

COMMISSION IMPLEMENTING REGULATION (EU) 2023/1648**of 21 August 2023****imposing a definitive anti-dumping duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

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

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

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

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

⁽⁴⁾ Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union, OJ L 176, 30.06.2016, p.21.

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

1.2. Request for an expiry review

- (6) Following the publication of a notice of impending expiry ⁽⁶⁾ of the anti-dumping measures in force on the imports of certain coated fine paper originating in the PRC, the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation. The request for review was submitted on 31 March 2022 by Arctic Paper Grycksbo AB, Burgo Group SpA, Fedrigoni SpA, Lecta Group and Sappi Europe SA ('the applicants') on behalf of the Union industry of certain coated fine paper in the sense of Article 5(4) of the basic Regulation.
- (7) The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and continuation or recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (8) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, the Commission initiated, on 30 June 2022, an expiry review with regard to imports to the Union of certain coated fine paper originating in the PRC, on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the Official Journal of the European Union ⁽⁷⁾ ('the Notice of Initiation').

1.4. Separate anti-subsidy investigation

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

1.5. Review investigation period and period considered

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

1.6. Interested parties

- (11) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicants, other known Union producers, exporting producers, importers and users in the Union known to be concerned, as well as the Chinese authorities about the initiation of the expiry review and invited them to participate.
- (12) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.7. Sampling

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

⁽⁶⁾ OJ C 280, 25.8.2015, p. 7.

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

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

(a) Sampling of Union producers

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

(b) Sampling of unrelated importers

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

(c) Sampling of exporting producers in the PRC

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

1.8. Questionnaires, replies to the questionnaires

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

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

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

1.9. Verification visits

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

1.10. Disclosure

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

2. PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under review

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

2.2. Product concerned

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

2.3. Like product

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

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

- the product under review produced and sold by the selected producer in Brazil, which served as a representative country;
 - the product under review produced and sold by the exporting producers to the rest of the world; and
 - the product under review produced and sold in the Union by the Union industry.
- (32) The Commission concluded that these products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

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

3.2. Dumping of imports during the review investigation period

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

3.3. Normal value

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

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

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

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

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

⁽¹⁵⁾ Sylvamo 2021-Annual-Report.pdf

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

3.3.2. Existence of significant distortions

3.3.2.1. Introduction

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

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

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

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

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

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

⁽¹⁸⁾ Report – Chapter 2, p. 6-7.

⁽¹⁹⁾ Report – Chapter 2, p. 10.

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

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

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

⁽²¹⁾ Report – Chapter 2, p. 20-21.

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

⁽²³⁾ Report – Chapter 6, p. 120-121.

⁽²⁴⁾ Report – Chapter 6, p. 122 -135.

⁽²⁵⁾ Report – Chapter 7, p. 167-168.

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

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

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

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

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

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

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

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

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

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

⁽³²⁾ Report – Chapter 5, p. 100-1.

⁽³³⁾ Report – Chapter 2, p. 26

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

⁽³⁵⁾ Report – Chapter 2, p. 31-2.

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

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

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

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

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

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

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

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

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

⁽⁴²⁾ Ibid.

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

⁽⁴⁴⁾ Ibid.

⁽⁴⁵⁾ Report – Chapters 14.1 to 14.3.

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

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

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

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

⁽⁴⁸⁾ Ibid.

⁽⁴⁹⁾ Ibid.

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

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

⁽⁵²⁾ Ibid.

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

⁽⁵⁴⁾ Ibid.

⁽⁵⁵⁾ Ibid.

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

⁽⁵⁷⁾ Ibid.

⁽⁵⁸⁾ Ibid.

⁽⁵⁹⁾ Ibid.

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

⁽⁶¹⁾ Ibid.

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

⁽⁶³⁾ Ibid.

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

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

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

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

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

⁽⁶⁴⁾ Report – Chapter 6, p. 138-149.

⁽⁶⁵⁾ Report – Chapter 9, p. 216.

⁽⁶⁶⁾ Report – Chapter 9, p. 213-215.

⁽⁶⁷⁾ Report – Chapter 9, p. 209-211.

⁽⁶⁸⁾ Report – Chapter 13, p. 332-337.

⁽⁶⁹⁾ Report – Chapter 13, p. 336.

⁽⁷⁰⁾ Report – Chapter 13, p. 337-341.

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

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

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

⁽⁷¹⁾ Report – Chapter 6, p. 114-117.

⁽⁷²⁾ Report – Chapter 6, p. 119.

⁽⁷³⁾ Report – Chapter 6, p. 120.

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

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

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

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

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

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

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

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

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

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

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

3.3.2.9. Systemic nature of the distortions described

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

3.3.2.10. Conclusion

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

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

3.3.3. Representative country

3.3.3.1. General remarks

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

3.3.3.2. Conclusion

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

3.3.4. Sources used to establish undistorted costs

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

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

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

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

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

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

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

3.4. Undistorted costs and benchmarks

3.4.1. Factors of production

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

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

Table 1

Factors of production of certain coated fine paper

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

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

3.4.1.1. Raw materials

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

3.4.1.2. Labour

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

3.4.1.3. Electricity

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

3.4.1.4. Natural gas

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

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

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

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

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

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

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

3.4.2. Calculation of the normal value

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

3.5. Likelihood of continuation of dumping

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

⁽⁹⁴⁾ Sylvamo 2021-Annual-Report.pdf

⁽⁹⁵⁾ Brazilian Institute of Geography and Statistics

⁽⁹⁶⁾ Sylvamo 2021-Annual-Report.pdf

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

3.6. Likelihood of recurrence of dumping

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

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

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

3.6.2. Production capacity and spare capacity in the PRC

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

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

⁽⁹⁸⁾ See Expiry review request, Annex 28

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

3.6.3. Attractiveness of the Union market

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

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

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

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

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

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

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

3.6.4. Conclusion on the likelihood of recurrence of dumping

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

4. INJURY

4.1. Definition of the Union industry and Union production

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

4.2. Union consumption

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

Table 2

Union consumption (tonnes)

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

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

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

4.3. Imports from the country concerned

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

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

Table 3

Import volume (tonnes) and market share

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

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

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

4.3.2. Prices of the imports from the country concerned

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

4.4. Imports from third countries other than China

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

Table 4

Imports from third countries

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

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

Source: Eurostat

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

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (149) In accordance with Article 3(5) of the basic Regulation, the assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (150) As mentioned in recital (138), sampling was used for the assessment of the economic situation of the Union industry.
- (151) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators based on data related to all Union producers, contained in the macroeconomic data questionnaire provided by the Union industry. The Commission evaluated the microeconomic indicators based on data contained in the questionnaire replies from the sampled Union producers. Both sets of data were checked and found to be representative of the economic situation of the Union industry.
- (152) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (153) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

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

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

Source: The macroeconomic data questionnaire provided by the Union industry

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

4.5.2.2. Sales volume and market share

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

Table 6

Sales volume and market share (tonnes)

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

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

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

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

4.5.2.3. Growth

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

4.5.2.4. Employment and productivity

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

Table 7

Employment and productivity

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

Source: Macroeconomic data questionnaire provided by the Union industry

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

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

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

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

Table 8

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

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

Source: Verified questionnaire replies of the sampled Union producers

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

4.5.3.2. Labour costs

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

Table 9

Average labour costs per employee

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

Source: Verified questionnaire replies of the sampled Union producers

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

4.5.3.3. Inventories

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

Table 10

Inventories

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

Source: Verified questionnaire replies of the sampled Union producers

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

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

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

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

Table 11

Profitability, cash flow, investments and return on investments

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

Source: Verified questionnaire replies of the sampled Union producers

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

4.6. Conclusion on injury

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

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

5. LIKELIHOOD OF RECURRENCE OF INJURY

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

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

⁽¹⁰⁶⁾ Based on data from the sampled Union producers

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

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

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

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

6. UNION INTEREST

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

6.1. Interest of the Union industry

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

6.2. Interest of unrelated importers and traders

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

6.3. Interest of users

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

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

6.4. Conclusion on Union interest

- (210) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of CFP originating in China.

7. ANTI-DUMPING MEASURES

- (211) On the basis of the conclusions reached by the Commission on recurrence of dumping, recurrence of injury and Union interest, the anti-dumping measures on CFP from China should be maintained.
- (212) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (213) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

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

- (214) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, *inter alia*, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (215) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (216) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ⁽¹¹⁾. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (217) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure.
- (218) The Commission received a submission from the EU industry that further substantiated the Commission's findings that the Chinese exporting producers were able to sell at prices below the Union target price. It was therefore not deemed necessary to amend the text of the present Regulation.
- (219) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹²⁾ when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the Official Journal of the European Union on the first calendar day of each month.
- (220) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 15(1) Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

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

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

⁽¹²⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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

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

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

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

4. Should the definitive countervailing duties imposed by Article 1 of Commission Implementing Regulation (EU) 2023/1647 ⁽¹³⁾ be modified or removed, the duties specified in paragraph 2 will be increased by the same proportion limited to the actual dumping margin found or the injury margin found as appropriate per company and from the entry into force of this Regulation.

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

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

Article 2

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

⁽¹³⁾ Commission Implementing Regulation (EU) 2023/1647 of 21 August 2023 imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of Regulation (EU) 2016/1037 of the European Parliament and of the Council (see page 1 of this Official journal).

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

Done at Brussels, 21 August 2023.

For the Commission
The President
Ursula VON DER LEYEN
