed the interested parties of the Commission's intention to consider Brazil as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.
- (92) In line with the criteria listed under Article 2(6a) of the basic Regulation, the Commission identified Brazil as a country with similar level of economic development as the PRC. Brazil is classified by the World Bank as 'upper-middle income' country on a gross national income basis. Furthermore, Brazil was identified as a country where the product under review is being produced with relevant public data being readily available.
- (93) Finally, given the absence of cooperation and having established that Brazil was an appropriate representative country, and based on all the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of the first indent of Article 2(6a)(a) of the basic Regulation.

3.3.3.2. Conclusion

- (94) In the absence of cooperation and given that Brazil met the criteria laid down in the first indent of Article 2(6a)(a) of the basic Regulation, the Commission selected Brazil as the appropriate representative country.

3.3.4. Sources used to establish undistorted costs

- (95) In the Note on relevant sources for the determination of the normal value, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review, as given by the applicant in the request for the expiry review. The Commission also stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most factors of production, notably raw materials. In addition, the Commission stated that it would use information from the ILOSTAT ⁽⁸⁶⁾ for establishing undistorted costs of labour in the manufacturing sector, and public tariffs from electricity and gas from the Brazilian Ministry of Mines and Energy ⁽⁸⁷⁾. Subsequently, as explained in recital (98) below, the Commission decided to use Instituto Brasileiro de Geografia e Estatística ⁽⁸⁸⁾ as a source for establishing labour costs.

⁽⁸⁴⁾ <https://data.worldbank.org/income-level/upper-middle-income>

⁽⁸⁵⁾ If there is no production of the product under review in any country with a similar level of economic development, production of a product in the same general category and/or sector of the product under review may be considered.

⁽⁸⁶⁾ https://www.ilo.org/shinyapps/bulkexplorer37/?lang=en&segment=indicator&id=HOW_2LSS_SEX_RT_A

⁽⁸⁷⁾ Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) <https://www.gov.br/mme/pt-br/assuntos/secretarias/spe/publicacoes/boletins-mensais-de-energia/2021/portugues/12-boletim-mensal-de-energia-dezembro-2021/view>

⁽⁸⁸⁾ <https://www.ibge.gov.br/estatisticas/economicas/industria/9042-pesquisa-industrial-anual.html?=&t=destaques>

- (96) Finally, the Commission stated that to establish SG&A costs and profit, at a reasonable level, it would use the financial data from only one Brazilian producer of the product under review, Sylvamo Ltda., as set out in recital (100) below. No comments were received concerning the representative country identified. However, comments were received from the applicants on a number of points discussed in the above-mentioned note, as described below.
- (97) The applicants first argued that the Commission did not take into account certain raw materials without HS codes (Fillers, Pigments-Other, Binders-Other, Additives, Others). However, the fact that these raw materials do not appear in the table of raw materials of the Note on relevant sources for the determination of the normal value, does not mean that they were ignored. These raw materials were indeed taken into account in the Commission's calculations as consumables. More in detail, in the context of an expiry review the Commission only needs to establish whether there is a likelihood of continuation or recurrence of dumping. Given the finding made in recital (122) below of (significant) price difference during the review investigation period between the constructed normal value for sales to the rest of the world and the subsequent conclusion on likelihood of recurrence of dumping, the Commission was not required to carry out price dumping determination in the present investigation. In addition, the raw materials in questions represented a small percentage of the total cost of production. Consequently, they were taken into account as consumables, using the cost percentages provided by the applicant (totalling around 7%).
- (98) Second, the applicant, requested tailor-made benchmarks for the different types of labour costs distinguishing between different types of employees. However, the applicant did not provide such labour cost data for Brazil to differentiate between different types of labour. Furthermore, had the Commission carried out such a differentiation in the labour benchmarks and given the relative share of labour cost in the total manufacturing cost, the change in the difference between the constructed normal value and the export price to third countries would be marginal. In addition, in the context of an expiry review the Commission is not obliged to calculate a precise dumping margin but rather to establish whether there is likelihood of either continuation or recurrence of dumping. Nevertheless, in order to reflect better the salaries in the manufacturing sector for the review investigation period, the Commission decided to use instead of ILOSTAT (as announced in the Note on the sources for the determination of the normal value), the Instituto Brasileiro de Geografia e Estatística ⁽⁸⁹⁾ as a source for the monthly wages of employees in the manufacturing sector on average weekly hours worked in Brazil for 2021.
- (99) Third, the applicant requested to take into account also manufacturing overheads (machine depreciation, indirect labour, packing costs). However, as explained in recital (109) below, the Commission had already taken into account these costs in the calculations, using the cost percentages provided in the expiry review request.
- (100) Fourth, the applicant took issue with the fact that the Commission did not use in its calculations the profit and SG&A of the biggest coated fine paper producer in Brazil called Suzano S.A. and that it only took into account another producer of products similar to the product under review, Sylvamo Ltda. On this issue, the Commission deemed the combined profit and SG&A of Suzano S.A. not representative of what the coated fine paper industry would achieve under normal market conditions and thus not reasonable. Consequently, it decided to keep its initial choice to only use Sylvamo Ltda. for the calculation of a reasonable SG&A and profit percentage. Using the data of Suzano S.A. would have only increased further the difference established between the constructed normal value and export price to third countries described in recital (122). As explained in recital (98) above, the Commission is not obliged to calculate a precise dumping margin but rather to establish whether there is likelihood of either continuation or recurrence of dumping. Consequently, it rejected the claim.

3.4. Undistorted costs and benchmarks

3.4.1. *Factors of production*

- (101) Considering all the information based on the request and subsequent information collected during the procedure and after analysing the comments from the interested parties, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

⁽⁸⁹⁾ <https://www.ibge.gov.br/estatisticas/economicas/industria/9042-pesquisa-industrial-anual.html?=&t=destaques>

Table 1

Factors of production of certain coated fine paper

Factor of Production	Commodity Code in Brazil	Value (RMB)	Unit of measurement	Source of information
Raw materials				
Softwood pulp	47032100	5,84	kg	GTA ⁽¹⁾
Hardwood pulp	47032900	4,64	kg	GTA
Activated carbon (other)	38021000	21,90	kg	GTA
Starches	35051010	19,31	kg	GTA
Hydrocarb HydroPlex CalPlex Covercarb	25174100	0,51	kg	GTA
Wheat starch	11081100	3,33	kg	GTA
Poly(vinyl alcohol)	39053000	23,37	kg	GTA
Carboxymethylcellulose and its salts	39123100	23,40	kg	GTA
Latex	40021100	11,46	kg	GTA
Consumables				
Labour				
Labour Cost in manufacturing industries	N/A	59,57	hour	Instituto Brasileiro de Geografia e Estatística ⁽²⁾
Energy				
Electricity	N/A	919,96	MWh	Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) ⁽³⁾
Gas	N/A	344,29	MWh	Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021)

⁽¹⁾ <http://www.gtis.com/gta/secure/default.cfm>⁽²⁾ <https://www.ibge.gov.br/estatisticas/economicas/industria/9042-pesquisa-industrial-anual.html?=&t=destaques>⁽³⁾ Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) <https://www.gov.br/mme/pt-br/assuntos/secretarias/spe/publicacoes/boletins-mensais-de-energia/2021/portugues/12-boletim-mensal-de-energia-dezembro-2021/view>

3.4.1.1. Raw materials

- (102) In order to establish the undistorted price of raw materials in the representative country, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA, to which import duties were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council. ⁽⁹⁰⁾
- (103) The Commission decided to exclude imports from the PRC into the representative country, as it concluded in the above recital that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC into the representative country, the volume of imports from other third countries remained representative.
- (104) Normally, domestic transport prices should also be added to these import prices. However, considering the absence of cooperation as well as the nature of an expiry review investigation, which is focused on finding whether dumping continued during the review investigation period or could reoccur, rather than finding its exact magnitude, the Commission decided that adjustments for domestic transport were unnecessary. Such adjustments would only result in increasing the normal value and hence the dumping margin.

3.4.1.2. Labour

- (105) For direct and indirect labour, cost statistics from the Instituto Brasileiro de Geografia e Estatística ⁽⁹¹⁾ were used to determine wages in Brazil. The Commission used the monthly wages of employees in the manufacturing sector and the average weekly hours worked in Brazil for 2021. On this basis, an hourly rate was calculated at 59,57 RMB/hour

3.4.1.3. Electricity

- (106) The price of electricity in Brazil is published by the Brazilian Ministry of Mines and Energy ⁽⁹²⁾. The Commission used the 2021 data of the industrial electricity prices and established a price at the level of 919,96 RMB/MWh (covering the review investigation period).

3.4.1.4. Natural gas

- (107) To establish the benchmark for gas cost the Commission used statistics from the Brazilian Ministry of Mines and Energy ⁽⁹³⁾. The price used is the 2021 average gas unit price for industrial users in Brazil established at the level of 344,29 RMB/MWh (covering the review investigation period).

⁽⁹⁰⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

⁽⁹¹⁾ <https://www.ibge.gov.br/estatisticas/economicas/industria/9042-pesquisa-industrial-anual.html?=&t=destaques>

⁽⁹²⁾ Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) <https://www.gov.br/mme/pt-br/assuntos/secretarias/spe/publicacoes/boletins-mensais-de-energia/2021/portugues/12-boletim-mensal-de-energia-dezembro-2021/view>

⁽⁹³⁾ Brazilian Ministry of Mines and Energy (Boletim mensal de energia 2021) <https://www.gov.br/mme/pt-br/assuntos/secretarias/petroleo-gas-natural-e-biocombustiveis/publicacoes-1/boletim-mensal-de-acompanhamento-da-industria-de-gas-natural/2021/12-boletim-de-acompanhamento-da-industria-de-gas-natural-dezembro-de-2021.pdf>

3.4.1.5. Manufacturing overhead costs, SG&A, profits and depreciation

- (108) According to Article 2(6a)(a) of the basic Regulation, *'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'*. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.
- (109) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data of provided by the applicant, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads, depending on the model produced.
- (110) For establishing an undistorted and reasonable amount for SG&A and profit, the Commission relied on the most recent available financial data from the company Sylvamo Ltda. ⁽⁹⁴⁾ (financial year 2021).

3.4.2. Calculation of the normal value

- (111) On the basis of the above, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (112) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicants in the review request on the usage of each factor (materials and labour) for the production of the product under review.
- (113) Once the undistorted manufacturing cost was established, the Commission added the manufacturing overheads (including labour costs), SG&A and profit as noted in recitals (109) and (110). Manufacturing overheads were determined based on data provided by the applicants, and labour costs were determined based on information taken from Instituto Brasileiro de Geografia e Estatística ⁽⁹⁵⁾. SG&A and profit were determined based on the values reported in the financial statement of the company Sylvamo Ltda. for the year 2021 in the representative country as reported in the company's audited accounts ⁽⁹⁶⁾. The Commission added the following items to the undistorted costs of manufacturing:
- manufacturing overheads (including indirect labour costs), which accounted in total for 27,33% of the manufacturing cost,
 - SG&A and other costs, which accounted for 9,27 % of the Costs of Goods Sold ('COGS'), and
 - profits, which amounted to 20,02 % of the COGS.
- (114) On that basis, in accordance with Article 2(6a)(a) of the basic Regulation, and in absence of cooperation, the Commission constructed the normal value on the level of the product under review, on an ex-works basis. The normal value established on this basis amounted to 1 247,15 EUR/tonne.

3.5. Likelihood of continuation of dumping

- (115) As explained in recital (34) no Chinese exporter producer cooperated in the investigation and the Commission had to resort to available statistical information to determine whether there was a likelihood of continuation of dumping.

⁽⁹⁴⁾ Sylvamo 2021-Annual-Report.pdf

⁽⁹⁵⁾ Brazilian Institute of Geography and Statistics

⁽⁹⁶⁾ Sylvamo 2021-Annual-Report.pdf

- (116) The Chinese imports into the Union according to Eurostat, were only 197 tonnes, representing only 0,008 % of total consumption during the review investigation period. The Commission found that these low volumes did not provide a sufficient reliable basis for a continuation of dumping analysis. The Commission therefore focused its investigation on the likelihood of recurrence of dumping should the measures be allowed to lapse.

3.6. Likelihood of recurrence of dumping

- (117) In accordance with Article 11(2) of the basic Regulation and in light of the considerations set out in recitals (115) and (116), the Commission examined whether there was a likelihood of recurrence of dumping should the measures lapse. In doing so, the following elements were analysed: the export price of CFP from China to the rest of the world to assess the behaviour of Chinese exporters on other markets, the Chinese production capacity and spare capacity, and the attractiveness of the Union market.

3.6.1. Comparison between export prices to third countries and the normal value

- (118) In the absence of cooperation from the Chinese exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation to establish the Chinese export prices to third countries. In particular, the Commission used the data contained in the review request, which is based on Svan Data. ⁽⁹⁷⁾
- (119) Regarding Chinese export prices to third countries other than the EU, the applicant explained in the expiry review request that exports of the product concerned were mainly exported under Chinese commodity code 4810 19, the Commission therefore limited the comparison to this commodity code and used these data as facts available.
- (120) In order to determine the average ex-works export price to third countries, the Commission used the FOB price to third countries as referred to in recital (118). The weighted average FOB price at Chinese port level was established at 781,22 EUR/tonne. From this price, the Commission subtracted inland transportation costs as reported in the review request ⁽⁹⁸⁾. On this basis, the ex-works export price was established at 755,22 EUR/tonne.
- (121) In order to express the difference between the constructed normal value and the ex-works export price as a percentage of the corresponding CIF export price, the Commission also calculated the export price at CIF level from China to third countries in line with the methodology of the expiry review request. According to this methodology, the ocean freight cost added to the FOB price to third countries was based on 2019 prices as the 2020 prices were affected by the COVID-19 pandemic and thus considered not representative. On this basis, export price at CIF level from China to third countries was established at 844,22 EUR/tonne.
- (122) Thus, during the review investigation period, the difference between the ex-works export price and the normal value as calculated in Section 3.4.2, expressed as a percentage of the corresponding CIF value was 58 %.

3.6.2. Production capacity and spare capacity in the PRC

- (123) To analyse production capacity and spare capacity in the PRC, given the non-cooperation of the GOC and any Chinese exporting producers, and in the absence of any other reliable data, the Commission relied on the information provided by the applicants in their request for review, as specified in the recitals below, concerning the CFP as well as of the Coated Wood-Free paper industry (CWF), the wider sector to which CFP belongs.
- (124) As data at CWF was more readily available, the applicants used it to calculate the CFP proportion of the production and capacity numbers.

⁽⁹⁷⁾ Svan data is a market research consultancy (<https://svandata.com/>)

⁽⁹⁸⁾ See Expiry review request, Annex 28

- (125) Based on the applicants' request ⁽⁹⁹⁾, in 2021, global CWF demand was approximately 17,3 million tonnes and global capacities were approximately 20,7 million tonnes. Global CFP demand was calculated by the applicants to be approximately 12,1 million tonnes and capacities approximately 14,5 million tonnes.
- (126) In 2021, according to the applicant, EU CWF paper demand was approximately 3,2 million tonnes and EU CWF paper capacities were approximately 5 million tonnes. As referred to in recitals (140) and (154), EU CFP demand was calculated by the Commission at approximately 2,6 million tonnes and EU CFP capacities at just over 4 million tonnes.
- (127) The 2021 Chinese CWF capacities were approximately 6,8 million tonnes and Chinese demand was 4.7 million tonnes. Chinese CFP capacities as calculated by the applicants were 4,8 million tonnes and domestic demand for the product concerned was approximately 3,3 million tonnes ⁽¹⁰⁰⁾.
- (128) Therefore, China had spare CFP capacities ⁽¹⁰¹⁾ of at least 0,9 million tonnes and overcapacities ⁽¹⁰²⁾ of approximately 1,5 million tonnes in 2021, a figure which corresponds to approximately 56 % of the total EU CFP demand. Looking at CWF overall, Chinese overcapacities were over 2 million tonnes in 2021 (more than 80 % of EU consumption). No reduction of overcapacities (see recital (66)) has been observed. Consequently, should the measures be allowed to lapse, it can be assumed that even higher spare capacity could be easily redirected from CWF to CFP production and sold on the Union market.
- (129) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacity which they could use to produce even more CFP products, and which could be exported to the Union market if measures were repealed. The Commission also found that this export potential could increase as a result of the expected decline in global and domestic demand in the PRC, in line of the developments in the last decade, as described in section 5 of the expiry review request.

3.6.3. Attractiveness of the Union market

- (130) As indicated in recitals (124) to (127) the investigation showed that Union demand for CFP remained significant. Although Union consumption declined over the period considered, the Union market remains the second largest market in the world (second to the Chinese market) accounting for approximately 20% of global consumption. Furthermore, domestic demand in the PRC is forecast to decrease, suggesting a strong incentive for Chinese producers to find alternative markets which could absorb these Chinese overcapacities.
- (131) In addition, several countries have put measures ⁽¹⁰³⁾ in place for paper products against China, including South Korea, India, and the USA, as referred to in the expiry review request.
- (132) Furthermore, based on facts available and in particular on the request, the Commission identified 27 countries where the Chinese exporters sold the product under review during the review investigation period at prices below the Union industry's target prices. Chinese exports to these countries represented about 10 % of the Chinese export to third countries in volume.
- (133) Consequently, given the significant spare capacities found, the possibility to increase spare capacity by switching to coated fine paper from other types of paper, the limited access of Chinese coated fine paper producers to important third countries' markets, the price at which Chinese exporting producers could sell on the Union market, as well as the forecasted decrease in the domestic consumption in the PRC, it is likely that the dumped imports will be re-directed to the Union should the measures be allowed to lapse. Therefore, should the measures be allowed to lapse, the dumped imports will likely come into the Union in higher volumes and in prices that undersell Union industry prices.

⁽⁹⁹⁾ See Expiry review request, Annex 7, RISI CWF capacities and demand reports.

⁽¹⁰⁰⁾ See Expiry review request, Annex 7, RISI CWF capacities and demand reports.

⁽¹⁰¹⁾ Spare capacities are considered to be the difference between the existing Chinese CFP capacities, Chinese CFP demand and Chinese CFP exports from the request (see Annex 8, Svan data).

⁽¹⁰²⁾ Overcapacities are considered to be the difference between the existing Chinese CFP capacities and domestic Chinese CFP demand.

⁽¹⁰³⁾ See Annex 10 of the applicants' request.

- (134) Given the above considerations, the Commission concluded that, if measures were repealed, it would be likely that the exports from the PRC would be directed to the Union market.

3.6.4. Conclusion on the likelihood of recurrence of dumping

- (135) In view of the findings mentioned in recital (122), a comparison between Chinese export prices to third countries with the price in the representative country market strongly supports a likelihood of recurrence of dumping.
- (136) In addition, considering the significant production capacity available in the PRC, as well as spare capacity and the attractiveness of the Union market exports, the Commission concluded that a repeal of the measures would likely result in increased exports of CFP from the PRC to the Union at dumped prices.

4. INJURY

4.1. Definition of the Union industry and Union production

- (137) The like product was manufactured by 17 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (138) The total Union production during the review investigation period was established at around 3 700 000 tonnes. The Commission established the figure on the basis of the answer to the macroeconomic data questionnaire provided by the Union industry. As indicated in recital (14), three Union producers were selected in the sample representing about 41 % of the total Union production of the like product during the review investigation period.

4.2. Union consumption

- (139) The Commission established the Union consumption on the basis of the macroeconomic data questionnaire provided by the Union industry and Eurostat data.
- (140) Union consumption developed as follows:

Table 2

Union consumption (tonnes)

	2018	2019	2020	Review Investigation period
Total Union consumption	3 433 636	3 268 584	2 453 924	2 576 925
Index	100	95	71	75

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (141) The Union consumption decreased by 5 % in 2019, followed by a further sharp decrease of 24 percentage points in 2020 linked to the COVID-19 outbreak. 2021 was marked by a slight increase of 4 percentage points, although by far not enough to get back to the levels observed before the crisis, resulting in an overall decrease in Union consumption of 25 % over the period considered. Looking at the longer trend, the estimated Union consumption during the review investigation period was 44 % lower than the one found during the investigation period in the original investigation (4 572 057 tonnes). The decline in Union consumption reflects the decreasing graphic paper demand in general, which is mainly the result of the development of digital media, which is replacing traditional print media.

4.3. Imports from the country concerned

4.3.1. Volume and market share of the imports from the country concerned

- (142) The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established on the basis of the macroeconomic data questionnaire provided by the Union industry and Eurostat data. Eurostat data were previously checked with the available information.
- (143) Imports into the Union from the country concerned developed as follows for the exporters currently subject to duties:

Table 3

Import volume (tonnes) and market share

	2018	2019	2020	Review Investigation period
Volume of imports from the country concerned (tonnes)	232	242	127	197
Index	100	104	54	85
Market share	0,007%	0,007%	0,005%	0,008%
Index	100	109	76	113

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (144) During the period considered, the volume of imports into the Union from the PRC was negligible. In fact, since the imposition of the measures in 2011, imports into the Union from the PRC have dropped to insignificant levels.

4.3.2. Prices of the imports from the country concerned

- (145) As indicated in the recital above, due to the negligible volume of imports of CFP from the PRC into the Union during the review investigation period, the prices of these sales were not considered as representative and could not be used to draw any conclusions concerning prices of imports from the PRC into the Union and the pricing behaviour of the exporting producers.

4.4. Imports from third countries other than China

- (146) The imports of coated fine paper from third countries other than China originated mainly from South Korea and the USA.
- (147) The (aggregated) volume of imports into the Union as well as the market share and price trends for imports of CFP from other third countries developed as follows:

Table 4

Imports from third countries

	2018	2019	2020	Review Investigation period
Volume (tonnes)	7 500	6 065	35 584	24 398
Index	100	81	474	325
Market share	0,22%	0,19%	1,45%	0,95%
Index	100	85	664	433

Average price (EUR/tonne)	832	931	648	685
Index	100	112	78	82

Source: Eurostat

- (148) Though the total volume of imports into the Union from countries other than the PRC increased over the period considered, it remained at a very low level, as is reflected in their total market share, which increased from 0,22% to 0,95% over this period. The average prices of these imports were higher than the average prices of the Union industry. These imports from third countries have therefore not contributed to the EU injury situation.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (149) In accordance with Article 3(5) of the basic Regulation, 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.
- (150) As mentioned in recital (138), sampling was used for the assessment of the economic situation of the Union industry.
- (151) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators based on data related to all Union producers, contained in the macroeconomic data questionnaire provided by the Union industry. The Commission evaluated the microeconomic indicators based on data contained in the questionnaire replies from the sampled Union producers. Both sets of data were checked and found to be representative of the economic situation of the Union industry.
- (152) 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.
- (153) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2018	2019	2020	Review Investigation period
Production volume (tonnes)	4 968 337	4 582 940	3 300 705	3 703 442
Index	100	92	66	75
Production capacity (tonnes)	5 451 528	5 121 138	4 595 798	4 044 648
Index	100	94	84	74

Capacity utilisation	91,1%	89,5%	71,8%	91,6%
Index	100	98	79	100

Source: The macroeconomic data questionnaire provided by the Union industry

- (155) The production and production capacity have decreased respectively by 25 % and 26 % over the period considered. This reduction in production and production capacity is a long-term trend linked to the adaptation of the industry to a decreasing demand related to the digitalisation of our society.
- (156) Already before the period considered, Union producers had undertaken major restructuring efforts aimed at addressing the structural overcapacity resulting from the digitalisation and these efforts continued during the period considered. Both as a result of certain mill closures and the conversion of other mills to produce paper products other than CFP, the Union industry decreased its CFP production capacity by approximately 1 400 000 tonnes over the period considered.
- (157) By continuously reducing its production capacity, the Union industry was able to keep its capacity utilisation relatively stable during the period considered. With the exception of the year 2020, for which capacity utilisation was lower as compared to previous and following years, mainly due to the reduction in production following the 2020 COVID-19 outbreak.
- (158) The investigation established that high-capacity utilisation is an important factor in the long-term viability of the paper industry because of high investments in fixed assets and the resulting impact on average manufacturing costs.

4.5.2.2. Sales volume and market share

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

Table 6

Sales volume and market share (tonnes)

	2018	2019	2020	Review Investigation period
Total Sales volume on the Union market (tonnes)	3 425 903	3 262 278	2 418 213	2 552 330
Index	100	95	71	75
Market share	99,8 %	99,8 %	98,5 %	99,0 %
Index	100	100	99	99

Source: Macroeconomic data questionnaire provided by the Union industry and Eurostat data

- (160) Over the period considered, the sales volume in the Union market decreased by 25 %. It decreased by 5 % between 2018 and 2019 and in 2020, due to the COVID-19 pandemic, sales dropped sharply by an additional 24 percentage points. In 2021, there was a small rebound of 4 percentage points but not up to the levels of sales observed in 2018. The decreasing sales were related to the decreasing demand for the product concerned, which could be linked to the digitalisation of our society.

- (161) Since there were almost no imports of the product concerned during the period considered, the market share of the Union industry remained stable at around 99 %.

4.5.2.3. Growth

- (162) During the period considered, the Union industry did not witness any growth of production and sales. On the contrary, these economic indicators closely followed the downward trend of the Union consumption.

4.5.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2018	2019	2020	Review Investigation period
Number of employees	6 677	6 405	5 793	5 175
Index	100	96	87	78
Productivity (tonne/employee)	744	716	570	716
Index	100	96	77	96

Source: Macroeconomic data questionnaire provided by the Union industry

- (164) During the period considered, the number of employees decreased by 22 %. This decrease was steady and regular over the period. It reflects the longer-term restructuring efforts undertaken by the Union industry to address the structural overcapacity, as explained in recital (156).
- (165) The substantial reductions in the workforce were matched by comparable reductions in the production. As a consequence, the productivity, measured as output (tonnes) per person employed per year, only recorded a slight decrease by 4 % during the period considered. In 2020, the productivity fell sharply by 19 percentage points due to the sudden drop in demand caused by the COVID-19 pandemic. As a result, the productivity hit its lowest level in 2020.

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

- (166) As explained in recital (116), it was not possible to establish an affirmative determination of the magnitude of the dumping margin during the review investigation period. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be repealed.
- (167) In the previous expiry review, the Union industry showed signs of recovery from the effects of past dumping. During the period considered by the current expiry review investigation, there were no such signs of recovery, since the Union industry was facing a difficult situation, with the need to restructure added to the negative effects of the COVID-19 pandemic.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

Table 8

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

	2018	2019	2020	Review Investigation period
Average unit sales price in the Union	654	667	616	650
Index	100	102	94	99
Unit cost of production	674	662	639	712
Index	100	98	95	106

Source: Verified questionnaire replies of the sampled Union producers

- (169) The average unit sales price of the Union industry to unrelated customers in the Union remained rather stable over the period considered and decreased only 1 %. After a slight increase of 2 % in 2019, prices decreased by 8 percentage points in 2020, the year of the COVID-19 outbreak, when a lower demand dragged prices downwards. In the review investigation period, prices increased again by 5 percentage points due to an increase in demand.
- (170) The unit cost of production of the Union industry decreased slightly by 2% between 2018 and 2019. The further decrease by 3 percentage points in 2020 was due to the fall in the prices of raw materials and energy. In 2021, the prices of raw materials and energy increased significantly, leading to an increase in the costs of production by 11 percentage points, resulting in an overall increase of 6% over the period considered.

4.5.3.2. Labour costs

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

Table 9

Average labour costs per employee

	2018	2019	2020	Review Investigation period
Average labour costs per employee (EUR)	72 907	72 704	68 780	76 280
Index	100	100	94	105

Source: Verified questionnaire replies of the sampled Union producers

- (172) The average labour costs per employee were stable over the period 2018-2019. They decreased by 6 % in 2020 as compared to 2019. They increased immediately afterwards, in the review investigation period to a level 5 % higher than in 2018.

4.5.3.3. Inventories

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

Table 10

Inventories

	2018	2019	2020	Review Investigation period
Closing stocks (tonnes)	1 51 882	1 39 168	1 22 377	107 146
Index	100	92	81	71
Closing stocks as a percentage of production	3,06%	3,04%	3,71%	2,89%
Index	100	99	121	95

Source: Verified questionnaire replies of the sampled Union producers

(174) The closing stocks of the Union industry decreased by 29 % over the period considered. This is in line with the decrease in the production and production capacities.

(175) In terms of percentage of production, the level of closing stocks hovered around 3 % over the period.

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

(176) 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

	2018	2019	2020	Review Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 3,6%	- 0,8%	- 5,6%	- 9,5%
Index	- 100	- 24	- 158	- 267
Cash flow (EUR)	53 230 728	116 531 955	68 541 389	30 295 619
Index	100	219	129	57
Investments (EUR)	21 327 970	39 328 573	20 843 097	32 601 304
Index	100	184	98	153
Return on investments	- 7,2%	- 1,7%	- 8,7%	- 24,5%
Index	- 100	- 23	- 122	- 341

Source: Verified questionnaire replies of the sampled Union producers

- (177) 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 Union industry has been loss making during the whole period considered. As a reference, it is noted that in the original investigation, the target profit for the industry was established at 8 % ⁽¹⁰⁴⁾. During the period considered, the Union industry's profitability decreased from -3,6 % to -9,5 %. 2019 was, comparatively, the best year, when the profitability of the Union industry reached -0,8 %, due to a combination of lower cost of production and strong sales prices. In 2020, profitability dropped sharply to a level of -5,6 %, to decrease further in the review investigation period to -9,5 %.
- (178) The net cash flow is the ability of the Union producers to self-finance their activities. During the period considered, cash flow was positive and to a large extent its trend reflected the evolution of profitability, with 2019 being the best year.
- (179) In view of the falling demand for CFP both in the Union and abroad during the period considered, the Union industry did not invest in new capacity. The investments that were made focused on maintenance, capital replacement, improving energy efficiency, and on measures aimed at restructuring and complying with environmental protection standards.
- (180) The return on investments is the profit in percentage of the net book value of investments. It developed similarly to the profit over the period considered.
- (181) Given the cost of existing debt, the profitability of the Union industry and continuously falling demand for CFP, the Union industry's ability to raise capital remained limited over the period considered.

4.6. Conclusion on injury

- (182) During the period considered, injury indicators showed a negative picture. Production capacity and production were declining, sales were declining, and employment was declining. Profit and return on investment were negative during the whole period concerned, with 2020 and 2021 being the worst years of the period.
- (183) The negative trends in production and sales volumes were the result of the continuously falling demand for CFP both in the Union and abroad, that required the Union industry to continue with restructuring, including closing paper mills and converting others for the production of other types of paper.
- (184) Future demand for CFP is expected to decline and the situation of the Union industry will remain difficult, with further decreases in production and production capacity that will have to take place.
- (185) The measures in place ensured protection to the Union industry, allowing it to maintain a high market share during the period considered. The Union industry was however not able to raise CFP prices sufficiently above cost-covering levels to generate profit. This was due in 2018-2019 to rising prices of raw materials (especially pulp) and the difficulty to pass on increasing prices to the Union industry customers. In 2020, the fall in demand and prices linked to the COVID-19 pandemics hit the Union industry, which recorded significant losses. 2021 was characterised by increasing prices of raw materials and energy, leading to an increase of the costs of production of 11 % and a further deterioration of the bottom lines. In addition, during the whole period considered, the Union industry had to restructure its activities and the production capacity was cut by 26 % over the period considered. This came at an additional cost.
- (186) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period. The injury to the Union industry observed during this period could however not have been caused by dumped imports from the PRC due to their very limited volume. It was mainly caused by the declining demand for CFP and the related high restructuring costs, both of which had a significant bearing on the Union industry's profitability.

⁽¹⁰⁴⁾ Recital 158 of Implementing Regulation (EU) No 451/2011.

5. LIKELIHOOD OF RECURRENCE OF INJURY

- (187) The Commission concluded in recital (186) that the Union industry suffered material injury during the review investigation period. The Commission also concluded in recital (186) that the injury to the Union industry observed during the review investigation period could not have been caused by dumped imports from the PRC due to their very limited volume. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from the PRC if the current measures were allowed to lapse.
- (188) As mentioned in recital (130), the Union market is the second largest CFP market in the world. Indeed, its overall size and the existence of large CFP buyers make it very attractive to Chinese CFP producers, because such large deliveries would allow them to utilize their spare production capacity, which in turn would lower their unit production costs. Accordingly, if measures were repealed, given the economic benefits of utilizing spare production capacity in the PRC, it is likely that the Chinese exporting producers would offer CFP at dumped prices in the Union market, putting pressure on Union industry prices and profitability.
- (189) The Commission also analysed the pricing behaviour of the Chinese exporting producers on third countries markets in order to determine the price effects on the Union industry should the measures be allowed to lapse.
- (190) In the absence of cooperation from the Chinese exporting producers, the Commission used the facts available in accordance with Article 18 of the basic Regulation to establish the Chinese export prices to third countries. For this purpose, the data contained in the review request, based on Svan Data ⁽¹⁰⁵⁾, was used and, for reasons explained in recital (119), in particular Chinese export data related to commodity code 4810 19.
- (191) For comparison purposes, the Commission determined the following prices:
- the weighted average sales price of the Union industry charged to unrelated customers in the Union, adjusted to an ex-works level: 661 EUR/tonne ⁽¹⁰⁶⁾,
 - the EU target price: 774 EUR/tonne ⁽¹⁰⁷⁾, and
 - Chinese export prices as reported by the applicant in the request covering the same period as the review investigation period, with adjusted ocean freight costs ⁽¹⁰⁸⁾ to obtain a likely EU landed price ⁽¹⁰⁹⁾.
- (192) First, the Commission compared the weighted average sales price of the Union industry charged to unrelated customers in the Union, adjusted to an ex-works level, with the Chinese export prices to third countries other than the Union, adjusted to a Union landed price during the RIP. The price comparison based on the data established in recital (191) showed that for export prices to 8 third countries were below the Union industry prices. These exports represented about 1 % of Chinese exports in volume. This small percentage is due to the depressed prices of CFP in the Union.
- (193) Second, the Commission also analysed whether the Chinese weighted export prices to third countries other than the Union, adjusted to a Union landed price undersold the Union industry when compared with the Union industry target price during the RIP. In view of the lack of cooperation by Chinese exporters, the Commission based its analysis on data in the expiry review request. The analysis identified 27 third countries where the Chinese exporting producers sold the product concerned during the review investigation period at prices below the average Union industry's target price. Chinese exports to these countries represented about 10 % of the total Chinese exports to other third countries in volume. Furthermore, as indicated in recital (131), major third countries markets are foreclosed for exports from China due to their duties in place.

⁽¹⁰⁵⁾ Svan data is a market research consultancy (<https://svandata.com/>)

⁽¹⁰⁶⁾ Based on data from the sampled Union producers

⁽¹⁰⁷⁾ Based on Ibid. It is the costs of production of the sampled Union producers to which the target profit was added.

⁽¹⁰⁸⁾ During the RIP, freight costs were at abnormally high levels. Hence, the Commission used 2019 freight costs to calculate the theoretical Chinese landed prices. In accordance with the data from the expiry review request (Annex 28), the freight costs from China to the EU on average in 2019 amounted to 63 EUR per ton and the customs handling cost to 8 EUR per ton.

⁽¹⁰⁹⁾ Data from the request. The EU landed price was calculated as the Chinese FOB prices to which ocean freight and customs handling costs were added.

- (194) In conclusion, the analysis demonstrated – on the basis of facts available - that the Chinese exporting producers were able to sell at prices below the Union target price. In view of the significant spare capacities available in China, it was also noted that large volumes of CFP could potentially be produced to be sold on the EU market. The Commission thus concluded that, should measures be allowed to lapse, the Chinese exporters would be able to exercise significant price pressure and thus cause injury to the Union industry.
- (195) The investigation also showed (see recitals (182)-(186)), that the Union industry was injured and vulnerable. It was also noted that the industry is currently restructuring as is reflected in the decrease in production capacity over the period considered, with some companies reconverted some of their production lines to produce other types of paper.
- (196) The investigation has also confirmed the findings of the original investigation that high-capacity utilisation is an important factor in the long-term viability of paper producers because the production process is capital-intensive. Any recurrence of dumped imports and resulting price pressure would deprive the Union industry from the cash flow necessary to finance restructuring efforts to adapt to declining world demand for CFP. It would also undermine the positive effects of past restructuring efforts and lead to the further deterioration of all injury indicators.
- (197) On this basis, it is concluded that the absence of measures would likely result in a significant increase of dumped imports from the PRC at injurious prices and material injury would be likely to recur.

6. UNION INTEREST

- (198) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would clearly 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, unrelated importers, traders, and users.

6.1. Interest of the Union industry

- (199) The investigation found that the Union industry was injured and in a vulnerable situation. The challenges created by the continuously falling demand for CFP will necessitate continued restructuring plans, including the closure of paper mills and the conversion of others for the production of other types of paper.
- (200) Under the price pressure from dumped imports from the PRC, the Union industry would not be able to get CFP prices above cost-covering levels and generate the necessary income to finance its restructuring efforts and adjust to the challenges created by the continuously falling demand for CFP.
- (201) On this basis, the Commission concluded that the continuation of the anti-dumping measures in force would be in the interest of the Union industry.

6.2. Interest of unrelated importers and traders

- (202) There was no cooperation from unrelated importers and traders. Based on the fact that during the period considered there were almost no imports of CFP from the PRC, the Commission concluded that imports of the product concerned do not represent a major proportion of the business activities of unrelated importers and traders and that there were no factors suggesting that they would be disproportionately affected if measures were maintained.

6.3. Interest of users

- (203) No individual user cooperated and submitted a questionnaire reply.

- (204) The Commission did receive two written submissions, one from Unitedprint.com, a Union user of CFP and one from an association of the printing industry, Intergraf⁽¹¹⁰⁾ (supported by The Royal Dutch Association of Printing and Allied Industries).
- (205) The submission of Intergraf explained that the Union's printing industry was suffering from the replacement of paper media with digital media, as well as from massive imports of printed products, in particular from the PRC. According to Intergraf, anti-dumping and anti-subsidy measures undermine the Union printers' competitiveness, which is not protected by similar trade measures and has to respect strict environmental standards.
- (206) Intergraf claimed that more than EUR 700 million of printed paper is exported from China to the EU yearly. This includes a large variety of print products that are not printed on CFP. Based on the information available, the Commission could not assess what part of the products imported from the PRC was printed on CFP and what was printed on other types of paper.
- (207) The original investigation found that most products that are printed on CFP are 'time sensitive' products, such as magazines, brochures, direct mail and inserts that are less susceptible to being imported from the PRC because of the time needed for transportation. Information submitted by the applicant in this review confirmed that the findings of the original investigation were still valid.
- (208) Accordingly, the Commission concluded that while it is likely that some print materials are printed on CFP outside the Union because of anti-dumping and countervailing duties, their impact on the economic situation of the Union's printing industry is limited.
- (209) Intergraf also pointed to shortages of supplies of CFP and large increase of prices, especially since mid-2021. This was also noted in the submission from Unitedprint.com. With the information provided, the Commission could not assess the respective volumes of supply and demand and therefore the alleged market imbalance. The Commission could also not evaluate whether the mentioned price increase could be passed to their customers or not. The Commission also noted that in 2021, in a post-COVID-19 context, there were shortages on a number of raw material markets.

6.4. Conclusion on Union interest

- (210) 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 CFP originating in China.

7. ANTI-DUMPING MEASURES

- (211) On the basis of the conclusions reached by the Commission on recurrence of dumping, recurrence of injury and Union interest, the anti-dumping measures on CFP from China should be maintained.
- (212) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (213) 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.

⁽¹¹⁰⁾ Intergraf represents 21 national printing federations. The European printers represented by Intergraf are users of CFP and potentially importers of CFP from China.

- (214) 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.
- (215) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (216) 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 ⁽¹¹⁾. 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*.
- (217) All interested 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 make representations subsequent to this disclosure.
- (218) The Commission received a submission from the EU industry that further substantiated the Commission's findings that the Chinese exporting producers were able to sell at prices below the Union target price. It was therefore not deemed necessary to amend the text of the present Regulation.
- (219) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹²⁾ 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.
- (220) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of coated fine paper, which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m² or more but not exceeding 400 g/m² and brightness of more than 84 (measured according to ISO 2470-1), currently falling under CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20) and originating in the People's Republic of China.

⁽¹¹⁾ European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽¹²⁾ 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).

The definitive anti-dumping duty does not concern rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking — accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD). The definitive anti-dumping duty does also not concern multi-ply paper and multi-ply paperboard.

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	Anti-dumping duty (%)	TARIC additional code
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC; Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	8	B001
Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC; Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC	35,1	B013
All other companies	27,1	B999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (volume) of (product under review) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

4. Should the definitive countervailing duties imposed by Article 1 of Commission Implementing Regulation (EU) 2023/1647 ⁽¹¹³⁾ be modified or removed, the duties specified in paragraph 2 will be increased by the same proportion limited to the actual dumping margin found or the injury margin found as appropriate per company and from the entry into force of this Regulation.

In cases where the countervailing duty has been subtracted from the anti-dumping duty for certain exporting producers, refund requests under Article 21 of Regulation (EU) 2016/1037 shall also trigger the assessment of the dumping margin for that exporting producer prevailing during the refund investigation period. The amount to be reimbursed to the applicant for refund cannot exceed the difference between the duty collected and the combined countervailing and anti-dumping duty established in the refund investigation.

5. 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*.

⁽¹¹³⁾ Commission Implementing Regulation (EU) 2023/1647 of 21 August 2023 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council (see page 1 of this Official journal).

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

Done at Brussels, 21 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1649**of 21 August 2023**

initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2021/1930 on imports of birch plywood originating in Russia, by imports of birch plywood consigned from Türkiye and Kazakhstan, whether or not declared as originating in Türkiye and Kazakhstan, and making imports of birch plywood consigned from Türkiye and Kazakhstan subject to registration

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 Articles 13(3) and 14(5) thereof,

After having informed the Member States,

Whereas:

A. REQUEST

- (1) The European Commission ('the Commission') has received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures imposed on birch plywood originating in Russia and to make imports of birch plywood consigned from Türkiye and Kazakhstan, whether or not declared as originating in Türkiye and Kazakhstan, subject to registration.
- (2) The request was lodged on 10 July 2023 by the Woodstock Consortium ('the applicant').

B. PRODUCT

- (3) The product concerned by the possible circumvention is plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated, classified on the date of entry into force of Commission Implementing Regulation (EU) 2021/1930 ⁽²⁾ under CN code ex 4412 33 00 (TARIC code 4412 33 00 10) and originating in Russia ('the product concerned'). This is the product to which the measures that are currently in force apply.

The product under investigation is the same as that defined in the previous recital, currently falling under CN code 4412 33 10 ⁽³⁾ but consigned from Türkiye and Kazakhstan, whether declared as originating in Türkiye and Kazakhstan (TARIC codes 4412 33 10 10 and 4412 33 10 20 ('the product under investigation')).

C. EXISTING MEASURES

- (4) The measures currently in force and possibly being circumvented are anti-dumping measures imposed by Implementing Regulation (EU) 2021/1930 ('the existing measures').

D. GROUNDS

- (5) The request contains sufficient evidence that the existing measures on imports of the product concerned are being circumvented by imports of the product under investigation. In particular, the evidence in the request shows the following:

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2021/1930 of 8 November 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of birch plywood originating in Russia (OJ L 394, 9.11.2021, p. 7).

⁽³⁾ Until 31 December 2021, the applicable TARIC code was 4412 33 00 10. Since 1 January 2022, it was replaced by TARIC code 4412 33 10 10. Since 01 September 2022, it was replaced by CN code 4412 33 10.

- (6) A change in the pattern of trade involving exports from Russia, as well as Türkiye and Kazakhstan to the Union has taken place following the imposition of the existing measures.
- (7) This change appears to stem from a practice for which there is insufficient due cause or economic justification other than the imposition of the duty, namely the consignment of the product concerned via Türkiye and Kazakhstan to the Union.
- (8) Furthermore, the evidence shows that because of the practices described above the remedial effects of the existing measures on the product concerned are being undermined both in terms of quantity and prices. Significant volumes of imports of the product under investigation appear to have entered the Union market. In addition, there is sufficient evidence that imports of the product under investigation are made at injurious prices.
- (9) Finally, the evidence shows that the prices of the product under investigation are dumped in relation to the normal value previously established for the product concerned, adjusted on account of price inflation and cost increases that took place since the investigation period used when the existing measures were imposed.
- (10) Should circumvention practices covered by Article 13 of the basic Regulation, other than the one mentioned above, be identified in the course of the investigation, the investigation may also cover these practices.

E. PROCEDURE

- (11) In light of the above, the Commission has concluded that sufficient evidence exists to justify the initiation of an investigation pursuant to Article 13(3) of the basic Regulation and to make imports of the product under investigation subject to registration, in accordance with Article 14(5) of the basic Regulation.
- (12) In order to obtain the information necessary for this investigation, all interested parties should contact the Commission forthwith, but not later than the time limit set in Article 3(2) of this Regulation. The time limit set in Article 3(2) of this Regulation applies to all interested parties. Information, as appropriate, may also be sought from the Union industry.
- (13) The authorities of Türkiye, Kazakhstan and Russia will be notified of the initiation of the investigation.

(a) **Instructions for making written submissions and sending completed questionnaires and correspondence**

- (14) Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission to the copyright holder explicitly allowing a) the Commission to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their right of defence.
- (15) All written submissions, including the information requested in this Regulation, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive (*)'. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

(*) A 'Sensitive' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

- (16) Parties providing ‘Sensitive’ information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled ‘*For inspection by interested parties*’. These summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.
- (17) If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.
- (18) Interested parties are invited to make all submissions and requests via TRON.tdi (<https://webgate.ec.europa.eu/tron/TDI>) including requests to be registered as interested parties, scanned powers of attorney and certification sheets.
- (19) In order to have access to TRON.tdi, interested parties need an EU Login account. Full instructions on how to register and use TRON.tdi are available on <https://webgate.ec.europa.eu/tron/resources/documents/gettingStarted.pdf>.

By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document ‘CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES’ published on the website of the Directorate-General for Trade: <https://europa.eu/!7tHpY3>

- (20) The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions by email, interested parties should consult the communication instructions with interested parties referred to above.
- (21) Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>

Email: TRADE-TRADE-R799-BIRCH-PLYWOOD-AC-TURKEY@ec.europa.eu

TRADE-TRADE-R799-BIRCH-PLYWOOD-AC-KAZAKHSTAN@ec.europa.eu

(b) Collection of information and holding of hearings

- (22) All interested parties including the Union industry, importers and any relevant association are invited to make their views known in writing and to provide supporting evidence provided that such submissions are made within the deadline provided for in Article 3(2). Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

(c) Requests for exemptions

- (23) In accordance with Article 13(4) of the basic Regulation, imports of the product under investigation may be exempted from measures if the importation does not constitute circumvention.

- (24) Since the possible circumvention takes place outside the Union, exemptions may be granted, in accordance with Article 13(4) of the basic Regulation, to producers of the product under investigation in Türkiye and Kazakhstan that can show that they are not engaged in circumvention practices as defined in Articles 13(1) and 13(2) of the basic Regulation. Producers, if any, wishing to obtain an exemption should come forward within the time-limit indicated in Article 3(1) of this Regulation. Copies of the exemption claim form questionnaire for exporting producers in Türkiye and Kazakhstan and questionnaires for importers in the Union are available in the file for inspection by interested parties and on DG Trade's website: <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2677>. The questionnaires have to be submitted within the time limit indicated in Article 3(2) of this Regulation.

F. REGISTRATION

- (25) Pursuant to Article 14(5) of the basic Regulation, imports of the product under investigation shall be made subject to registration in order to ensure that, should the investigation result in findings of circumvention, anti-dumping duties of an appropriate amount, not exceeding the residual duty imposed by Implementing Regulation (EU) 2021/1930, can be levied from the date on which registration of such imports was imposed.

G. TIME LIMITS

- (26) In the interest of sound administration, time limits should be stated within which:
- interested parties may make themselves known to the Commission, submit questionnaires, present their views in writing or any other information to be taken into account during the investigation,
 - producers in Türkiye and Kazakhstan may request exemptions from registration of imports or measures,
 - interested parties may make a written request to be heard by the Commission.
- (27) Attention is drawn to the fact that the exercise of procedural rights set out in the basic Regulation depends on parties making themselves known within the time-limits laid down in Article 3 of this Regulation.

H. NON-COOPERATION

- (28) If any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, findings, affirmative or negative, may be made on the basis of facts available in accordance with Article 18 of the basic Regulation.
- (29) Where it is found that any interested party has supplied false or misleading information, the information shall be disregarded and use may be made of facts available in accordance with Article 18 of the basic Regulation.
- (30) If an interested party does not cooperate or cooperates only partially and findings are therefore based on the facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

I. SCHEDULE OF THE INVESTIGATION

- (31) The investigation will be concluded, pursuant to Article 13(3) of the basic Regulation, within nine months of the date of entry into force of this Regulation.

J. PROCESSING OF PERSONAL DATA

- (32) It is noted that any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽³⁾.

⁽³⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (33) A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <https://europa.eu/!vr4g9W>

K. HEARING OFFICER

- (34) Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.
- (35) The Hearing Officer may organise hearings and mediate between the interested party/-ies and Commission services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in the due course.
- (36) Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. In principle, the timeframes set out in Article 3(3) of this Regulation to request hearings with the Commission services apply *mutatis mutandis* to requests for hearings with the Hearing Officer. Where hearing requests are submitted outside the relevant timeframes, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.
- (37) For further information and contact details interested parties may consult the Hearing Officer's web pages on DG TRADE's website: https://policy.trade.ec.europa.eu/contacts/hearing-officer_en

HAS ADOPTED THIS REGULATION:

Article 1

An investigation is initiated pursuant to Article 13(3) of Regulation (EU) 2016/1036, in order to determine if imports into the Union of plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated, currently falling under CN code 4412 33 10, consigned from Türkiye and Kazakhstan, whether declared as originating in Türkiye and Kazakhstan or not, (TARIC codes 4412 33 10 10 and 4412 33 10 20) are circumventing the measures imposed by Implementing Regulation (EU) 2021/1930.

Article 2

1. The customs authorities of the Member States shall, pursuant to Article 13(3) and Article 14(5) of Regulation (EU) 2016/1036, take the appropriate steps to register the imports into the Union identified in Article 1 of this Regulation.
2. Registration shall expire nine months following the date of entry into force of this Regulation.

Article 3

1. Interested parties must make themselves known by contacting the Commission within 15 days from the date of entry into force of this Regulation.

2. Interested parties, if their representations are to be taken into account during the investigation, must present their views in writing and submit questionnaire replies, requests for exemptions, or any other information within 37 days from the date of the publication of this Regulation in the *Official Journal of the European Union*, unless otherwise specified.

3. Interested parties may also apply to be heard by the Commission within the same 37-day time limit. For hearings pertaining to the initiation stage of the investigation the request must be submitted within 15 days of the date of entry into force of this Regulation. Any request to be heard must be made in writing and must specify the reasons for the request.

Article 4

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

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

Done at Brussels, 21 August 2023.

For the Commission
The President
Ursula VON DER LEYEN

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