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/m^2 or more but not exceeding 400 g/m^2 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 eEcouraged 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-Singuang 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 entreprise income tax of high and new technological entreprises 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 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 entreprises

(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 benefitting from this dividend tax exemption or that 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 Foreigninvested 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 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 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 gy 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, Sinosure 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 Sinosure ([89]). Furthermore, Sinosure 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 Sinosure operates further show that Sinosure 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 Sinosure in 2004 and still governs Sinosure'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 Sinosure 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 Sinosure 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, Sinosure is indicated as the executor of the plan. As for the reduction of the insurance premium, Sinosure 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. Sinosure 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, last accessed on 18 August 2021.

([90]) See Sinosure website, Company profile, Supporting 'Made in China', https://www.sinosure.com.cn/en/Resbonsiblity/smic/index.shtml, last accessed on 17 August 2021.

([91]) http://www.gov.cn/ldhd/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 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 check 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 disproportionally 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