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II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2020/526

of 15 April 2020

re-imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India as regards Jindal Saw Limited following the judgment of the General Court in T-300/16

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ⁽¹⁾, and in particular Articles 15 and 24(1) thereof,

Whereas:

1. PROCEDURE

- (1) On 17 March 2016 the Commission adopted Implementing Regulation (EU) 2016/387 ⁽²⁾ imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India ('the regulation at issue').

1.1. The Judgement of the General Court of the European Union

- (2) Jindal Saw Limited ('Jindal') and its related importer, Jindal Saw Italia SpA (together 'the applicants'), challenged the anti-subsidy regulation at issue before the General Court. On 10 April 2019 the General Court issued its judgment in case T-300/16 ⁽³⁾ regarding the Regulation at issue ('the judgment').
- (3) The General Court found that the calculation of the amount of benefit for Jindal resulting from the provision of iron ore for less than adequate remuneration was in breach of Article 6(d) of the basic anti-subsidy Regulation in force at the time of the original investigation ⁽⁴⁾ (the basic anti-subsidy Regulation). In particular, the General Court held that the transport costs actually incurred by Jindal from the mine to its plant in India were higher than those that the Commission took into account in the calculation of the average purchase price for iron ore in India. In the General Court's view, such difference in transportation costs means that the price at which Jindal sources iron ore on the Indian market was, in fact, higher than the average purchase price used by the Commission to determine the level of

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ Commission Implementing Regulation (EU) 2016/387 of 17 March 2016 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), originating in India (OJ L 73, 18.3.2016, p. 1).

⁽³⁾ Judgment of the General Court (First Chamber, Extended Composition), of 10 April 2019, *Jindal Saw Ltd and Jindal Saw Italia SpA v European Commission*, T-300/16, ECLI:EU:T:2019:235.

⁽⁴⁾ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Union (OJ L 188, 18.7.2009, p. 93) (replaced by Regulation (EU) 2016/1037).

remuneration, which had an inevitable impact on the benefit that could be granted to that exporting producer ⁽⁵⁾. Accordingly, the General Court found that the Commission infringed Article 3(2) and Article 6(d) of the basic anti-subsidy Regulation (by wrongly selecting at random certain items in the delivery costs of Jindal for the calculation of the standard average transport costs) and the third subparagraph of Article 15(1) of the basic anti-subsidy regulation (by fixing the countervailing duty at a level higher than the countervailable subsidies).

- (4) The General Court also found that the Commission had committed an error in respect of its undercutting calculations as far as the applicants were concerned. In this case, on the one hand, in respect of the Union industry the Commission took into account either the prices at an ex-works level ⁽⁶⁾ of the production entities when they sold directly to independent buyers, or the prices at an ex-works level of the selling entities. On the other hand, in respect of Jindal's sales in the Union market, the Commission used as a starting price to arrive at a comparable landed price in the EU the export price as constructed in the context of the determination of the dumping margin (thus, taking out SG&A costs plus profits of Jindal's related selling entities in the EU). According to the General Court, the marketing of products carried out not directly by the producer, but through related selling entities, implies the existence of costs and a profit margin specific to those entities, so that the prices charged by them to independent buyers are generally higher than the prices charged by producers in their direct sales to such buyers and thus cannot be assimilated to those latter prices ⁽⁷⁾. As a result, the General Court considered that by carrying out, for the price comparison made in the context of the undercutting calculation, the assimilation between the prices charged by the selling entities to independent buyers and the prices charged by producers in their direct sales to such buyers, only as regards the like product of the Union industry, the Commission took into account for that product a price which was inflated and therefore unfavourable to Jindal Saw, which performed the majority of its sales in the Union by way of selling entities ⁽⁸⁾. For the General Court, this was an error in calculating the price undercutting of the product concerned, as the undercutting calculation was not made by comparing prices at the same level of trade. Therefore, the General Court found an error in that the Commission deducted the selling expenses and profits of Jindal's related selling entities in the Union from the sales to the first independent buyer, while the selling expenses and profits of the Union industry's related selling entities were not deducted from the Union industry sales prices to the first independent customer. The General Court considered that the two prices were not compared symmetrically at the same level of trade.
- (5) As a result, the General Court found that the Commission had also infringed Article 8(1) of the basic anti-subsidy Regulation. Since the undercutting, as calculated in the regulation at issue, was the basis for the conclusion that imports of the product concerned were at the root of the injury to the Union industry, the General Court found that the existence of a causal link between the subsidised imports and the injury to the Union industry, as a necessary condition for the imposition of an anti-subsidy duty in accordance with Article 8(5) of the basic anti-subsidy Regulation, could have been tainted as well ⁽⁹⁾.
- (6) Moreover, the General Court found that it could not be excluded that, if the price undercutting had been calculated correctly, the injury margin of the Union industry would have been established at a level below that of the subsidy rate. In that case, in accordance with the third subparagraph of Article 15(1) of the basic anti-subsidy Regulation, the amount of the countervailing duty should be reduced to a rate, which would be sufficient to remove that injury ⁽¹⁰⁾.
- (7) In light of the above considerations, the General Court annulled the Regulation at issue insofar as Jindal Saw Limited was concerned.

⁽⁵⁾ Ibid. para. 225.

⁽⁶⁾ Ex-works level means that transport costs have been deducted where warranted.

⁽⁷⁾ Case T-300/16, para. 248.

⁽⁸⁾ Ibid. para. 249.

⁽⁹⁾ Ibid. para. 253.

⁽¹⁰⁾ Ibid. para. 258.

1.2. Implementation of the General Court's Judgment

- (8) According to Article 266 of the Treaty on the Functioning of the European Union ("TFEU"), the Union institutions are obliged to take the necessary steps to comply with the Court's judgments. In case of an annulment of an act adopted by the Union institutions in the context of an administrative procedure, such as the anti-subsidy investigation in this case, compliance with the General Court's judgment consists in the replacement of the annulled act by a new act, in which the illegality identified by the General Court is eliminated ⁽¹¹⁾.
- (9) According to the case-law of the Court of Justice, the procedure for replacing an annulled act may be resumed at the very point at which the illegality occurred ⁽¹²⁾. That implies, in particular, that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-subsidy procedure. For instance, where a regulation imposing definitive countervailing duties is annulled, the proceeding remains open because it is only the act concluding the proceeding that has disappeared from the Union legal order ⁽¹³⁾, except in cases where the illegality occurred at the stage of initiation. The resumption of the administrative procedure with the re-imposition of countervailing duties on imports that were made during the period of application of the annulled regulation cannot be considered as contrary to the rule of non-retroactivity ⁽¹⁴⁾.
- (10) In the present case, the General Court annulled the regulation at issue as regards Jindal Saw Limited on the grounds that the Commission had, with respect to the provision of iron ore, wrongly calculated the subsidy amount benefitting Jindal and that it had made an error when determining the existence of significant undercutting. The latter error, potentially, could have tainted the causation analysis, as well as the injury margin.
- (11) Findings in the anti-subsidy regulation at issue, which were not contested, or which were contested but rejected by the General Court or not examined by the General Court, and therefore did not lead to the annulment of the Regulation at issue, remain fully valid ⁽¹⁵⁾.
- (12) Following the Court's judgments in case T-300/16 of 10 April 2019, the Commission decided by means of a Notice ('the re-opening Notice') to partially re-open the anti-subsidy investigation concerning imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) that lead to the adoption of the regulation at issue and to resume the investigation at the point at which the irregularity occurred. The re-opening was limited in scope to the implementation of the judgment of the General Court with regard to Jindal Saw Limited.
- (13) Subsequently, on 22 July 2019, the Commission decided to make imports of certain tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India and produced by Jindal Saw Limited subject to registration and requested national customs authorities to await the publication of the relevant Commission Implementing Regulation re-imposing the duties before deciding on the claim for repayment and remission of countervailing duties insofar as imports concerning Jindal Saw Limited were concerned ⁽¹⁶⁾ ('the registration Regulation').
- (14) The Commission informed interested parties of the re-opening and invited them to comment.

⁽¹¹⁾ Joined cases 97/193, 99 and 215/86 *Asteris AE and others and Hellenic Republic v Commission* [1988] ECR 2181, paragraphs 27 and 28.

⁽¹²⁾ Case C-415/96 *Spain v Commission*, ECR I-6993, paragraph 31; Case C-458/98 P *Industrie des Poudres Spheriques v Council* [2000] ECR I-8147, paragraphs 80 to 85; Case T-301/01 *Alitalia v Commission* [2008] ECR II-1753, paragraphs 99 and 142; Joined cases T-267/08 and T-279/08 *Region Nord-Pas de Calais v Commission* [2011] ECLI:EU:T:2011:209, paragraph 83.

⁽¹³⁾ Case C-415/96 *Spain v Commission*, ECR I-6993, paragraph 31; Case C-458/98 P *Industries des Poudres Spheriques v Council* [2000] ECR I-8147, paragraphs 80 to 85.

⁽¹⁴⁾ Case C-256/16 *Deichmann SE v Hauptzollamt Duisburg* [2018], ECLI:EU:C:2018:187, paragraph 79; and C-612/16, *C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs*, judgment of 19 June 2019, paragraph 58.

⁽¹⁵⁾ Case T-650/17 *Jinan Meide Casting Co. Ltd.*, ECLI:EU:T:2019:644, paras. 333 – 342.

⁽¹⁶⁾ Commission Implementing Regulation (EU) 2019/1250 of 22 July 2019 making certain imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India subject to registration following the re-opening of the investigation in order to implement the judgments of 10 April 2019 in cases T-300/16 and T-301/16, with regard to Implementing Regulations (EU) 2016/387 and (EU) No 2016/388 imposing a definitive countervailing duty and definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India (OJ L 195, 23.7.2019, P. 13).

2. COMMENTS FROM INTERESTED PARTIES

- (15) The Commission received comments from the Union industry and two exporting producers.
- (16) With regard to the subsidy calculation the complainant (SG PAM) recalled that the General Court only found that the Commission had overestimated the benefit granted to Jindal in respect of the purchase of iron ore for less than adequate remuneration due to an improper assessment of the transportation costs while the General Court otherwise upheld the reasoning of the Commission and rejected all other challenges. Therefore, the implementation of the judgment only required the Commission to re-assess the transportation costs for its re-calculation of the benefit at stake.
- (17) Jindal claimed that the Commission could not instruct the national customs authorities not to repay and/or remit anti-dumping duties that had been collected pursuant to the regulation at issue. It claimed that the situation in the present case is different from the one in the Deichmann judgment⁽¹⁷⁾. Jindal also claimed that the duties cannot be re-imposed retroactively. According to Jindal, the regulation at issue was annulled in its entirety, which means that it had been removed from the legal order of the Union with retroactive effect, whereas in the Deichmann judgment there were no factors 'capable of affecting the validity of the definitive regulation'. In addition, Jindal claimed that the illegality found with respect to the price undercutting analysis has the result of 'invalidating the Commission's entire analysis of causation'. This, in Jindal's view, means that the duties in its entirety should neither have been imposed, nor re-imposed, since the entire injury and causation analysis was flawed. Following disclosure, Jindal repeated these claims without providing further arguments.
- (18) The Commission recalled that it is settled case-law that, when the Court declares that a regulation imposing duties is invalid, such duties are to be considered as never having been lawfully owed within the meaning of Article 236 of the Customs Code and, in principle, are required to be repaid by the national customs authorities under the conditions set out to that effect⁽¹⁸⁾. However, the Court has also held that the exact scope of a declaration of invalidity by the Court in a judgment and, consequently, of the obligations that flow from it must be determined in each specific case by taking into account not only the operative part of that judgment, but also the grounds that constitute its essential basis⁽¹⁹⁾.
- (19) In the case at hand, the General Court found an error when calculating the amount of benefit as regard the provision of iron ore for less than adequate remuneration. This error only affected one of the subsidies countervailed in the original investigation (amounting to 3,91 % out of 8,7 % of total *ad valorem* subsidisation). Thus, the error could not bring the level of the duties below the *de minimis* thresholds.
- (20) Moreover, the General Court put into question the method of calculating undercutting with respect to Jindal and its impact on causality as well as its possible impact on Jindal's injury margin in paragraphs 255-259 of the judgment. However, those elements did not call into question the validity of all other findings made in the regulation at issue and which can support the validity of the Commission's ultimate injury findings, as further elaborated in recital (30). In any case, even if the findings of the re-opened investigation were that no countervailing duties should be re-imposed, customs authorities would have the possibility to repay the entire amount of duties, which have been collected since the regulation at issue was adopted.
- (21) Furthermore, the Court of Justice has consistently held that Article 10(1) of the basic anti-dumping Regulation⁽²⁰⁾ does not preclude acts from re-imposing anti-dumping duties on imports that were made during the period of application of the regulations declared to be invalid⁽²¹⁾. The Commission considers that those findings apply equally to countervailing duties since also Article 16 of the basic anti-subsidy regulation currently in force⁽²²⁾ does not preclude acts from re-imposing countervailing duties on imports that were made during the period of application of the regulations declared to be invalid. Consequently, as explained in recital (15) of the registration

⁽¹⁷⁾ Case C-256/16 Deichmann SE v Hauptzollamt Duisburg [2018], ECLI:EU:C:2018:187

⁽¹⁸⁾ See, to that effect, Case C-256/16 Deichmann SE v Hauptzollamt Duisburg, and the judgments quoted in paragraph 62 thereof, namely, C-351/04 *Ikea Wholesale*, of 27 September 2007, EU:C:2007:547, paragraphs 66 to 69, and, C-365/15, *Wortmann*, of 18 January 2017 EU:C:2017:19, paragraph 34.

⁽¹⁹⁾ C-256/16 Deichmann SE v Hauptzollamt Duisburg, para 63 and the case-law cited therein.

⁽²⁰⁾ 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, 30.6.2016, p. 21).

⁽²¹⁾ C-256/16 *Deichmann*, EU:C:2018:187, paragraphs 77 and 78; and C-612/16, *C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs*, judgment of 19 June 2019, paragraph 57.

⁽²²⁾ Regulation (EU) 2016/1037.

Regulation, the resumption of the administrative procedure and the eventual re-imposition of duties cannot be considered as contrary to the rule of non-retroactivity⁽²³⁾. In fact, the re-opening Notice already informed interested parties, including importers, that any future liability, if warranted, would emanate from the findings of the re-examination. Accordingly, Jindal's claim that the duties cannot be re-imposed pursuant to the re-opening of the original investigation was rejected.

- (22) Jindal also claimed that in order to comply with the General Court's judgment the Commission must use Jindal's actual prices to its first independent customers. It emphasised that the Commission must not construct the prices of the Union industry's sales subsidiaries. It claimed that this would be contrary to paragraph 251 of the judgment in which the Court ruled: '*...that prices used in the undercutting calculation should be prices negotiated with independent buyers, namely prices, which could have been taken into account by them in order to decide whether they purchased the Union industry's product or the product of the exporting producers in question, and not the prices at an intermediate stage*'. In this respect, the Commission considered that in *Kazchrome*⁽²⁴⁾, i.e. the source quoted by the General Court in *Jindal*, the General Court did not go as far as making the categorical conclusion now drawn by Jindal (namely, that in all cases when conducting undercutting calculations what matters is the actual prices charged by the exporting producer's related selling entities in the EU). In fact, the General Court in *Kazchrome* was cautious when stating that 'the conclusion resulting from the foregoing examination concerns only the present case'⁽²⁵⁾. The Commission is of the view that the CIF landed prices at the ports of customs clearance may be used in the context of examining price effects of subsidised imports through specific undercutting calculations. It is at that level that imports normally compete with the Union industry's prices, because it is at that level that traders make their choice whether to source the product from the Union Industry or the exporting producers. Trying to estimate what those CIF landed prices are in the context where the exporting producer sells through related entities in the Union for the purpose of the undercutting calculations is no different from a situation where the Commission directly uses for the comparison the CIF landed prices of exporting producers when selling directly into the Union. Thus, the reference to 'negotiated prices' both in *Kazchrome* and then later on in *Jindal* should be understood in their proper context.
- (23) Jindal also claimed that the Commission should correct other flaws and calculation errors, which emerged after the regulation at issue was adopted. As explained in the re-opening Notice, findings reached in the regulation at issue which were not contested, or which were contested but rejected by the judgment of the General Court or not examined by it, and therefore did not lead to the annulment of the regulation at issue, remain fully valid⁽²⁶⁾. Therefore, the Commission is not required to look into allegations on issues beyond what the General Court found illegal.
- (24) The other exporting producer, Electrosteel Castings Ltd. ('ECL'), claimed that in case the Commission determines that the imports from Jindal were not the cause of injury to the Union industry, it should reassess whether the measures should be maintained against imports from ECL. It also claimed that in case the Commission corrects the margins of Jindal, ECL's margins should also be corrected. Upon disclosure ECL, supported by the Government of India, reiterated these claims and argued that the recalculation of its margins is a necessary consequence of the re-opening of this procedure. The Commission should therefore carry out this exercise ex officio.
- (25) Regarding the first of ECL's claims, the Commission observed that, as noted in recital (30), the Commission did not need to recalculate ECL's undercutting margin in this case. In any event, even after the undercutting re-calculation for Jindal, following the approach described in Section 4.2 below, the Commission determined that there was still a causal link between the subsidised imports and the Union industry's injury as set out in Section 4.4. This claim did therefore become moot. The Commission also rejected the second claim as any re-calculation of ECL margins falls outside of the scope of the present procedure. Even assuming that ECL's claim that its undercutting margin was in the range of the margin established for Jindal following the approach described in Section 4.2, the Commission

⁽²³⁾ Case C-256/16 *Deichmann SE v Hauptzollamt Duisburg*, para. 79; and Case C-612/16, *C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs*, judgment of 19 June 2019, paragraph 58.

⁽²⁴⁾ Judgment of 30 November 2011, *Transnational Company 'Kazchrome' and ENRC Marketing v Council and Commission*, T-107/08, ECLI:EU:T:2011:704.

⁽²⁵⁾ Judgment of 30 November 2011, *Transnational Company 'Kazchrome' and ENRC Marketing v Council and Commission*, T-107/08, ECLI:EU:T:2011:704, para. 68.

⁽²⁶⁾ Case T-650/17 *Jinan Meide Casting Co. Ltd*, ECLI:EU:T:2019:644, paras. 333 – 342.

noted that there would be still undercutting, albeit lower, for all Indian imports. Such a level of undercutting, in view of the specific market circumstances of the product concerned, would be significant to find that the subject Indian imports were a genuine and substantial cause for the injury found. The Commission further addressed this issue in Section 4.4.

- (26) The Union industry claimed that in its injury analysis the Commission should take into account the depressing price effect of the imports on the Union industry. Conversely, upon disclosure ECL claimed that such analysis goes beyond the scope of this re-opened procedure and should not be carried out. The Commission found that price depression analysis is an integral part of the causation analysis, which the General Court explicitly found could be tainted by the error at issue. Therefore, the Commission further analysed the price depression as set out in Section 4.5 below.

3. SUBSIDY CALCULATION

- (27) The General Court found in respect of the provision of iron ore for less than adequate remuneration that the Commission had wrongly calculated the amount of benefit for Jindal. More particularly, it found that the Commission had wrongly adjusted Jindal's purchase price of iron ore with an average transport costs to establish a purchase price at ex-mine level. Instead, the Commission should have adjusted the purchase price with the transport costs actually incurred by Jindal.
- (28) The Commission re-calculated the benefit accruing from the provision of iron ore to Jindal for less than adequate remuneration by adjusting its purchase price of iron ore with the transport related costs actually incurred. As a consequence, the re-calculated subsidy amount for iron ore was revised downwards from 3,91 % to 1,23 %.
- (29) The judgment of the General Court in case T-300/16 did not affect any other findings in the regulation at issue that are relevant for the determination of the subsidy amounts granted to Jindal, which therefore remain valid. Accordingly, the re-calculated amount of countervailable subsidies, expressed as a percentage, is established at 6,0 % (as opposed to 8,7 %).

4. RE-EXAMINATION OF UNDERCUTTING/PRICE DEPRESSION BY THE SUBJECT IMPORTS AND THE INJURY MARGIN AS REGARDS JINDAL SAW LIMITED

4.1. The impact of Jindal's sales on the injury determination

- (30) The Commission recalled that the imports by Jindal accounted for around 20 % of total imports from India during the investigation period. All other imports are not affected by the General Court's ruling. In other words, even taking out Jindal's imports from the assessment of price effects, the findings of significant undercutting⁽²⁷⁾ with respect to a very significant part of the subject imports would remain unaffected. In this respect, the Commission recalled that both the consideration of price effects as well as a determination that the subject imports caused injury to the domestic industry are made with respect to the imports from the country or countries concerned as a whole (as opposed to on the basis of each exporting producer).⁽²⁸⁾ Therefore, the Commission considered that revising Jindal's undercutting calculations did not taint the conclusion that, overall, there was significant undercutting by Indian imports. Thus, the error found by the General Court did not have a material impact on the overall findings of undercutting made in the original investigation. In this sense, all the injury findings made in the original regulation are hereby incorporated and confirmed.

⁽²⁷⁾ See recitals (301) and (340) of Implementing Regulation (EU) 2016/387 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India ('the Regulation at issue').

⁽²⁸⁾ See, in this sense, judgment of the General Court (Second Chamber) of 8 May 2019, in Case T-749/16, *Stemcor London*, ECLI:EU:T:2019:310, para. 84 ('[T]he Court has held that the injury caused to an established Union industry by dumped imports must be assessed as a whole, and it is not necessary (or, indeed, possible) to define separately the share in such injury attributable to each of the companies responsible').

4.2. Determination of undercutting with respect to Jindal

- (31) Even if, as found in recital (30), the Commission considered that the impact of the error found by the General Court would not taint the Commission's undercutting and injury findings, the Commission examined in more detail whether there would still be undercutting with respect to Jindal also considering the specific market conditions in this case.
- (32) The General Court stated that the obligation to carry out an objective examination of the impact of subject imports, as required by Article 8(1) of the basic anti-subsidy Regulation, requires a fair comparison to be made between the price of the product concerned and the price of the like product of the Union industry when sold in the territory of the Union. In order to ensure the fairness of such comparison, the prices must be compared at the same level of trade (see para. 239 of case T-300/16).
- (33) In the case at hand, there are a number of significant specific market characteristics relating to the product concerned, which are described below.

4.2.1. *The product and the companies concerned*

- (34) The product concerned is tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) ('ductile pipes'), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), originating in India, currently falling under CN codes ex 7303 00 10 and ex 7303 00 90 (TARIC codes 7303 00 10 10 and 7303 00 90 10).
- (35) The Commission recalled that two (out of three) groups of companies making the product concerned cooperated as the Union Industry (representing around 96 % of total production). The first group of Union producers, SG PAM Group ('SG PAM'), was selling to independent customers in the Union via its three production companies located in France, Germany and Spain as well as via many sales subsidiaries located in different Member States⁽²⁹⁾. The second group of Union producers, Duktus Rohrsysteme GmbH, was selling from its German production company and via one sales subsidiary⁽³⁰⁾. Jindal, on the other hand, sold the product concerned in the Union via three sales subsidiaries located in Italy, Spain and the UK⁽³¹⁾.

4.2.2. *Specificities of the ductile iron pipes market in the Union*

4.2.2.1. *Sales channels/types of customers*

- (36) The main use of ductile pipes is transport of water and sewage. Hence, water supply and water treatment companies, ultimately, account for most of the demand for the product concerned. These companies use ductile pipes in large infrastructure projects, and their purchases are subject, directly or indirectly, to public procurement through public tenders. As set out in the complaint⁽³²⁾, ductile pipes are sold either directly to contractors or water companies (i.e. sales to users) or indirectly via merchants (i.e. sales to distributors). Even if a large proportion of ductile pipes is first sold to construction companies, these companies participate in the tenders of water supply and treatment companies, so the tender price pressure is almost always present in the end. Thus, most of the sales of ductile pipes in the Union market are linked directly or indirectly to tenders in the various Member States.
- (37) SG PAM sold around 75 % of its output to users and the remaining 25 % to unrelated distributors. Duktus had a different sales structure as it was selling mainly to unrelated distributors (almost 90 % of sales). However, given that Duktus' sales accounted for only a small proportion of the Union industry's sales, the Commission confirmed that no less than 65 % of Union industry's sales went directly to users.
- (38) Jindal had a similar type of customers' sales structure to the Union industry: it sold more than 70 % to users and around 30 % to unrelated distributors.

⁽²⁹⁾ To streamline the investigation the Commission sampled the six largest of SG PAM's sales subsidiaries.

⁽³⁰⁾ Duktus also sold via a sales subsidiary in Czech Republic, but given the small size of it, its data was not verified.

⁽³¹⁾ All three Jindal's subsidiaries were verified. Jindal also had less than 3 % of the Union sales directly from India to the remote islands of Reunion and Mayotte, which are considered the EU customs territory.

⁽³²⁾ Consolidated version of the complaint lodged on 10 November 2014, for inspection by interested parties, p. 6.

- (39) Therefore, the Commission concluded that Jindal and the Union industry sold the product concerned to similar types of customers in similar proportions.

4.2.2.2. Direct sales from the producers versus sales via sales subsidiaries

- (40) SG PAM had a territorial sales structure in which its entities focused on the local markets where they were present. This applied to both SG PAM's producers and its sales subsidiaries. For instance, SG PAM France was the only SG PAM's entity selling directly to final users in France. Even if a certain product type was manufactured by SG PAM Germany or Spain, such a product type was first re-sold internally to SG PAM France and only then sold to the final user by SG PAM France. Likewise, SG PAM Belgium was the only selling entity in Belgium [and Luxembourg]; SG PAM UK in the UK [and Ireland]; SG PAM Italy only in Italy etc. In other words, the three producing entities were not selling directly to users in the markets where other producing entity or a sales subsidiary were present. This structure reflects the fact that the market is driven by tenders organised by municipalities/public utilities companies in the Member States and, accordingly, the appropriate sales representation is needed in each market.
- (41) Duktus also had a localised sales structure as it sold more than 50 % of its output in its home market, Germany. Duktus had only one sales subsidiary Duktus Czech Republic ('Duktus CZ'), which was selling only in the Czech Republic and Slovakia. The sales of Duktus CZ were relatively small (around 10 % of all Duktus sales). Jindal had only minimal sales (less than 1 %) in these two markets.
- (42) The Commission carried out a detailed price analysis for SG PAM to determine the price patterns of direct sales from the factory and indirect sales through its sales subsidiaries. SG PAM is by far the largest Union producer and accounting for 80 % of the cooperating Union producers sales in the Union and 90 % of production⁽³³⁾. The Commission compared the sales prices of the 10 most sold product types⁽³⁴⁾ for three SG PAM's production companies and its two largest sales subsidiaries selling similar volumes. The comparison rendered considerable variances of prices within a single product type. In particular, sales subsidiaries often had lower prices than sales by producers but the contrary was also true. This could be explained because, as explained before, the market of the product concerned appears to be affected by the use of tenders. Depending on the geographical market, the price of the product type at issue could vary. With regard to geographical markets, the Commission observed that in principle only one sales channel was used on the respective geographical market as described in recital (40). Hence, no comparison of price patterns between sales from production companies versus sales via sales domestic sales entities could be carried out on the same geographical market for representative volumes.
- (43) Therefore, the Commission concluded that selling directly by the producer or selling via the producer's selling entities had no discernible impact on the price level of such sales to the customer. In particular, selling via a related entity was not found to lead to higher prices than sales made directly by the producer because of the tender price pressure and different price level depending on the geographical location. Even if the Union industry had final sales from its producing companies in its domestic markets, these sales were to the same type customers as the sales of its sales subsidiaries in the other Member States. Accordingly, based on this detailed analysis of the prices charged by the Union industry on the Union market, the Commission found it appropriate to treat direct sales and indirect sales through sales subsidiaries as being carried out at the same level of trade.

4.2.3. Overall conclusion and Jindal's undercutting margin

- (44) In light of the foregoing, the Commission found that ductile pipes sector has several specificities, which enable it to consider that the Union industry's and Jindal's sales were carried out at the same level of trade:
- Both the Union industry and Jindal had a similar share of direct sales to users and indirect sales via merchants/distributors (around 70 %/30 % respectively);
 - As a general rule, the direct sales to unrelated customers from the Union producers did not follow a different price pattern from the sales which were made via their sales subsidiaries;

⁽³³⁾ The higher ratio of production is explained by the fact that SG PAM was exporting more than Duktus.

⁽³⁴⁾ These 10 product types accounted for more than 30 % of all SG PAM Sales. Because the product types were highly scattered – the most sold product type constituted only 6 % of all sales, while the 10th largest only 2,7 %, the Commission considered the top 10 representative.

— The market is tender-driven and as a result there is almost always a significant price pressure. The additional costs entailed by the existence of related selling entities for both exporting producers and the Union industry could not necessarily be passed on to the final independent buyers, as demonstrated by the fact that there were no discernible price patterns for direct and indirect sales.

- (45) Given the General Court's findings in case T-300/16 and in particular the statements at para. 248 of the judgment as set out in recital (4) above, the Commission could not find evidence that the additional costs and profit margins of the selling entities of the Union producers generally resulted in higher prices to independent buyers for the reasons explained in recitals 42 and 43. The market particularities in certain instances show that it is not always the case that costs generated by intermediate selling entities and profits can automatically be reflected in the price, like in the present case, as the General Court also implicitly recognised by adding the word 'generally'.
- (46) Nevertheless, in order to comply with the judgment and in particular the statements made by the General Court in paragraph 248 of the judgment, the Commission examined whether there would be undercutting even when comparing the prices to the first independent customer at the level of the selling entities, be it the production companies directly or the sales subsidiary. This was done without prejudice to the findings made above.
- (47) The Commission hence used the final sales prices to the first independent customer in the Union of both sides (Union industry and Jindal) adjusted for allowances. Where appropriate the Commission adjusted that final price to the first independent customer for transport, insurance, handling, loading costs, packing, credit, warranty expenses and commissions between the company making the sales and the unrelated customer. This resulted in an undercutting margin of 3,1 %.
- (48) Accordingly, the re-examination of the specific situation concerning Jindal showed that Jindal's sales prices undercut the Union industry's sales prices although at a lower level than established in the original investigation. As explained below, such undercutting can be considered as significant in a market situation where price sensitivity is important.

4.3. Price depression

- (49) In any event, even if Jindal's revised undercutting margin were to be deemed marginal or inappropriate, the Commission considered that the subject imports would still exercise negative price effects on Union sales.
- (50) Subsidised imports can have a significant impact on the market especially when the products are homogenous and when price sensitivity is important. Ductile pipes are products with high price sensitivity and for this type of products even a small price difference can have a major impact on the market.
- (51) Ductile pipes are a product defined by technical standards. Therefore, for the same type of product, there is relatively little difference in quality, which makes prices an overwhelmingly important factor in purchase decisions. In addition, the main sales channel are direct and indirect tenders, where the lowest bidder logic is extremely strong. That logic applies to direct participations in tenders by the manufacturers and their sales subsidiaries, but also for indirect participation when they provide products to other companies who are participating in the tenders. These companies usually are construction companies responding to the tenders of contracting authorities (city councils, water supply companies etc.). These tenders include both the supply and the installation of the pipes. As tenders are usually open to all bidders, all companies were under pressure to reduce their prices to align themselves with the lowest bidder in order to win a contract.
- (52) In these specific circumstances, the prices of the product concerned were depressed by the fast increasing Indian subsidised imports as set out in recital (57) below, and the price undercutting alone did not fully reflect the negative impact of the subsidised imports on the Union industry's price. As explained in the regulation at issue, ⁽³⁵⁾ whilst the Indian sales and market share increased materially during the investigation period, the volume of sales of the Unioni

⁽³⁵⁾ See recitals (336) and (338) of Implementing Regulation (EU) 2016/387 imposing a definitive countervailing duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India.

industry fell much more than the consumption and the Union Industry lost sales by 11 % and its market share fell by 4 %. A continued pressure exerted by low-priced subsidised imports ⁽³⁶⁾ did not allow the Union industry to adapt its sales prices.

- (53) Consequently, the Commission concluded that, even if the existence of undercutting were to be contested, there would be price depression exercised by the subject imports in this case.

4.4. Causation

- (54) The Commission further examined whether there would still be a causal link between the subsidised imports and the injury in view of the revised undercutting margin for Jindal and/or the alternative price depression findings. In this respect, the Commission recalled that Jindal's imports accounted for around 20 % of the subsidised imports. The Commission also found that the re-calculated lower undercutting margin for Jindal's sales did not alter the fact that also all other imports from India were undercutting the Union industry's sales prices as set out in recital 25, as those imports were not subject to the General Court's findings. Jindal's revised undercutting margin, together with the significant undercutting margin found for most of the Indian imports in the original investigation confirm the original finding made by the Commission about the existence of material injury as well as the causation in this case.
- (55) The Commission then made an overall analysis of the causal link between the injury found and all subsidised imports from India, also bearing in mind the alternative price depression findings.
- (56) The Commission found that the profitability of the sales of the Union industry to independent customers was very low. The competitive pressure from subsidised imports made the Union industry unable to increase sufficiently its prices in order to improve its financial situation. The low profitability shows that the subsidised imports depressed the Union industry prices and prevented it from increasing them in order to achieve sustainable levels of profitability.
- (57) Moreover, as set out in the regulation at issue (recitals 288 and 289) the volume of subsidised imports increased significantly in spite of a shrinking market. The subsidised imports increased by more than 10 % during the period considered. In this respect, Article 8(5) of the basic anti-subsidy Regulation provides that the volume of the subsidised imports alone may be responsible for the material injury to the Union industry.
- (58) Therefore, the Commission concluded that despite the lower level of re-established undercutting margin for Jindal all imports were undercutting the Union Industry's sales. There is hence still a causal link between all subsidised imports from India and the injury suffered to the Union industry. Moreover, even if the undercutting findings with respect to the subject imports could be put into question, the Commission concluded that the Indian imports caused significant price depression and thus the original injury/causation findings are hereby confirmed.

4.5. Injury margin

- (59) The General Court found at para. 258 of the judgment in case T-300/16 that if the Commission had calculated the price undercutting correctly, it could not be excluded that the injury margin of the Union industry could have been established at a level below that of the subsidy rate.
- (60) First, the Commission notes that the rules on the determination of the injury margin that had been applicable when the investigation leading to the measures was concluded, have been changed by Regulation (EU) 2016/1037. The new rules only require in exceptional circumstances to calculate an injury margin.
- (61) Second, the Commission recalled that the analysis of undercutting and the determination of the injury margin pursue different objectives. The undercutting analysis aims at determining whether the subject imports have an impact on the prices of the Union industry. Findings on undercutting are one of the elements that the Commission considers in the injury and causal link analysis. By contrast, the purpose of establishing an injury margin is to examine whether a duty lower than the subsidy amount found would be sufficient to remove the injury. Unlike in the context of determining injury and the detailed obligations in Article 8 of the basic anti-subsidy Regulation, the legislator has not set a comprehensive set of rules on how the Commission should estimate such a duty level. At the time, Article 15(1) simply stipulated: 'The amount of the countervailing duty shall not exceed the amount of

⁽³⁶⁾ The fact that Indian imports were made at prices lower than the Union sales could be seen in the tables in recitals (291) (Indian import prices) and (317) (average unit price in the Union) of the regulation at issue.

countervailable subsidies established, but it should be less than the total amount of countervailable subsidies if such lesser duty would be adequate to remove the injury to the Union industry.' In the case in question the Commission was calculating a price sufficient to cover the cost of production of the Union industry increased by a reasonable amount of profit (so called 'non-injurious price'). This price was compared to the import price. This difference in price was expressed as a percentage of the CIF price of the imported product so that such percentage or margin could then be compared to the amount of subsidisation found (also expressed on the basis of CIF prices). Indeed, whether based on the injury margin or on the amount of subsidisation, the duty will always be applied to the CIF price of the imported products when such products are cleared through customs in the Union.

- (62) Moreover, the methodology and figures used in the context of undercutting are different to the ones in the underselling calculations. An undercutting margin is calculated per product type ('PCN') as a difference between the actual import prices of the exporting producer and the actual Union producers' prices expressed as a percentage of the Union Industry's price. The overall weighted undercutting margin is then calculated as a difference between the actual import prices of the exporting producer and the actual Union producers' prices expressed as a percentage of the 'theoretical turnover' of the exporting producer, i.e. the amount the exporting producer would have made, had it sold the imported quantities at the same price as the Union producers. In contrast, the injury margin is calculated (also on a PCN basis) as a difference between the non-injurious price of the Union industry and the actual import price, expressed as a percentage of the actual exporting producer's CIF value (thus, actual as opposed to theoretical turnover).
- (63) Thus, an error in determining the existence and amount of undercutting for a given exporting producer does not necessarily have an automatic impact on the determination of the injury margin for such an exporting producer.
- (64) In any event, in light of para. 258 of the General Court's judgment the Commission reviewed Jindal's injury margin.
- (65) In normal circumstances, the non-injurious price of the Union industry is based on the cost of production per product type, including SGA, plus a reasonable profit and established at ex-works level. However, in this particular case the Commission did not have sufficiently detailed and verified information concerning the costs of production on a PCN basis, which is necessary for calculating the injury margin as described above. The Commission had, on the other hand, in its possession information also including the selling costs and profits of the Union producers' selling entities. Given the particular circumstances in this case, especially the numerous variances in product types and specific technical standards/specifications stemming from tender specifications, the non-injurious price was exceptionally based on the final sales price per product type, adjusted for allowances as described above in recital 47, from which the actual profit was deducted and a reasonable profit was then added. Given these special circumstances, in order to comply with the judgment, it was exceptionally considered appropriate to compare that price with the final sales price of Jindal symmetrically, i.e. at the level of its related importers, also adjusted only for allowances as described in recital (47) above, but including SG&A and profit if any.
- (66) The re-calculated injury margin was thus established at 9,0 %.
- (67) Following disclosure SG PAM took issue with the injury margin established at this level. First, SG PAM claimed that the Commission over-implemented the Court's findings by recalculating the injury margin as, in their view, the Court did not find any error in the calculation of the injury margin. Second, SG PAM claimed that the proposed injury margin would not remove the injury to the Union Industry given that the re-established level of duty would be comparable to that of ECL. Based on the market intelligence SG PAM claimed that such a level of duties affected neither ECL's volumes nor prices, which made SG PAM unable to reach a non-injurious level of prices and improve its profitability. The Commission should either not apply the lesser duty rule or use a different calculation methodology.

- (68) Regarding the first claim, the Commission recalled as set out in recital 6 that the General Court explicitly instructed the Commission to examine if recalculating the undercutting margin would also have an effect on the final duty level because of a potential change in the injury margin.
- (69) Second, the Commission reiterated the legal framework for setting the appropriate level for countervailing measures. Under Article 15(1) third subparagraph, the ‘amount of the countervailing duty shall not exceed the amount of countervailable subsidies established, but it should be less than the total amount of countervailable subsidies if such lesser duty would be adequate to remove the injury to the Union industry’. Accordingly, there is no general rule to set the duty at a level, which removes injury for the Union. Rather, this question only comes into play where the injury margin is *lower* than the amount of subsidisation.
- (70) This is not the case here. As the injury margin of 9 % was higher than the amount of subsidisation of 6 %, the basic Regulation directs the Commission to enact the latter as the duty rate.
- (71) Third, there was no legal requirement to calculate the injury margin differently. The current re-investigation is limited to correcting the errors identified by the Court. While this entails a correction of the appropriate level for establishing the injury margin, it does not mean that the other steps in the originally applied methodology can be overhauled.
- (72) For these reasons, the Commission rejected these claims.

5. DEFINITIVE COUNTERVAILING MEASURES

- (73) On the basis of the conclusions reached by the Commission on subsidisation, injury and causation in this re-opened anti-subsidy investigation, a definitive countervailing duty shall be re-imposed on imports of pipes and tubes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India and manufactured by Jindal Saw Limited.
- (74) Given that the re-established injury margin (9,0 %) is higher than the re-calculated subsidy amount (6,0 %), in accordance with the applicable rules in the original investigation, the countervailing duty rate should be set at the level of the amount of subsidisation. Accordingly, the re-imposed countervailing duty rates for Jindal Saw Limited are as follows.

Company	Amount of subsidisation	Injury margin	Countervailing duty rate
Jindal Saw Limited	6,0 %	9,0 %	6,0 %

- (75) The revised level of countervailing duty applies without any temporal interruption since the entry into force of the regulation at issue (namely, as of 19 March 2016 onwards). Customs authorities are instructed to collect the appropriate amounts on imports concerning Jindal Saw Limited and refund any excess amount collected so far in accordance with the applicable customs legislation.
- (76) In view of Article 109 of Regulation (EU, Euratom) No 2018/1046 ⁽³⁷⁾, 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.
- (77) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) No 2016/1036.

⁽³⁷⁾ 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).

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is hereby imposed on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), currently falling under CN codes ex 7303 00 10 and ex 7303 00 90 (TARIC codes 7303 00 10 10, 7303 00 90 10), originating in India and manufactured by Jindal Saw Limited, as of 19 March 2016.
2. The rate of the definitive countervailing duty applicable to the net, free-at-Union-frontier price before duty, of the product described in paragraph 1 and manufactured by Jindal Saw Limited, shall be 6,0 % (TARIC additional code C054).

Article 2

Any definitive countervailing duty paid by Jindal Saw Limited pursuant to Implementing Regulation (EU) 2016/387 in excess of the definitive countervailing duty established in Article 1 shall be repaid or remitted.

The repayment or remission shall be requested from national customs authorities in accordance with the applicable customs legislation. Any reimbursements that took place following the General Court's ruling in case T-300/16 *Jindal Saw* shall be recovered by the authorities which made the reimbursements up to the amount set out in Article 1(2).

Article 3

The definitive countervailing duty imposed by Article 1 shall also be collected on imports registered in accordance with Article 1 of Commission implementing Regulation (EU) 2019/1250 making certain imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India subject to registration following the re-opening of the investigation in order to implement the judgments of 10 April 2019 in cases T-300/16 and T-301/16, with regard to Implementing Regulations (EU) 2016/387 and (EU) No 2016/388 imposing a definitive countervailing and a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India.

Article 4

Customs authorities are directed to discontinue the registration of imports, established in accordance with Article 1(1) of Implementing Regulation (EU) 2019/1250, which is hereby repealed.

Article 5

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

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

Done at Brussels, 15 April 2020.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2020/527**of 15 April 2020****re-imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India as regards Jindal Saw Limited following the judgment of the General Court in T-301/16**

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 Articles 9(4) and 14(1) thereof,

Whereas:

1. PROCEDURE

- (1) On 17 March 2016 the Commission adopted Implementing Regulation (EU) 2016/388 ⁽²⁾ imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India, as amended by Implementing Regulation (EU) 2016/1369 ⁽³⁾ ('the Regulation at issue').

1.1. The Judgement of the General Court of the European Union

- (2) Jindal Saw Limited ('Jindal') and its related importer, Jindal Saw Italia SpA (together 'the applicants'), challenged the Regulation at issue before the General Court. On 10 April 2019 the General Court issued its judgment in Case T-301/16 ⁽⁴⁾ regarding the Regulation at issue ('the judgment').
- (3) The General Court found that the Commission had committed an error in respect of its undercutting calculations as far as the applicants were concerned. In this case, on the one hand, in respect of the Union industry the Commission took into account either the prices at an ex-works level ⁽⁵⁾ of the production entities when they sold directly to independent buyers, or the prices at an ex-works level of the selling entities. On the other hand, in respect of Jindal's sales in the Union market, the Commission used as a starting price to arrive at a comparable landed price in the EU the export price as constructed in the context of the determination of the dumping margin (thus, taking out SG&A costs plus profits of Jindal's related selling entities in the EU). According to the General Court, the marketing of products carried out not directly by the producer, but through related selling entities, implies the existence of costs and a profit margin specific to those entities, so that the prices charged by them to independent buyers are generally higher than the prices charged by producers in their direct sales to such buyers and thus cannot be assimilated to those latter prices ⁽⁶⁾. As a result, the General Court considered that by carrying out, for the price comparison made in the context of the undercutting calculation, the assimilation between the prices charged by the selling entities to independent buyers and the prices charged by producers in their direct sales to such buyers, only as regards the like product of the Union industry, the Commission took into account for that product a price which was inflated and therefore unfavourable to Jindal Saw, which performed the majority of its sales in the Union by way of selling entities ⁽⁷⁾. For

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

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

⁽³⁾ Commission Implementing Regulation (EU) 2016/1369 of 11 August 2016 amending Implementing Regulation (EU) 2016/388 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India (OJ L 217, 12.8.2016, p. 4).

⁽⁴⁾ Judgment of the General Court (First Chamber, Extended Composition) of 10 April 2019, *Jindal Saw Ltd and Jindal Saw Italia SpA v European Commission*, T-301/16, ECLI:EU:T:2019:234.

⁽⁵⁾ Ex-works level means that transport costs have been deducted where warranted.

⁽⁶⁾ Case T-301/16, para. 184.

⁽⁷⁾ *Ibid.*, para. 185.

the General Court, this was an error in calculating the price undercutting of the product concerned, as the undercutting calculation was not made by comparing prices at the same level of trade. Therefore, the General Court found an error in that the Commission deducted the selling expenses and profits of Jindal's related selling entities in the Union from the sales to the first independent buyer, while the selling expenses and profits of the Union industry's related selling entities were not deducted from the Union industry sales prices to the first independent customer. The General Court considered that the two prices were not compared symmetrically at the same level of trade.

- (4) As a result, the General Court found that the Commission had infringed Article 3(2) of the basic anti-dumping Regulation in force at the time of the original investigation ⁽⁸⁾ ('the basic anti-dumping Regulation'). Since the undercutting, as calculated in the Regulation at issue, was a basis for the conclusion that imports of the product concerned were at the root of the injury to the Union industry, the General Court found that the existence of a causal link between the dumped imports and the injury to the Union industry, as a necessary condition for the imposition of an anti-dumping duty in accordance with Article 3(6) of the basic anti-dumping Regulation, could have been tainted as well ⁽⁹⁾.
- (5) Moreover, the General Court found that it could not be excluded that, if the price undercutting had been calculated correctly, the injury margin of the Union industry would have been established at a level below that of the dumping margin. In that case, in accordance with Article 9(4) of the basic anti-dumping Regulation, the amount of the anti-dumping duty would have to be reduced to a rate, which would be sufficient to remove that injury ⁽¹⁰⁾.
- (6) In light of the above considerations, the General Court annulled the Regulation at issue insofar as Jindal Saw Limited was concerned.

1.2. Implementation of the General Court's Judgment

- (7) According to Article 266 of the Treaty on the Functioning of the European Union ('TFEU'), the Union institutions are obliged to take the necessary steps to comply with the Court's judgments. In case of an annulment of an act adopted by the Union institutions in the context of an administrative procedure, such like the anti-dumping investigation in this case, compliance with the General Court's judgment consists in the replacement of the annulled act by a new act, in which the illegality identified by the General Court is eliminated ⁽¹¹⁾.
- (8) According to the case-law of the Court of Justice, the procedure for replacing an annulled act may be resumed at the very point at which the illegality occurred ⁽¹²⁾. That implies, in particular, that in a situation where an act concluding an administrative procedure is annulled, that annulment does not necessarily affect the preparatory acts, such as the initiation of the anti-dumping procedure. For instance, where a regulation imposing definitive anti-dumping measures is annulled, the proceeding remains open because it is only the act concluding the proceeding that has disappeared from the Union legal order ⁽¹³⁾, except in cases where the illegality occurred at the stage of initiation. The resumption of the administrative procedure with the re-imposition of anti-dumping duties on imports that were made during the period of application of the annulled regulation cannot be considered as contrary to the rule of non-retroactivity ⁽¹⁴⁾.
- (9) In the present case, the General Court annulled the Regulation at issue as regards Jindal Saw Limited on the ground that the Commission made an error when determining the existence of significant undercutting. That error, potentially, could have tainted the causation analysis, as well as the injury margin.

⁽⁸⁾ Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Union (OJ L 343, 22.12.2009, p. 51) (replaced by Regulation (EU) 2016/1036).

⁽⁹⁾ Case T-301/16, para. 193.

⁽¹⁰⁾ Ibid. para. 194.

⁽¹¹⁾ Joined Cases 97, 193, 99 and 215/86 Asteris AE and others and Hellenic Republic v Commission [1988] ECR 2181, paragraphs 27 and 28.

⁽¹²⁾ Case C-415/96 Spain v Commission, ECR I-6993, paragraph 31; Case C-458/98 P Industrie des Poudres Spheriques v Council [2000] ECR I-8147, paragraphs 80 to 85; Case T-301/01 Alitalia v Commission [2008] ECR II-1753, paragraphs 99 and 142; Joined Cases T-267/08 and T-279/08 Region Nord-Pas de Calais v Commission [2011] ECLI:EU:T:2011:209, paragraph 83.

⁽¹³⁾ Case C-415/96 Spain v Commission, ECR I-6993, paragraph 31; Case C-458/98 P Industries des Poudres Spheriques v Council [2000] ECR I-8147, paragraphs 80 to 85.

⁽¹⁴⁾ Case C-256/16 Deichmann SE v Hauptzollamt Duisburg [2018], ECLI:EU:C:2018:187, paragraph 79; and C-612/16 C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs, judgment of 19 June 2019, paragraph 58.

- (10) Findings in the Regulation at issue, which were not contested, or which were contested but rejected by the General Court or not examined by the General Court, and therefore did not lead to the annulment of the Regulation at issue, remain fully valid ⁽¹⁵⁾.
- (11) Following the Court's judgments in Case T-301/16 of 10 April 2019, the Commission decided by means of a Notice ('the re-opening Notice') to partially re-open the anti-dumping investigation concerning imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) that lead to the adoption of the Regulation at issue and to resume the investigation at the point at which the irregularity occurred. The re-opening was limited in scope to the implementation of the judgment of the General Court with regard to Jindal Saw Limited.
- (12) Subsequently, on 22 July 2019, the Commission decided to make imports of certain tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India and produced by Jindal Saw Limited subject to registration and requested national customs authorities to await the publication of the relevant Commission Implementing Regulation re-imposing the duties before deciding on any claims for repayment and remission of anti-dumping duties insofar as imports concerning Jindal Saw Limited were concerned ⁽¹⁶⁾ ('the registration Regulation').
- (13) The Commission informed interested parties of the re-opening and invited them to comment.

2. COMMENTS FROM INTERESTED PARTIES

- (14) The Commission received comments from the Union industry and two exporting producers.
- (15) Jindal claimed that the Commission could not instruct the national customs authorities not to repay and/or remit duties that had been collected pursuant to Regulation at issue. It claimed that the situation in the present case is different from the one in the Deichmann judgment ⁽¹⁷⁾. Jindal also claimed that the duties cannot be re-imposed retroactively. According to Jindal, the Regulation at issue was annulled in its entirety, which means that it had been removed from the legal order of the Union with retroactive effect, whereas in the Deichmann judgement there were no factors 'capable of affecting the validity of the definitive regulation'. In addition, Jindal claimed that the illegality found with respect to the price undercutting analysis has the result of 'invalidating the Commission's entire analysis of causation'. This, in Jindal's view, means that the duties in their entirety should neither have been imposed, nor re-imposed, since the entire injury and causation analysis was flawed.
- (16) The Commission recalled that it is settled case-law that, when the Court declares that a regulation imposing duties is invalid, such duties are to be considered as never having been lawfully owed within the meaning of Article 236 of the Customs Code and, in principle, are required to be repaid by the national customs authorities under the conditions set out to that effect ⁽¹⁸⁾. However, the Court has also held that the exact scope of a declaration of invalidity by the Court in a judgment and, consequently, of the obligations that flow from it must be determined in each specific case by taking into account not only the operative part of that judgment, but also the grounds that constitute its essential basis ⁽¹⁹⁾. Following disclosure, Jindal repeated these claims without providing further arguments.
- (17) In the case at hand, the General Court put into question the method of calculating undercutting with respect to Jindal and its impact on causality as well as its possible impact on Jindal's injury margin in paragraphs 192–195 of the judgement. However, those elements did not call into question the validity of all other findings made in the

⁽¹⁵⁾ Case T-650/17, Jinan Meide Casting Co. Ltd, ECLI:EU:T:2019:644, paras. 333–342.

⁽¹⁶⁾ Commission Implementing Regulation (EU) 2019/1250 of 22 July 2019 making certain imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India subject to registration following the re-opening of the investigation in order to implement the judgments of 10 April 2019 in Cases T-300/16 and T-301/16, with regard to Implementing Regulations (EU) 2016/387 and (EU) 2016/388 imposing a definitive countervailing duty and definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India (OJ L 195, 23.7.2019, p. 13).

⁽¹⁷⁾ Case C-256/16 Deichmann SE v Hauptzollamt Duisburg [2018], ECLI:EU:C:2018:187.

⁽¹⁸⁾ See, to that effect, Case C-256/16 Deichmann SE v Hauptzollamt Duisburg, and the judgments quoted in paragraph 62 thereof, namely, C-351/04 *Ikea Wholesale*, of 27 September 2007, EU:C:2007:547, paragraphs 66 to 69, and, C-365/15, *Wortmann*, of 18 January 2017 EU:C:2017:19, paragraph 34.

⁽¹⁹⁾ C-256/16 Deichmann SE v Hauptzollamt Duisburg, para. 63 and the case-law cited therein.

Regulation at issue and which can support the validity of the Commission's ultimate injury findings, as further elaborated in recital (24). In any case, even if the findings of the re-opened investigation were that no anti-dumping duties should be re-imposed, customs authorities would have the possibility to repay the entire amount of duties, which have been collected since the Regulation at issue was adopted.

- (18) Furthermore, the Court of Justice has consistently held that Article 10(1) of the basic anti-dumping Regulation⁽²⁰⁾ does not preclude acts from re-imposing anti-dumping duties on imports that were made during the period of application of the regulations declared to be invalid⁽²¹⁾. Consequently, as explained in recital 15 of the registration Regulation, the resumption of the administrative procedure and the eventual re-imposition of duties cannot be considered as contrary to the rule of non-retroactivity⁽²²⁾. Consequently, Jindal's claim that the duties cannot be re-imposed was rejected.
- (19) Jindal also claimed that in order to comply with the Court's judgment the Commission must use Jindal's actual prices to its first independent customers. It emphasised that the Commission must not construct the prices of the Union industry's sales subsidiaries. It claimed that this would be contrary to paragraph 187 of the judgment in which the Court ruled: '*... that the prices used in the undercutting calculation should be prices negotiated with independent buyers, namely prices, which could have been taken into account by them in order to decide whether they purchased the Union industry's product or the product of the exporting producers in question, and not the prices at an intermediate stage*'. In this respect, the Commission considered that in *Kazchrome*⁽²³⁾, i.e. the source quoted by the General Court in *Jindal*, the General Court did not go as far as making the categorical conclusion now drawn by Jindal (namely, that in all cases when conducting undercutting calculations what matters is the actual prices charged by the exporting producer's related selling entities in the EU). In fact, the General Court in *Kazchrome* was cautious when stating that 'the conclusion resulting from the foregoing examination concerns only the present case'⁽²⁴⁾. The Commission is of the view that the CIF landed prices at the ports of customs clearance may be used in the context of examining price effects of subsidised imports through specific undercutting calculations. It is at that level that imports normally compete with the Union industry's prices, because it is at that level that traders make their choice whether to source the product from the Union industry or the exporting producers. Trying to estimate what those CIF landed prices are in the context where the exporting producer sells through related entities in the Union for the purpose of the undercutting calculations is no different from a situation where the Commission directly uses for the comparison the CIF landed prices of exporting producers when selling directly into the Union. Thus, the reference to 'negotiated prices' both in *Kazchrome* and then later on in *Jindal* should be understood in their proper context.
- (20) Jindal also claimed that the Commission should correct other flaws and calculation errors, which emerged after the Regulation at issue was adopted. As the Commission explained in the re-opening Notice, findings reached in the Regulation at issue that were not contested, or which were contested but rejected by the judgment of the General Court or not examined by it, and therefore did not lead to the annulment of the Regulation at issue, remain fully valid⁽²⁵⁾. Therefore, the Commission is not required to look into allegations on issues beyond what the General Court found illegal.
- (21) The other exporting producer, Electrosteel Castings Ltd. ('ECL'), claimed that in case the Commission determines that the imports from Jindal were not the cause of injury to the Union industry, it should reassess whether the measures should be maintained against imports from ECL. It also claimed that in case the Commission corrects the margins of Jindal, its margins should also be corrected. Upon disclosure ECL, supported by the Government of India, reiterated these claims and argued that the recalculation of its margins is a necessary consequence of the re-opening of this procedure. The Commission should therefore carry out this exercise *ex officio*.
- (22) Regarding the first of ECL's claims, the Commission observed that, as noted in recital (24) the Commission did not need to recalculate ECL's undercutting margin in this case. In any event, even after the undercutting re-calculation for Jindal, following the approach described in Section 3.2 below, the Commission determined that there was still a

⁽²⁰⁾ Regulation (EU) 2016/1036.

⁽²¹⁾ C-256/16 *Deichmann*, EU:C:2018:187, paragraphs 77 and 78 and C-612/16, C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs, judgment of 19 June 2019, paragraph 57.

⁽²²⁾ Case C-256/16 *Deichmann SE v Hauptzollamt Duisburg*, para 79 and Case C-612/16, C & J Clark International Ltd v Commissioners for Her Majesty's Revenue & Customs, judgment of 19 June 2019, paragraph 58.

⁽²³⁾ Judgment of 30 November 2011, *Transnational Company 'Kazchrome' and ENRC Marketing v Council and Commission*, T-107/08, ECLI:EU:T:2011:704.

⁽²⁴⁾ Judgment of 30 November 2011, *Transnational Company 'Kazchrome' and ENRC Marketing v Council and Commission*, T-107/08, ECLI:EU:T:2011:704, para. 68.

⁽²⁵⁾ Case T-650/17, *Jinan Meide Casting Co. Ltd*, ECLI:EU:T:2019:644, paras. 333–342.

causal link between the dumped imports and the Union industry's injury as set out in Section 3.4. This claim did therefore become moot. The Commission also rejected the second claim as any re-calculation of ECL margins falls outside of the scope of the present procedure. Even assuming that ECL's claim that its undercutting margin was in the range of the margin established for Jindal following the approach described in Section 3.2, the Commission noted that there would be still undercutting, albeit lower, for all Indian imports. Such a level of undercutting, in view of the specific market circumstances of the product concerned, would be significant to find that the subject Indian imports were a genuine and substantial cause for the injury found. The Commission further addressed this issue in Section 3.4.

- (23) The Union industry claimed that in its injury analysis the Commission should take into account the depressing price effect of the imports on the Union industry. Conversely, upon disclosure ECL claimed that such analysis goes beyond the scope of this re-opened procedure and should not be carried out. The Commission found that price depression analysis is an integral part of the causation analysis, which the General Court found could be tainted by the error at issue. Therefore, the Commission analysed the price depression as set out in Section 3.3 below.

3. RE-EXAMINATION OF UNDERCUTTING/PRICE DEPRESSION BY THE SUBJECT IMPORTS AND THE INJURY MARGIN AS REGARDS JINDAL SAW LIMITED

3.1. The impact of Jindal sales on the injury determination

- (24) The Commission recalled that the imports by Jindal accounted for only 20 % of total imports from India in the investigation period. All other imports are not affected by the General Court's ruling. In other words, even taking out Jindal's imports from the assessment of price effects, the findings of significant undercutting ⁽²⁶⁾ with respect to a very significant part of the subject imports would remain unaffected. In this respect, the Commission recalled that both the consideration of price effects as well as a determination that the subject imports caused injury to the domestic Union industry are made with respect to imports from the country or countries concerned as a whole (as opposed to on the basis of each exporting producer) ⁽²⁷⁾. Therefore, the Commission considered that revising Jindal's undercutting calculations did not taint the conclusion that, overall, there was significant undercutting by Indian imports. Thus, the error found by the General court did not have a material impact on the overall findings made in the original investigation. In this sense, all the injury findings made in the original investigation are hereby incorporated and confirmed.

3.2. Determination of undercutting with respect to Jindal

- (25) Even if, as found in recital (24), the Commission considered that the impact of the error found by the General Court would not taint the Commission's undercutting and injury findings, the Commission examined in more detail whether there would still be undercutting with respect to Jindal, also considering the specific market conditions in this case.
- (26) The General Court stated that the obligation to carry out an objective examination of the impact of dumped imports, as required by Article 3(2) of the basic anti-dumping Regulation, requires a fair comparison to be made between the price of the product concerned and the price of the like product of the Union industry when sold in the territory of the Union. In order to ensure the fairness of such comparison, the prices must be compared at the same level of trade (see para. 176 of Case T-301/16).
- (27) In the case at hand, there are a number of significant specific market characteristics relating to the product concerned, which are described below.

⁽²⁶⁾ See recitals (93) and (126) of Implementing Regulation (EU) 2016/388 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India ('the Regulation at issue').

⁽²⁷⁾ See, in this sense, judgment of the General Court (Second Chamber) of 8 May 2019m Case T-749/16, *Stemcor London*, ECLI:EU:T:2019:310, para. 84, ('[T]he Court has held that the injury caused to an established Union industry by dumped imports must be assessed as a whole, and it is not necessary (or, indeed possible) to define separately the share of such injury attributable to each of the company responsible').

3.2.1. *The product and the companies concerned*

- (28) The product concerned is tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) ('ductile pipes'), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), originating in India, currently falling under CN codes ex 7303 00 10 and ex 7303 00 90 (TARIC codes 7303 00 10 10 and 7303 00 90 10).
- (29) The Commission recalled that two (out of three) groups of companies making the product concerned cooperated as the Union Industry (representing around 96 % of total production). SG PAM Group ('SG PAM') was selling to independent customers in the Union via its three production companies located in France, Germany and Spain as well as via many sales subsidiaries located in different Member States ⁽²⁸⁾. The second group of Union producers, Duktus Rohrssysteme GmbH was selling from its German production company and via one sales subsidiary ⁽²⁹⁾. Jindal, on the other hand, sold the product concerned in the Union via three sales subsidiaries located in Italy, Spain and the UK ⁽³⁰⁾.

3.2.2. *Specificities of the ductile iron pipes market in the Union*

(a) *Sales channels/types of customers*

- (30) The main use of ductile pipes is transport of water and sewage. Hence, water supply and water treatment companies, ultimately, account for most of the demand for the product concerned. These companies use ductile pipes in large infrastructure projects, and their purchases are subject, directly or indirectly, to public procurement through public tenders. As set out in the complaint ⁽³¹⁾, ductile pipes are sold either directly to contractors or water companies (i.e. sales to users) or indirectly via merchants (i.e. sales to distributors). Even if a large proportion of ductile pipes is first sold to construction companies, these companies participate in the tenders of water supply and treatment companies, so the tender price pressure is almost always present in the end. Thus, most of the sales of ductile pipes in the Union market are linked directly or indirectly to tenders in various Member States.
- (31) SG PAM sold around 75 % of its output to users and the remaining 25 % to unrelated distributors. Duktus had a different sales structure as it was selling mainly to unrelated distributors (almost 90 % of sales). However, given that Duktus' sales accounted for only a small proportion of the Union industry's sales, the Commission confirmed that no less than 65 % of Union industry's sales went directly to users.
- (32) Jindal had a similar type of customers' sales structure to the Union industry, it sold more than 70 % to users and around 30 % to unrelated distributors.
- (33) Therefore, the Commission concluded that Jindal and the Union industry sold the product concerned to similar types of customers in similar proportions.

(b) *Direct sales from the producers versus sales via sales subsidiaries*

- (34) SG PAM had a territorial sales structure in which its entities focused on the local markets where they were present. This applied to both SG PAM's producers and its sales subsidiaries. For instance, SG PAM France was the only SG PAM's entity selling directly to final users in France. Even if a certain product type was manufactured by SG PAM Germany or Spain, such product type was first re-sold internally to SG PAM France and only then sold to the final user by SG PAM France. Likewise, SG PAM Belgium was the only selling entity in Belgium [and Luxembourg]; SG PAM UK in the UK [and Ireland]; SG PAM Italy only in Italy etc. In other words, the three producing entities were

⁽²⁸⁾ To streamline the investigation the Commission sampled the six largest of SG PAM's sales subsidiaries.

⁽²⁹⁾ Duktus also sold via a sales subsidiary in Czech Republic, but given the small size of it, its data was not verified.

⁽³⁰⁾ All three Jindal's subsidiaries were verified. Jindal also had less than 3 % of the Union sales directly from India to the remote islands of Reunion and Mayotte, which are considered the EU customs territory.

⁽³¹⁾ Consolidated version of the complaint lodged on 10 November 2014, for inspection by interested parties, p. 6.

not selling directly to users in the markets where other producing entities or a sales subsidiary were present. This structure reflects the fact that the market is driven by tenders organised by municipalities/public utility companies in the Member States and, accordingly, the appropriate sales representation is needed in each market

- (35) Duktus also had a localised sales structure as it sold more than 50 % of its output in its home market, Germany. Duktus had only one sales subsidiary Duktus Czech Republic ('Duktus CZ'), which was selling only in the Czech Republic and Slovakia. The sales of Duktus CZ were relatively small around 10 % of all Duktus sales. Jindal had only minimal sales (less than 1 %) in these two markets.
- (36) The Commission carried out a detailed price analysis for SG PAM to determine the price patterns of direct sales from the factory and indirect sales through its sales subsidiaries. SG PAM is by far the largest Union producer and accounting for 80 % of the cooperating Union producers sales in the Union and 90 % of production⁽³²⁾. The Commission compared the sales prices of the 10 most sold product types⁽³³⁾ for three SG PAM's production companies and its two largest sales subsidiaries selling similar volumes. The comparison rendered considerable variances of prices within a single product type. In particular, sales subsidiaries often had lower prices than sales by producers but the contrary was also true. This could be explained because, as explained before, the market of the product concerned appears to be affected by the use of tenders. Depending on the geographical market, the price of the product type at issue could vary. With regard to geographical markets, the Commission observed that in principle only one sales channel were used on the respective geographical market as described in recital (34). Hence, no comparison of price patterns between sales from production companies versus sales via sales domestic sales entities could be carried out on the same geographical market for representative volumes.
- (37) Therefore, the Commission concluded that selling directly by the producer or selling via the producer's selling entities had no discernible impact on the price level of such sales to the customer. In particular, selling via a related entity was not found to lead to higher prices than sales made directly by the producer because of the tender price pressure and different price level depending on the geographical location. Even if the Union industry had final sales from its producing companies in its domestic markets, these sales were to the same type customers as the sales of its sales subsidiaries in the other Member States. Accordingly, based on this detailed analysis of the prices charged by the Union industry on the Union market, the Commission found it appropriate to treat direct sales and indirect sales through sales subsidiaries as being carried out at the same level of trade.

3.2.3. Overall conclusion and Jindal's undercutting margin

- (38) In light of the foregoing, the Commission found that the ductile pipes sector has several specificities, which enabled it to consider that the Union Industry's and Jindal's sales were carried out at the same level of trade:
- Both the Union Industry and Jindal had a similar share of direct sales to users and indirect sales via merchants/distributors (around 70 %/30 %, respectively),
 - As a general rule, the direct sales to unrelated customers from the Union producers did not follow a different price pattern from the sales that were made via their sales subsidiaries,
 - The market is tender-driven and as a result there is almost always a significant price pressure. The additional costs entailed by the existence of related selling entities for both exporting producers and the Union industry could not necessarily be passed on to the final independent buyers, as demonstrated by the fact that there were no discernible difference in price patterns for direct and indirect sales.
- (39) Given the General Court's findings in Case T-301/16 and in particular the statements at para. 184 of the judgement as set out in recital (3) above, the Commission could not find evidence that the additional costs and profit margins of the selling entities of the Union producers generally resulted in higher prices to independent buyers for the reasons

⁽³²⁾ The higher ratio of production is explained by the fact that SG PAM was exporting more than Duktus.

⁽³³⁾ These 10 product types accounted for more than 30 % of all SG PAM Sales. Because the product types were highly scattered – the most sold product type constituted only 6 % of all sales, while the 10th largest only 2,7 %, the Commission considered the top 10 representative.

explained in recitals (36) and (37) above. The market particularities in certain instances show that it is not always the case that costs generated by intermediate selling entities and profits can automatically be reflected in the price, like in the present case, as the General Court also implicitly recognised by adding the word 'generally'.

- (40) Nevertheless, in order to comply with the judgment and in particular the statements made by the General Court in paragraph 184 of the judgment, the Commission examined whether there would be undercutting even when comparing the prices to the first independent customer at the level of the selling entities, be it the production companies directly or the sales subsidiary. This was done without prejudice to the findings made above.
- (41) The Commission hence used the final sales prices to the first independent customer in the Union of both sides (Union industry and Jindal) adjusted for allowances. Where appropriate, the Commission adjusted that final price to the first independent customer for transport, insurance, handling, loading costs, packing, credit, warranty expenses and commissions between the company making the sales and the unrelated customer. This resulted in an undercutting margin of 3,1 %.
- (42) Accordingly, the re-examination of the specific situation concerning Jindal showed that Jindal's sales prices undercut the Union industry's sales prices although at a lower level than established in the original investigation. As explained below, such undercutting can be considered as significant in a market situation where price sensitivity is important.

3.3. Price depression

- (43) In any event, even if Jindal's revised undercutting margin were to be deemed marginal or inappropriate, the Commission considered that the subject imports would still exercise negative price effects on Union sales.
- (44) Dumped imports can have a significant impact on the market especially when the products are homogenous and when price sensitivity is important. Ductile pipes are products with high price sensitivity and for this type of products even a small price difference can have a major impact on the market.
- (45) Ductile pipes are a product defined by technical standards. Therefore, for the same type of product, there is relatively little difference in quality, which makes prices an overwhelmingly important factor in purchase decisions. In addition, the main sales channel are direct and indirect tenders, where the lowest bidder logic is extremely strong. That logic applies to direct participations in tenders by the manufacturers and their sales subsidiaries, but also for indirect participation when they provide products to other companies who are participating in the tenders. These companies usually are construction companies responding to the tenders of contracting authorities (city councils, water supply companies, etc.). These tenders include both the supply and the installation of the pipes. As tenders are usually open to all bidders, all companies were under pressure to reduce their prices to align themselves with the lowest bidder in order to win a contract.
- (46) In these specific circumstances, the prices of the product concerned were depressed by the fast increasing dumped imports from India, as set out in recital (51) below, and the price undercutting alone did not fully reflect the negative impact of the dumped imports on the Union industry's price. As explained in the Regulation at issue ⁽³⁴⁾, whilst the Indian sales and market share increased materially during the investigation period, the volume of sales of the Union industry fell much more than the consumption and the Union industry lost sales by 11 % and its market share fell by 4 %. A continued pressure exerted by low-priced dumped imports ⁽³⁵⁾ did not allow the Union industry to adapt its sales prices.
- (47) Consequently, the Commission concluded that, even if the existence of undercutting were to be contested, there would be price depression exercised by the subject imports in this case.

⁽³⁴⁾ See recitals (80) and (99) of Implementing Regulation (EU) 2016/388 imposing a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India.

⁽³⁵⁾ The fact that Indian imports were made at prices lower than the Union sales could be seen in the tables in recitals (82) (Indian import prices) and (106) (average unit price in the Union) of the Regulation at issue.

3.4. Causation

- (48) The Commission further examined whether there would still be a causal link between the dumped imports and the injury in view of the revised undercutting margin for Jindal and/or the alternative price depression findings. In this respect, the Commission recalled that Jindal's imports accounted for around 20 % of the dumped imports. The Commission also found that the re-calculated lower undercutting margin for Jindal's sales did not alter the fact that also all other imports from India were undercutting the Union industry's sales prices as set out in recital (22) as those imports were not subject to the General Court's findings. Jindal's revised undercutting margin, together with the significant undercutting margin found for most of the Indian imports in the original investigation confirm the original finding made by the Commission about the existence of material injury as well as the causation in this case.
- (49) The Commission then made an overall analysis of the causal link between the injury found and all dumped imports from India, also bearing in mind the alternative price depression findings.
- (50) The Commission found that the profitability of the sales of the Union industry to independent customers was very low. The competitive pressure from dumped imports made the Union industry unable to increase sufficiently its prices in order to improve its financial situation. The low profitability shows that the dumped imports depressed the Union industry prices and prevented it from increasing them in order to achieve sustainable levels of profitability.
- (51) Moreover, as set out in the Regulation at issue (recitals (79) and (80)) the volume of dumped imports increased significantly in spite of a shrinking market. The dumped imports increased by more than 10 % during the period considered. In this respect, Article 3(6) of the basic anti-dumping regulation provides that the volume of the dumped imports alone may be responsible for the material injury to the Union industry.
- (52) Therefore, the Commission concluded that despite the lower level of the re-established undercutting margin for Jindal all imports were undercutting the Union Industry's sales. There is hence still a causal link between all dumped imports from India and the injury suffered to the Union industry. Moreover, even if the undercutting findings with respect to the subject imports could be put into question, the Commission concluded that the Indian imports caused significant price depression and thus the original injury/causation findings are hereby confirmed.

3.5. Injury margin

- (53) The General Court found at para. 194 of the judgment in Case T-301/16 that if the Commission had calculated the price undercutting correctly, it could not be excluded that the injury margin of the Union industry could have been established at a level below that of the dumping margin.
- (54) First, the Commission notes that the rules on the determination of the injury margin that had been applicable when the investigation leading to the measures was concluded, have been changed by Regulation (EU) 2016/1036. The new rules only require in exceptional circumstances to calculate an injury margin.
- (55) Second, the Commission recalled that the analysis of undercutting and the determination of the injury margin pursue different objectives. The undercutting analysis aims at determining whether the subject imports have an impact on the prices of the Union industry. Findings on undercutting are one of the elements that the Commission considers in the injury and causal link analysis. By contrast, the purpose of establishing an injury margin is to examine whether a duty lower than the dumping margin found would be sufficient to remove the injury. Unlike in the context of determining injury and the detailed obligations in Article 3 of the basic anti-dumping Regulation, the legislator has not set a comprehensive set of rules on how the Commission should estimate such a duty level. At the time, Article 9 of the anti-dumping regulation in force simply stipulated that 'the amount of the anti-dumping duty shall not exceed the margin of dumping established but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Union industry'. In the case in question the Commission was calculating a price sufficient to cover the cost of production of the Union industry increased by a reasonable amount of profit (so called 'non-injurious price'). This price was compared to the import price. This difference in price was expressed as a

percentage of the CIF price of the imported product so that such percentage or margin could then be compared to the amount of dumping found (also expressed on the basis of CIF prices). Indeed, whether based on the injury margin or on the dumping margin, the duty will always be applied to the CIF price of the imported products when such products are cleared through customs in the Union.

- (56) Moreover, the methodology and figures used in the context of undercutting are different to the ones in the underselling calculations. An undercutting margin is calculated per product type ('PCN') as a difference between the actual import prices of the exporting producer and the actual Union producers' prices expressed as a percentage of the Union Industry's price. The overall weighted undercutting margin is then calculated as a difference between the actual import prices of the exporting producer and the actual Union producers' prices expressed as a percentage of the 'theoretical turnover' of the exporting producer, i.e. the amount the exporting producer would have made, had it sold the imported quantities at the same price as the Union producers. In contrast, the injury margin is calculated (also on a PCN basis) as a difference between the non-injurious price of the Union industry and the actual import price, expressed as a percentage of the actual exporting producer's CIF value (thus, actual as opposed to theoretical turnover).
- (57) Thus, an error in determining the existence and amount of undercutting for a given exporting producer does not necessarily have an automatic impact on the determination of the injury margin for such an exporting producer.
- (58) In any event, in light of para. 194 of the General Court's judgment the Commission reviewed Jindal's injury margin.
- (59) In normal circumstances, the non-injurious price of the Union industry is based on the cost of production per product type, including SGA, plus a reasonable profit and established at ex-works level. However, in this particular case the Commission did not have sufficiently detailed and verified information concerning the costs of production on a PCN basis, which is necessary for calculating the injury margin as described above. The Commission had, on the other hand, in its possession information also including the selling costs and profits of the Union producers' selling entities. Given the particular circumstances in this case, especially the numerous variances in product types and specific technical standards/specifications stemming from tender specifications, the non-injurious price was exceptionally based on the final sales price per product type, adjusted for allowances as described above in recital (41), from which the actual profit was deducted and a reasonable profit was then added. Given these special circumstances, in order to comply with the judgment, it was exceptionally considered appropriate to compare that price with the final sales price of Jindal symmetrically, i.e. at the level of its related importers, also adjusted only for allowances as described in recital (41) above, but including SG&A and profit if any.
- (60) The re-calculated injury margin was thus established at 9,0 %.
- (61) Following disclosure SG PAM took issue with the injury margin established at this level. First, SG PAM claimed that the Commission over-implemented the Court's findings by recalculating the injury margin as, in their view, the Court did not find any error in the calculation of the injury margin. Second, SG PAM claimed that the proposed injury margin would not remove the injury to the Union Industry given that the re-established level of duty would be comparable to that of ECL. Based on its market intelligence SG PAM claimed that such a level of duties affected neither ECL's volumes nor prices, which made SG PAM unable to reach a non-injurious level of prices and improve its profitability. The Commission should therefore either not apply the lesser duty rule or use a different calculation methodology to establish the injury margin.
- (62) Regarding the first claim, the Commission recalled, as set out in recital (5), that the General Court explicitly instructed the Commission to examine if recalculating the undercutting margin would also have an effect on the final duty level because of a potential change in the injury margin.
- (63) Second, the Commission reiterated the legal framework. Under Article 9(4) of the anti-dumping regulation in force at the time, the 'amount of the anti-dumping duty shall not exceed the margin of dumping established, but it should be less than the margin if such lesser duty would be adequate to remove the injury to the Union industry'. Likewise, Article 15(1) third subparagraph of the basic anti-subsidy Regulation in force at the time of this investigation provided that the 'amount of the countervailing duty shall not exceed the amount of countervailable subsidies established, but it should be less than the total amount of countervailable subsidies if such lesser duty would be adequate to remove the injury to the Union industry'.

- (64) This re-opened anti-dumping investigation has been carried out in parallel with an anti-subsidy investigation in which the re-calculated amount of subsidisation was established at 6 %. Given that the margin of dumping for Jindal of 19 % was unaffected by the Court's judgment the combined subsidy and dumping margins is higher than the re-established injury margin.
- (65) In view of the above-mentioned legal framework, the combined countervailing and anti-dumping duty rates cannot, in accordance with the lesser duty rule, exceed the injury margin. Therefore, the Commission will only impose the definitive anti-dumping duty on top of the definitive countervailing duty up to the relevant injury elimination level.
- (66) In the original investigation the Commission established a non-injurious price for the Union industry as described in recital (59). This price was compared to the import price and the difference was expressed as a percentage ('injury margin'). It was uncontested by the Union industry at the time that this methodology was legally correct to remove its injury then established. Any considerations about the effectiveness of the measures in view of alleged subsequent events cannot overturn the legality of this methodology. There is no reason to deviate from this methodology now when establishing the duty rate without the errors found by the Court on undercutting, which also affected the injury margin.
- (67) For these reasons, the Commission rejected these claims.

4. DEFINITIVE MEASURES

- (68) On the basis of the conclusions reached with regard to dumping, injury and causation in this re-opened anti-dumping investigation a definitive anti-dumping duty shall be re-imposed on the imports of pipes and tubes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India and manufactured by Jindal Saw Limited.
- (69) This investigation was carried out in parallel to the re-opened anti-subsidy investigation concerning the same company and the same product in which the Commission established an amount of subsidisation that was lower than the injury elimination level. Therefore, the Commission imposed countervailing duties at the level of the definitive amount of subsidisation found. Given that the combined subsidy and dumping margins is higher than the re-established injury margin, the combined countervailing and anti-dumping duty rates cannot, in accordance with the lesser duty rule, exceed the injury margin. Therefore, the Commission will only impose the definitive anti-dumping duty on top of the definitive countervailing duty up to the relevant injury elimination level.
- (70) On this basis the rate at which such duties will be imposed are set as follows:

Name of the Company	Amount of subsidisation	Dumping margin	Injury margin	Countervailing duty rate	Anti-dumping duty rate	Total duties
Jindal Saw Limited	6,0 %	19,0 %	9,0 %	6,0 %	3,0 %	9,0 %

- (71) The revised level of anti-dumping duties applies without any temporal interruption since the entry into force or the Regulation at issue (namely, as of 19 March 2016 onwards). Customs authorities are instructed to collect the appropriate amount on imports concerning Jindal Saw Limited and refund any excess amount collected so far in accordance with the applicable customs legislation.
- (72) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁶⁾, 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.

⁽³⁶⁾ 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).

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron), with the exclusion of tubes and pipes of ductile cast iron without internal and external coating ('bare pipes'), currently falling under CN codes ex 7303 00 10 and ex 7303 00 90 (TARIC codes 7303 00 10 10 and 7303 00 90 10), originating in India and manufactured by Jindal Saw Limited, as of 19 March 2016.

2. The rate 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 manufactured by Jindal Saw Limited, shall be 3 % (TARIC additional code C054).

Article 2

Any definitive anti-dumping duty paid by Jindal Saw Limited pursuant to Implementing Regulation (EU) 2016/388 in excess of the definitive anti-dumping duty established in Article 1 shall be repaid or remitted.

The repayment or remission shall be requested from national customs authorities in accordance with the applicable customs legislation. Any reimbursement that took place following the General Court's ruling in Case T-301/16 *Jindal Saw* shall be recovered by the authorities which made the reimbursement up to the amount set out in Article 1(2).

Article 3

The definitive anti-dumping duty imposed by Article 1 shall also be collected on imports registered in accordance with Article 1 of Implementing Regulation (EU) 2019/1250 making certain imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India subject to registration following the re-opening of the investigation in order to implement the judgments of 10 April 2019 in Cases T-300/16 and T-301/16, with regard to Implementing Regulations (EU) 2016/387 and (EU) 2016/388 imposing a definitive countervailing and a definitive anti-dumping duty on imports of tubes and pipes of ductile cast iron (also known as spheroidal graphite cast iron) originating in India.

Article 4

Customs authorities are directed to discontinue the registration of imports, established in accordance with Article 1(1) of Implementing Regulation (EU) 2019/1250, which is hereby repealed.

Article 5

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

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

Done at Brussels, 15 April 2020.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2020/528

of 14 April 2020

authorising laboratories in Brazil, China, South Korea, Thailand and the United States to carry out serological tests to monitor the effectiveness of rabies vaccines in dogs, cats and ferrets

(notified under document C(2020) 2103)

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Council Decision 2000/258/EC of 20 March 2000 designating a specific institute responsible for establishing the criteria necessary for standardising the serological tests to monitor the effectiveness of rabies vaccines ⁽¹⁾, and in particular Article 3(2) thereof,

Whereas:

- (1) Decision 2000/258/EC designates the *Agence française de sécurité sanitaire des aliments* (AFSSA) in Nancy, France, as the specific institute responsible for establishing the criteria necessary for standardising the serological tests to monitor the effectiveness of rabies vaccines. The AFSSA has now been integrated into the *Agence nationale de sécurité sanitaire de l'alimentation, de l'environnement et du travail* (ANSES) in France.
- (2) Decision 2000/258/EC provides, inter alia, that the ANSES is to appraise laboratories in third countries that have applied for approval to carry out serological tests to monitor the effectiveness of rabies vaccines.
- (3) The competent authority of Brazil has submitted an application for the approval of the laboratory 'Núcleo de Pesquisas em Raiva do Laboratório de Virologia Clínica e Molecular do Instituto de Ciências Biomédicas da Universidade de São Paulo'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for this laboratory.
- (4) The competent authority of China has submitted an application for the approval of two laboratories: the 'Sino Tech World Biologicals Pharmaceutical Co., Ltd (Beijing)' and the 'Animal Disease Diagnostic Center of the Institute of Animal Health of the Guangdong Academy of Agriculture Sciences'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for these laboratories.
- (5) The competent authority of China has submitted an application for re-approval of two laboratories: the 'National Reference Laboratory for Animal Rabies (Diagnostic Laboratory for Rabies and Wildlife Associated Zoonoses)' and the 'Centre for Rabies Antibody Assay of the Laboratory of Epidemiology of the Military Veterinary Research Institute of the Academy of Military Medical Sciences'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for these laboratories.
- (6) The competent authority of South Korea has submitted an application for the approval of the laboratory 'Rabies and Japanese encephalitis OIE reference laboratory of Animal and Plant Quarantine Agency'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for this laboratory.

⁽¹⁾ OJ L 79, 30.3.2000, p. 40.

- (7) The competent authority of Thailand has submitted an application for the approval of the laboratory 'National Institute of Animal Health'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for this laboratory.
- (8) The competent authority of the the United States has submitted an application for re-approval of the laboratory 'Centers for Disease Control and Prevention of the Rabies Laboratory'. The ANSES has established and submitted to the Commission a favourable appraisal report dated 24 October 2019 for this laboratory.
- (9) These laboratories should therefore be authorised to carry out serological tests to monitor the effectiveness of rabies vaccines in dogs, cats and ferrets.
- (10) The measures provided for in this Decision are in accordance with the opinion of Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

In accordance with Article 3(2) of Decision 2000/258/EC, the following laboratories are hereby authorised to perform serological tests to monitor the effectiveness of rabies vaccines in dogs, cats and ferrets:

- (a) Núcleo de Pesquisas em Raiva
Laboratório de Virologia Clínica e Molecular do Instituto de Ciências Biomédicas
Universidade de São Paulo
Av. Prof. Lineu Prestes, 1374, room 225
05508-000 São Paulo
Brazil
- (b) Sino Tech World Biologicals Pharmaceutical Co., Ltd (Beijing)
29 Qingfeng West Road. Biological Medicine Base, Daxing District,
Beijing
China
- (c) Animal Disease Diagnostic Center
Institute of Animal Health, Guangdong Academy of Agriculture Sciences
21 Baishigang Street, Tianhe District
Guangzhou, Guangdong
China
- (d) National Reference Laboratory for Animal Rabies (Diagnostic Laboratory for Rabies and Wildlife Associated Zoonoses)
Changchun Veterinary Research Institute, Chinese Academy of Agricultural Sciences
666 Liuying West Road, Jingyue Economy Development District, Changchun, Jilin,
China
- (e) Centre for Rabies Antibody Assay, Laboratory of Epidemiology, Military Veterinary Research Institute, Academy of Military Medical Sciences
666 Liuying West Road, Jingyue Economy Development District
Changchun, Jilin
China
- (f) Rabies and Japanese encephalitis OIE reference laboratory of the Animal and Plant Quarantine Agency
177 Hyeoksin 8-ro, Gimcheon-si, Gyeongsangbuk-do, 39660,
South Korea

- (g) Centers for Disease Control and Prevention
Rabies Laboratory
1600 Clifton Road, NE, Atlanta, GA 30333,
The United States
- (h) The National Institute of Animal Health
50/2 Kasetklang, Ladyao, Chatuchak
Bangkok 10900
Thailand

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 14 April 2020.

For the Commission
Stella KYRIAKIDES
Member of the Commission

COMMISSION IMPLEMENTING DECISION (EU) 2020/529**of 15 April 2020****amending the Annex to Implementing Decision (EU) 2020/47 on protective measures in relation to highly pathogenic avian influenza of subtype H5N8 in certain Member States***(notified under document C(2020) 2369)***(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Council Directive 89/662/EEC of 11 December 1989 concerning veterinary checks in intra-Community trade with a view to the completion of the internal market ⁽¹⁾, and in particular Article 9(4) thereof,

Having regard to Council Directive 90/425/EEC of 26 June 1990 concerning veterinary checks applicable in intra-Union trade in certain live animals and products with a view to the completion of the internal market ⁽²⁾, and in particular Article 10(4) thereof,

Whereas:

- (1) Commission Implementing Decision (EU) 2020/47 ⁽³⁾ was adopted following outbreaks of highly pathogenic avian influenza of subtype H5N8 in holdings where poultry are kept in certain Member States, and the establishment of protection and surveillance zones by those Member States in accordance with Council Directive 2005/94/EC ⁽⁴⁾.
- (2) Implementing Decision (EU) 2020/47 provides that the protection and surveillance zones established by the Member States listed in the Annex to that Implementing Decision, in accordance with Directive 2005/94/EC, are to comprise at least the areas listed as protection and surveillance zones in that Annex.
- (3) The Annex to Implementing Decision (EU) 2020/47 was recently amended by Commission Implementing Decision (EU) 2020/504 ⁽⁵⁾, following outbreaks of highly pathogenic avian influenza of subtype H5N8 in poultry in Germany and Hungary that needed to be reflected in that Annex.
- (4) Since the date of adoption of Implementing Decision (EU) 2020/504, Hungary has notified the Commission of additional outbreaks of highly pathogenic avian influenza of subtype H5N8 in holdings where poultry were kept, in the Bács-Kiskun and Csongrád counties.
- (5) Some of the new outbreaks in Hungary, are located outside the boundaries of areas currently listed in the Annex to Implementing Decision (EU) 2020/47, and the competent authorities of that Member State have taken the necessary measures required, in accordance with Directive 2005/94/EC, including the establishment of protection and surveillance zones around these new outbreaks.
- (6) The Commission has examined the measures taken by Hungary in accordance with Directive 2005/94/EC, and it is satisfied that the boundaries of the new protection and surveillance zones, established by the competent authorities of that Member State, are at a sufficient distance to the holdings where the recent outbreaks of highly pathogenic avian influenza of subtype H5N8 have been confirmed, which are located outside the boundaries of areas currently listed in the Annex to Implementing Decision (EU) 2020/47.

⁽¹⁾ OJ L 395, 30.12.1989, p. 13.

⁽²⁾ OJ L 224, 18.8.1990, p. 29.

⁽³⁾ Commission Implementing Decision (EU) 2020/47 of 20 January 2020 on protective measures in relation to highly pathogenic avian influenza of subtype H5N8 in certain Member States (OJ L 16, 21.1.2020, p. 31).

⁽⁴⁾ Council Directive 2005/94/EC of 20 December 2005 on Community measures for the control of avian influenza and repealing Directive 92/40/EEC (OJ L 10, 14.1.2006, p. 16).

⁽⁵⁾ Commission Implementing Decision (EU) 2020/504 of 6 April 2020 amending the Annex to Implementing Decision (EU) 2020/47 on protective measures in relation to highly pathogenic avian influenza of subtype H5N8 in certain Member States (OJ L 109, 7.4.2020, p. 17).

- (7) In order to prevent any unnecessary disturbance to trade within the Union and to avoid unjustified barriers to trade being imposed by third countries, it is necessary to rapidly describe at Union level, in collaboration with Hungary, the new protection and surveillance zones established by that Member State. Therefore, new protection and surveillance zones should be listed for Hungary in the Annex to Implementing Decision (EU) 2020/47.
- (8) Accordingly, the Annex to Implementing Decision (EU) 2020/47 should be amended to update regionalisation at Union level to include the new protection and surveillance zones established by Hungary, in accordance with Directive 2005/94/EC, and the duration of the restrictions applicable therein.
- (9) Implementing Decision (EU) 2020/47 should therefore be amended accordingly.
- (10) Given the urgency of the epidemiological situation in the Union as regards the spread of highly pathogenic avian influenza of subtype H5N8, it is important that the amendments made to the Annex to Implementing Decision (EU) 2020/47 by this Decision take effect as soon as possible.
- (11) The measures provided for in this Decision are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Implementing Decision (EU) 2020/47 is replaced by the text set out in the Annex to this Decision.

Article 2

This Decision is addressed to the Member States.

Done at Brussels, 15 April 2020.

For the Commission
Stella KYRIAKIDES
Member of the Commission

ANNEX

The Annex to Implementing Decision (EU) 2020/47 is replaced by the following:

‘ANNEX

PART A

Protection zones in the concerned Member States as referred to in Articles 1 and 2:

Member State: Bulgaria

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
Plovdiv region:	
Municipality of Maritsa — Trilistnik	5.4.2020
Kurdzali region:	
Municipality of Kurdzali — Perperek — Mudrets — Visoka Polyana — Kaloyantsi — Svatbare — Kokiche — Dobrinovo — Chiflik	5.4.2020

Member State: Germany

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
NIEDERSACHSEN, Landkreis Aurich	
<p>In den wie folgt beschriebenen Sperrbezirk fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten: Dornum, Großheide.</p> <p>In der Gemeinde Dornum beginnend an der Gabelung Hochbrücker Tief – Dornumersiel Tief, dann weiter über das Dornumersieltief bis hoch zur Brücke Butenhusener Straße. Der Butenhusener Straße nördlich folgen und dann den ersten Feldweg in Richtung Südosten nehmen.</p> <p>Der Straße folgen, am Ferienhof Blankenhausen vorbei, weiter in südöstlicher Richtung bis zur Windmühle. Danach dem Weg folgen, bis zum ersten Gebäude auf der rechten Seite. Hier die Südenburger Straße entlang, dieser erst südlich, dann südöstlich folgen bis zur Pumpsieler Straße.</p> <p>Dann Luftlinie Kreuzung Südenburger Straße – Pumpsieler Straße bis Sackgasse Lütt Uppum.</p> <p>An der Kreisgrenze südöstlich entlang bis zum Dornumersieltief, diesem südöstlich folgen bis kurz vor der Kreuzung mit dem Pumptief, von da an der Kreisgrenze wieder folgen, erst südlich dann westlich.</p> <p>Von der Kreisgrenze Luftlinie in gerader Linie südwestlich bis Ostergaste.</p> <p>Von da aus dem Alter Weg nördlich folgen bis zum Dornumer Weg, diesem westlich folgen bis zur Kreuzung mit dem Moortief.</p> <p>Dem Moortief weit folgen bis zur Kreuzung mit dem Zugraben Hoheweg.</p> <p>Östlich weiter dem Moortief folgen, dann nordöstlich bis zur Gabelung Hochbrücker Tief, westliches Dornum.</p> <p>Dem Hochbrücker Tief folgen, erst nördlich und dann nordöstlich, an der Brücke Schatthausener Straße vorbei östlich bis zur Gabelung mit dem Dornumersiel Tief.</p>	13.4.2020

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
NIEDERSACHSEN, Landkreis Wittmund	
<p>In den wie folgt beschriebenen Sperrbezirk fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten: Holtgast, Nenndorf, Westerholt, Schweindorf, Uтары.</p> <p>Das Gebiet des Landkreises Wittmund, das westlich bzw nördlich von folgender Linie gelegen ist: Im Norden beginnend von dem Punkt, an dem das „Pumptief“ südlich von Damsum auf die Grenze zum Landkreis Aurich trifft, dann weiter Richtung Süden über das „Pumptief“, „Oetjetief“ und „Schleitief“ bis zur Kreuzung des „Schleitiefs“ mit der L6 zwischen Ochtersum und Uтары. Dann der L6 folgend in Richtung der Stadt Norden über Schweindorf, Westerholt und Nenndorf bis zur Grenze zum Landkreis Aurich.</p>	13.4.2020
BUNDESLAND SACHSEN-ANHALT, Landkreis Börde	
<p>Verbandsgemeinde Flechtingen Gemeinde: 39345 Bülstringen Ortsteil: Wieglitz/Ellersell</p>	23.4.2020
<p>Einheitsgemeinde Stadt Haldensleben Ortsteil: 39345 Uthmöden</p>	23.4.2020
Member State: Hungary	
Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
Bács-Kiskun és Csongrád megye:	
<p>Balástya, Bócsa, Bordány, Bugac, Bugacpusztaháza, Csólyospálos, Forráskút, Harkakötöny, Jászszentlászló, Kaskantyú, Kecskemét, Kiskunfélegyháza, Kiskunhalas, Kiskunmajsa, Kömpöc, Móricgát, Nyárlőrinc, Orgovány, Petőfiszállás, Pirtó, Soltvadkert, Szank, Tázlár, Városföld és Zsana települések közigazgatási területeinek a 46.440827és a 19.846995, a 46.438786 és a 19.850685, a 46.440443 és a 19.857895, a 46.423886 és a 19.854827, a 46.435119 és a 19.836480, a 46.558317 és 19.713448, a 46.694364 és 19.77329, a 46.44449 és 19.8483, 46.455321 és 19.852898, a 46.44159 és 19.84327, a 46.45030 és 19.84853, a 46.514537 és 19.65459, a 46.403611 és 19.834167, a 46.465556 és 19.808611, a 46.5448459 és 19.745837, a 46.38769 és 19.86654, a 46.800833 és 19.857222, a 46.40299 és 19.87998, a 46.41549 és 19.84498, a 46.5692465 és 19.6932973, a 46.5606135 és 19.7108641, a 46.41096 és 19.83726, a 46.44957 és 19.87544, a 46.55800 és 19.79035, a 46.55800 és 19.79035, a 46.38741 és 19.86223, a 46.42564 és 19.86214, 46.41504 és 19.83675, a 46.44133 és 19.85725, a 46.40685 és 19.86369, a 46.47190 és 19.82798, a 46.38730 és 19.85161, a 46.45601 és 19.87579, a 46.45869 és 19.87283, a 46.860495 és 19.848759, a 46.603350 és 19.478592, a 46.49398 és 19.76918, a 46.411942 és 19.852744, a 46.423333 és 19.850278, a 46.4528606 és 19.79683053, a 46.41407 és 19.88379, a 46.45071735 és 19.8386126, a 46.45798081 és 19.86121049, a 46.40755246 és 19.85871844, a 46.65701 és 19.77743, a 46.6014 és 19.5428, 46.47455783 és 19.86788239, a 46.47019 és 19.83754, a 46.520509 és 19.651656, a 46.4776644 és 19.86554941, 46.581470 és 19.770906, a 46.46758 és 19.85086, a 46.41085 és 19.85558, a 46.3896296224 és 19.858905558, a 46.5253 és 19.7569, a 46.49169 és 19.68988, a 46.51590 és 19.64387, 46.4608579 és 19.8303092, a 46.48031 és 19.84032, a 46.386442 és 19.775899, a 46.50898 és 19.63934, a 46.50898 és 19.63934, a 46.46467 és 19.76302, a 46.46752 és 19.75170, a 46.53935 és 19.74915, a 46.46515 és 19.75375, a 46.46900 és 19.76215, a 46.41600 és 19.6807, a 46.40430 és 19.73591, a 46.5158453 és 19.6704565, a 46.434080 és 19.837544, a 46.49795 és 19.77742, a 46.49526 és 19.77629, a 46.606053 és 19.788634, a 46.61600 és 19.66512, a 46.47344 és 19.74689, a 46.60658 és 19.53464, a 46.518974 és 19.785285, a 46.493294 és 19.689126, a 46.682057 és 19.499820, a 46.682057 és 19.499820, a 46.494599 és 19.784372, a 46.536629 és 19.488942, a 46.46817 és 19.81632, a 46.48499 és 19.79693, a 46.34363 és a 19.88657 valamint a 46.38582 és 19.87797 GPS-koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.</p>	2.5.2020

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
Csongrád megye:	
Csengele, Kistelek, Ruzsa és Üllés települések közigazgatási területeinek a 46.3424 és 19.8024, a 46.5323 és 19.8675 valamint a 46.30436 és 19.77187 koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.	28.4.2020
Bács-kiskun megye:	
Jánoshalma, Kelebia, Kunfehértó, és Tompa települések közigazgatási területeinek a 46.22671 és 19.58741 valamint a 46.347100 és 19.402476 koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.	2.5.2020

Member State: Poland

Area comprising:	Date until applicable in accordance with Article 29(1) of Directive 2005/94/EC
W województwie lubuskim w powiecie sulęcińskim:	
w gminie Krzeszyce miejscowość Muszkowo	17.4.2020

PART B

Surveillance zones in the concerned Member States as referred to in Articles 1 and 3:

Member State: Bulgaria

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
Plovdiv region:	
Municipality of Rakovski: — Rakovski city — Stryama — Shishmantsi — Bolyarino	From 30.3.2020 until 15.4.2020
Municipality of Brezovo: — Padarsko — Glavatar — Borets	From 22.3.2020 until 15.4.2020
Municipality of Maritsa — Trilistnik	From 6.4.2020 until 15.4.2020
The whole municipality of Brezovo The whole municipality of Rakovski except the villiages listed in Part A The whole municipality of Kaloyanovo The whole municipality of Maritsa The whole municipality of Suedinenie Sadovo municipality — Sadovo	15.4.2020
Kurdzali region:	
Municipality of urdzali — Perperek — Mudrets	From 6.4.2020 until 15.4.2020

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — Visoka Polyana — Kaloyantsi — Svatbare — Kokiche — Dobrinovo — Chiflik 	
<p>Kurdzhali municipality</p> <ul style="list-style-type: none"> — Chereshitsa — Zhinzifovo — Krin — Murgovo — Bolyartsi — Zvinitza — Zvezdelina — Shiroko pole — Zornitsa Skalishte — Gaskovo — Oreshnitsa — Zvezden — Chernyovtsi — Bashchino — Rudina — Tatkovo — Sestrinsko — Miladinovo — Lyulyakovo — Strahil voyvoda — Byala Polyana — Gorna krepост — Dolna krepост — Konevo Dolishte — Maystorovo — Zornitsa — Gnyazdovo Bialka — Most. 	15.4.2020
Haskovo region:	
<p>Haskovo municipality</p> <ul style="list-style-type: none"> — Maslinovo — Gorno Voivodino s. <p>Stambolovo municipality</p> <ul style="list-style-type: none"> — Balkan — Popovets — Svetoslav — Byal kladenets — Putnikovo 	15.4.2020
Member State: Germany	
Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
NIEDERSACHSEN, Landkreis Aurich	
<p>In den wie folgt beschriebenen Sperrbezirk fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten: Dornum, Großheide. In der Gemeinde Dornum beginnend an der Gabelung Hochbrücker Tief – Dornumersiel Tief, dann weiter über das Dornumersieltief bis hoch zur Brücke Butenhusener Straße.</p>	From 14.4.2020 until 22.4.2020

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<p>Der Butenhusener Straße nördlich folgen und dann den ersten Feldweg in Richtung Südosten nehmen.</p> <p>Der Straße folgen, am Ferienhof Blankenhausen vorbei, weiter in südöstlicher Richtung bis zur Windmühle. Danach dem Weg folgen, bis zum ersten Gebäude auf der rechten Seite. Hier die Südenburger Straße entlang, dieser erst südlich, dann südöstlich folgen bis zur Pumpsieder Straße.</p> <p>Dann Luftlinie Kreuzung Südenburger Straße – Pumpsieder Straße bis Sackgasse Lütt Uppum.</p> <p>An der Kreisgrenze südöstlich entlang bis zum Dornumersieltief, diesem südöstlich folgen bis kurz vor der Kreuzung mit dem Pumpstief, von da an der Kreisgrenze wieder folgen, erst südlich dann westlich.</p> <p>Von der Kreisgrenze Luftlinie in gerader Linie südwestlich bis Ostergaste.</p> <p>Von da aus dem Alter Weg nördlich folgen bis zum Dornumer Weg, diesem westlich folgen bis zur Kreuzung mit dem Moortief.</p> <p>Dem Moortief weit folgen bis zur Kreuzung mit dem Zugraben Hoheweg.</p> <p>Östlich weiter dem Moortief folgen, dann nordöstlich bis zur Gabelung Hochbrücker Tief, westliches Dornum.</p> <p>Dem Hochbrücker Tief folgen, erst nördlich und dann nordöstlich, an der Brücke Schatthäuser Straße vorbei östlich bis zur Gabelung mit dem Dornumersieder Tief.</p>	
NIEDERSACHSEN, Landkreis Aurich	
<p>In den wie folgt beschriebenen Sperrbezirk fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten:</p> <p>Dornum, Großheide, Hagermarsch, Hage, Berumbur, Aurich</p> <p>In der Gemeinde Hagermarsch beginnend an der Gabelung Theener Oststreek – Vierweg, dem Vierweg nördlich folgen, an der Kreuzung Osterdeicher Weg vorbei weiter nach Norden, dann an der Kreuzung rechts.</p> <p>Der Straße östlich folgen bis diese nach links abbiegt, dem Weg dann nördlich wieder folgen, bis er die Küste erreicht.</p> <p>Die Grenze verläuft an der Küste entlang bis zur Kreisgrenze Wittmund, folgt dann weiter der Kreisgrenze entlang bis zur Kreuzung Langefelder Grenzweg – Ricklefsche Trift in Aurich.</p> <p>Dem Ricklefsche Trift südlich folgen, bis sich diese mit der Straße Im Meerhusener Moor kreuzt. Letzterer südwestlich am Wald entlang bis zum Rockerstrift. Auf diesem weiter südlich gehen bis zum Aderkrutweg, diesen dann westlich weiter bis man auf die Dietrichsfelder Straße trifft.</p> <p>Von dort verläuft die Grenze per Luftlinie nach Westen durch den Meerhusener Wald bis zur Kreuzung Dornumer Straße – Stickerspittweg.</p> <p>Dem Stickerspittweg südwestlich bis zum Sandstrahlweg, die Grenze verläuft hier nordwestlich weiter bis zur Kreisgrenze Aurich/Wittmund.</p> <p>Der Kreisgrenze folgen bis zur Kreuzung Tannenhausener Weg – Mansfelder Weg.</p> <p>Dem Tannenhausener Weg westlich folgen bis zur Kreuzung Zum Ententeich, dann nördlich weiter bis zum Düwelsmeer, auf diesem nordwestlich bis die Kreuzung mit dem Kuhweg kommt.</p> <p>Dem Kuhweg nordwestlich folgen bis zur Kreuzung Kuhweg – Rotdornweg, letzterem westlich folgen bis zur Kreuzung Röttweg.</p> <p>Dem Röttweg dann nördlich folgen bis zur Kreuzung mit dem Weidenweg, dort westlich gehen bis dieser in den Kastanienweg mündet. Dem Kastanienweg nordwestlich folgen bis zur Kreuzung Dorfstraße. Dort nördlich weiter mit dem Moorwegschloot bis dieser zum Ostermoordorfer Tog wird, diesem auch nördlich folgen zum Schulweg. Diesem westlich folgen bis zur Kreuzung Großheider Straße diesem nördlich folgen bis zur Kreuzung Linienweg.</p> <p>Auf dem Linienweg nordwestlich weiter bis zum Wald und dann dem Feldweg am Waldrand entlang bis zur Feldstraße. Dieser westlich zum Ende folgen, dann auf die Holtenbrück wechseln.</p> <p>Dort nördlich bis dieser in die Poststraße mündet.</p> <p>Der Poststraße nordwestlich bis zur Kreuzung mit Sandlage folgen. Dann Luftlinie Kreuzung Sandlage – Poststraße bis zur Kreuzung Hauptstraße – Holzdorfer Straße in Berumbur.</p> <p>Der Hauptstraße folgen nordwestlich bis diese in die Blandorfer Straße mündet. Dann Luftlinie von Kreuzung Hauptstraße – Blandorfer Straße bis zur Kreuzung Hagemarscher Straße – Alter Postweg.</p>	22.4.2020

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
Dem Alten Postweg nordwestlich folgen bis Hagermarsch. Dann Luftlinie Feuerwehr Hagermarsch bis zum Lüttje Weg. Diesem nördlich folgen bis zum Theener Oststreek. Dann nordöstlich bis zur Kreuzung mit dem Vierweg, dem Startpunkt.	
NIEDERSACHSEN, Landkreis Wittmund	
In den wie folgt beschriebenen Sperrbezirk fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten: Holtgast, Nenndorf, Westerholt, Schweindorf, Uтары Das Gebiet des Landkreises Wittmund, das westlich bzw nördlich von folgender Linie gelegen ist: Im Norden beginnend von dem Punkt, an dem das „Pumptief“ südlich von Damsum auf die Grenze zum Landkreis Aurich trifft, dann weiter Richtung Süden über das „Pumptief“, „Oetjetief“ und „Schleitief“ bis zur Kreuzung des „Schleitiefs“ mit der L6 zwischen Ochtersum und Uтары. Dann der L6 folgend in Richtung der Stadt Norden über Schweindorf, Westerholt und Nenndorf bis zur Grenze zum Landkreis Aurich.	From 14.4.2020 until 22.4.2020
NIEDERSACHSEN, Landkreis Wittmund	
In dem wie folgt beschriebenen Beobachtungsgebiet fallen folgende Gemeinden bzw. werden folgende Gemeinden angeschnitten: Stadt Esens, Neuharlingersiel, Holtgast, Moorweg, Dunum, Ochtersum, Blomberg, Neuschoo, Eversmeer, Nenndorf, Westerholt, Schweindorf, Uтары. Der Bereich des Landkreises Wittmund, der westlich folgender Linie gelegen ist: Von der Nordsee bis zur Zuwegung „Ostbense Am Deich 25“, dann die K7 ab dem Zusammentreffen mit der L5 von Ostbense über Hartward Richtung Esens, dort beim Zusammentreffen mit der L8 diese immer weiter in südliche Richtung über den Esenser Nordring, weiter auf der L8 bleibend Richtung Ogenbargen bis zur Grenze mit dem Landkreis Aurich.	22.4.2020
BUNDESLAND SACHSEN-ANHALT, Landkreis Börde	
Verbandsgemeinde Flechtingen Gemeinde: 39345 Bülstringen Ortsteil: Wieglitz/Ellersell	From 24.4.2020 until 2.5.2020
Einheitsgemeinde Stadt Haldensleben Ortsteil: 39345 Uthmöden	From 24.4.2020 until 2.5.2020
Einheitsgemeinde Stadt Haldensleben Ortsteil: 39343 Bodendorf Ortsteil: 39345 Gut Detzel Ortsteil: 39340 Hütten Ortsteil: 39340 Lübberitz Ortsteil: 39345 Satuelle Ortsteil: 39343 Süplingen 39340 Stadt Haldensleben	2.5.2020
Einheitsgemeinde Oebisfelde/Weferlingen Ortsteil: 39359 Keindorf	2.5.2020
Verbandsgemeinde Elbe-Heide Gemeinde Westheide Ortsteil: 39345 Born	2.5.2020
BUNDESLAND SACHSEN-ANHALT, Altmarkkreis Salzwedel	
Gemeinde Gardelegen Ortsteil: 39638 Jeseritz Ortsteil: 39638 Parleib Ortsteil: 39638 Potzehne Ortsteil: 39638 Roxförde	2.5.2020

Member State: Hungary

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
Bács-Kiskun és Csongrád megye:	
<p>Balástya, Bócsa, Bugac, Csólyospálos, Forráskút, Jászszentlászló, Kecskemét, Kiskunfélegyháza, Kiskunmajsa, Kömpöc, Móricgát, Nyárlőrinc, Soltvadkert, Szank és Tázlár települések közigazgatási területeinek a 46.440827 és a 19.846995, a 46.438786 és a 19.850685, a 46.440443 és a 19.857895, a 46.423886 és a 19.854827, a 46.435119 és a 19.836480, a 46.558317 és 19.713448, a 46.694364 és 19.77329, a 46.44449 és 19.8483, a 46.455321 és 19.852898, a 46.44159 és 19.84327, a 46.45030 és 19.84853, a 46.514537 és 19.65459, a 46.403611 és 19.834167, a 46.465556 és 19.808611, a 46.5448459 és 19.745837, a 46.38769 és 19.86654, a 46.800833 és 19.857222, a 46.40299 és 19.87998, a 46.41549 és 19.84498, a 46.5692465 és 19.6932973, a 46.5606135 és 19.7108641, a 46.41096 és 19.83726, a 46.44957 és 19.87544, a 46.55800 és 19.79035, a 46.55800 és 19.79035, a 46.38741 és 19.86223, a 46.42564 és 19.86214, a 46.41504 és 19.83675, a 46.44133 és 19.85725, a 46.40685 és 19.86369, a 46.47190 és 19.82798, a 46.38730 és 19.85161, a 46.45601 és 19.87579, a 46.45869 és 19.87283, a 46.860495 és 19.848759 a 46.603350 és 19.478592, a 46.49398 és 19.76918, a 46.411942 és 19.852744, a 46.423333 és 19.850278, a 46.4528606 és 19.79683053, a 46.41407 és 19.88379, a 46.45071735 és 19.8386126, a 46.45798081 és 19.86121049, a 46.40755246 és 19.85871844, a 46.65701 és 19.77743, a 46.6014 és 19.5428, a 46.47455783 és 19.86788239, a 46.47019 és 19.83754, a 46.520509 és 19.651656, a 46.4776644 és 19.86554941, a 46.581470 és 19.770906, a 46.46758 és 19.85086, a 46.41085 és 19.85558, a 46.3896296224 és 19.858905558, a 46.5253 és 19.7569, a 46.49169 és 19.68988, a 46.51590 és 19.64387, a 46.4608579 és 19.8303092, a 46.48031 és 19.84032, a 46.386442 és 19.775899, a 46.50898 és 19.63934, a 46.50898 és 19.63934, a 46.46467 és 19.76302, a 46.46752 és 19.75170, a 46.53935 és 19.74915, a 46.46515 és 19.75375, a 46.46900 és 19.76215, a 46.41600 és 19.6807, a 46.40430 és 19.73591, a 46.5158453 és 19.6704565, a 46.434080 és 19.837544, a 46.49795 és 19.77742, a 46.49526 és 19.77629, a 46.606053 és 19.788634, a 46.61600 és 19.66512, a 46.47344 és 19.74689, a 46.60658 és 19.53464, a 46.518974 és 19.785285, a 46.493294 és 19.689126, a 46.682057 és 19.499820, a 46.682057 és 19.499820, a 46.494599 és 19.784372, a 46.536629 és 19.488942, a 46.46817 és 19.81632, a 46.48499 és 19.79693, a 46.34363 és a 19.88657 valamint a 46.38582 és 19.87797 GPS-koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.</p>	From 3.5.2020 until 11.5.2020
<p>Délről az 55-ös út, nyugatról az 53-as út és 54-es út, északról a 44-es út, keletről az 5-ös út által határolt terület, a 46.860495 és 19.848759, a 46.800833 és 19.857222, a 46.30436 és 19.77187, a 46.22671 és 19.58741, a 46.3471 és 19.402476, a 46.682057 és 19.49982 GPS-koordináták által meghatározott pont körüli 10 km sugarú körön belül eső területek, Kiskunfélegyháza, Pálmonostora, Pusztaszer, Kistelek, Balástya és Szatymaz 5-ös úttól keletre eső közigazgatási területei., Kiskunhalas teljes közigazgatási területe, valamint Imrehegy, Soltvadkert és Kiskőrös közigazgatási területének egy része.</p>	11.5.2020
<p>Csengele, Kistelek, Ruzsa és Üllés települések közigazgatási területeinek a 46.3424 és 19.8024, a 46.5323 és 19.8675 a 46.30436 és 19.77187 koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.</p>	From 29.4.2020 until 7.5.2020
Bács-kiskun megye:	
<p>Jánoshalma, Kelebia, Kunfehértó, és Tompa települések közigazgatási területeinek a 46.22671 és 19.58741 valamint a 46.347100 és 19.402476 koordináták által meghatározott pont körüli 3 km sugarú körön belül eső területei.</p>	From 3.5.2020 until 11.5.2020

Member State: Poland

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
W województwie dolnośląskim w mieście Wrocław:	

Area comprising:	Date until applicable in accordance with Article 31 of Directive 2005/94/EC
<ul style="list-style-type: none"> — osiedle Pawłowice; — część osiedla Psie Pole - Zawidawie od zachodu ograniczona ul. Przedwiośnie, ul. Bora - Komorowskiego i ul. Gorlicką i od południa ograniczona ul. Kielczowską. 	6.4.2020
W województwie lubuskim w powiecie sulęcińskim i słubickim:	
<p style="text-align: center;">w powiecie sulęcińskim:</p> <ol style="list-style-type: none"> 1. w gminie Krzeszyce miejscowości: Krępiny, Marianki, Zaszczytowo, Studzionka, Dzierżazna, Malta, Czartów, Krasnołęg, Świętojańsko, Krzeszyce, Karkoszów, Przemysław, Rudna, 2. w gminie Sulęcín miejscowości: Trzebów, Drogomin, 3. w gminie Słońsk miejscowości: Ownice, Lemierzyce, Lemierzycko, Grodzisk, Chartów, Jamno, Budzigniew, Polne <p style="text-align: center;">w powiecie słubickim:</p> <p>w gminie Ośno Lubuskie miejscowości: Radachów, Trześniów, Kochań.</p>	26.4.2020
W województwie lubuskim w powiecie sulęcińskim:	
w gminie Krzeszyce, miejscowość Muszkowo.	From 18.4.2020 until 26.4.2020'

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