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⁽¹⁾ Text with EEA relevance.

EN

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⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) 2021/628**of 16 April 2021****implementing Article 17(3) of Regulation (EU) No 224/2014 concerning restrictive measures in view of the situation in the Central African Republic**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EU) No 224/2014 of 10 March 2014 concerning restrictive measures in view of the situation in the Central African Republic ⁽¹⁾, and in particular Article 17(3) thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 10 March 2014, the Council adopted Regulation (EU) No 224/2014.
- (2) On 22 February 2021, the United Nations Security Council (UNSC) Committee established pursuant to UNSC Resolution 2127 (2013) updated the information relating to one person subject to restrictive measures.
- (3) Annex I to Regulation (EU) No 224/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Annex I to Regulation (EU) No 224/2014 is hereby amended as set out in the Annex to this Regulation.

*Article 2*This Regulation shall enter into force on the date 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, 16 April 2021.

For the Council
The President
A. P. ZACARIAS

⁽¹⁾ OJ L 70, 11.3.2014, p. 1.

ANNEX

In the list set out in Part A (Persons) of Annex I to Regulation (EU) No 224/2014, entry 14 is replaced by the following entry:

‘14. Bi Sidi SOULEMAN (alias: a) Sidiki b) “General” Sidiki c) Sidiki Abbas d) Souleymane Bi Sidi e) Bi Sidi Soulemane)

Designation: President and self-proclaimed “general” of the Retour, Réclamation et Réhabilitation (3R)

Date of Birth: 20 July 1962

Place of Birth: Bocaranga, Central African Republic

Nationality: Central African Republic

Passport No: Laissez-passer No N°235/MISPAT/DIRCAB/DGPC/DGAEI/SI/SP, issued on 15 March 2019 (issued by the Minister of Interior of the Central African Republic)

Address: Kouï, Ouham-Pendé prefecture, Central African Republic

Date of UN designation: 5 August 2020

Other information:

Bi Sidi Souleman leads the Central African Republic (CAR)-based militia group Retour, Réclamation, Réhabilitation (3R) which has killed, tortured, raped, and displaced civilians and engaged in arms trafficking, illegal taxation activities, and warfare with other militias since its creation in 2015. Bi Sidi Souleman himself has also participated in torture. On 6 February 2019, 3R signed the Political Agreement for Peace and Reconciliation in the CAR but has engaged in acts violating the Agreement and remains a threat to the peace, stability and security of the CAR. For instance, on 21 May 2019, 3R killed 34 unarmed civilians in three villages, summarily executing adult males. Bi Sidi Souleman openly confirmed to a UN Entity that he had ordered 3R elements to the villages on the date of the attacks, but did not admit to giving the orders for 3R to kill. In December 2020, after having joined a coalition of armed groups established to disrupt the electoral process, Bi Sidi Souleman was reportedly killed during fighting.

Information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Bi Sidi Souleman was listed on 5 August 2020 pursuant to paragraph 20 and paragraph 21 (b) of resolution 2399 (2018), extended by paragraph 5 of resolution 2507 (2020), for engaging in or providing support for acts that undermine the peace, stability or security of the Central African Republic, including acts that threaten or impede the stabilization and reconciliation process or that fuel violence; and being involved in planning, directing, or committing acts in the Central African Republic that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, including those involving targeting of civilians, ethnic- or religious-based attacks, attacks on civilian objects, including administrative centres, courthouses, schools and hospitals, and abduction and forced displacement.

Additional information

President and self-proclaimed “general” of the Retour, Réclamation et Réhabilitation (3R) armed group, Bi Sidi Souleman has engaged in acts threatening the peace, stability and security of the CAR and, in particular, threatening the implementation of the Political Agreement for Peace and Reconciliation in CAR signed on 6 February 2019 in Bangui.

He and fighters under his command have committed acts that constitute serious violations of international human rights law or international humanitarian law. On 21 May 2019, 3R killed 34 unarmed civilians in three villages (Koundjili, Lemouna and Bohong), summarily executing adult males.

Under his leadership, 3R elements committed acts involving sexual and gender-based violence. In September 2017, during an attack against Bocaranga, 3R elements raped several women and girls. Between March and April 2020, 3R elements were involved in seven cases of sexual violence in three villages in the Ouham-Pendé prefecture.

Under his leadership, 3R continued to impede the restoration of state authority in its areas of operation by maintaining illegal taxation systems, especially on transhumance activities and on travelers, and has been involved in the illegal exploitation of gold in the Mambéré-Kadéï and Nana-Mambéré prefectures.

In 2019, under his leadership, 3R committed its first violations of the Peace Agreement. Bi Sidi Souleman initially refused to start the disarmament and the demobilization of the 3R fighters supposed to participate in the first special mixed security unit in the west of the CAR and 3R also continued to expand its control over territories forcing MINUSCA into launching an operation in the Ouham-Pendé, Nana-Mambéré, and Mambéré-Kadéï prefectures in September 2019, as well as in arms trafficking in order to build up its military capabilities and in the recruitment of fighters from abroad.

In 2020, under his leadership, 3R continued and to commit violations of the Peace agreement and to expand its control over territories in the West. In May 2020, 3R elements occupied the gendarmerie of Besson in the Nana-Mambéré prefecture and former 3R elements deserted the Bouar USMS. On 5 June 2020, Bi Sidi Souleman announced the suspension of the participation of 3R in the Agreement's follow-up mechanisms until further notice. On 9 June 2020, presumed 3R elements attacked the training camp of the Bouar USMS as well as a joint MINUSCA and national forces checkpoint in Pougol. On 21 June 2020, 3R elements attacked a joint MINUSCA and national forces patrol near Besson resulting in the death of three Central African soldiers.'

COMMISSION DELEGATED REGULATION (EU) 2021/629**of 4 November 2020****amending Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived, as regards the detailed minimum requirements for audit purposes and the data to be recorded and stored**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 223/2014 of the European Parliament and of the Council of 11 March 2014 on the Fund for European Aid to the Most Deprived ⁽¹⁾, and in particular Article 13(6) and Article 32(8) and (9) thereof,

Whereas:

- (1) Regulation (EU) No 223/2014 allows the Commission to adopt delegated acts supplementing its non-essential elements with regard to the Fund for European Aid to the Most Deprived ('FEAD').
- (2) Commission Delegated Regulation (EU) No 532/2014 ⁽²⁾ supplements Regulation (EU) No 223/2014 with regard to the minimum requirements for the audit trail and on the list of data to be recorded and stored in the system by the managing authority on each operation necessary for monitoring, evaluation, financial management, verification and audit.
- (3) Commission Delegated Regulation (EU) No 1255/2014 ⁽³⁾ supplements Regulation (EU) No 223/2014 by laying down the content of the annual and final implementation reports, including the list of common indicators.
- (4) Regulation (EU) 2020/559 of the European Parliament and of the Council ⁽⁴⁾ amended Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the COVID-19 outbreak. In particular, Regulation (EU) 2020/559 introduced the possibility for Member States to provide food or basic material assistance, or both, to the most deprived indirectly, such as through vouchers, cards or other instruments.
- (5) The indirect provision of food and basic material assistance through vouchers, cards or other instruments entails specific challenges for implementation compared to situations where this assistance is provided directly to the most deprived. It is thus appropriate to provide for specific provisions for the schemes providing assistance directly with regard to the minimum requirements for the audit trail, in order to adjust the list of data to be recorded and stored in the system by the managing authority on each operation for monitoring, evaluation, financial management, verification and audit and to adjust the list of indicators to be reported by the managing authority.
- (6) In order to mitigate the higher risks of irregularities and fraud where the provision of food or basic material assistance, or both, is carried out through vouchers or cards in a paper format, it is appropriate to provide for additional minimum requirements for the audit trail in such cases.

⁽¹⁾ OJ L 72, 12.3.2014, p. 1.

⁽²⁾ Commission Delegated Regulation (EU) No 532/2014 of 13 March 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 148, 20.5.2014, p. 54).

⁽³⁾ Commission Delegated Regulation (EU) No 1255/2014 of 17 July 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived by laying down the content of the annual and final implementation reports, including the list of common indicators (OJ L 337, 25.11.2014, p. 46).

⁽⁴⁾ Regulation (EU) 2020/559 of the European Parliament and of the Council of 23 April 2020 amending Regulation (EU) No 223/2014 as regards the introduction of specific measures for addressing the outbreak of COVID-19 (OJ L 130, 24.4.2020, p. 7).

- (7) In order to allow for the prompt application of the measures provided for in this Regulation aiming at preventing irregularities and fraud, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (8) Delegated Regulations (EU) No 532/2014 and (EU) No 1255/2014 should therefore be amended accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Delegated Regulation (EU) No 532/2014 is amended as follows:

- (1) The following Article is inserted:

'Article 3a

Detailed minimum requirements for the audit trail for support provided indirectly to the most deprived, such as through vouchers, cards or other instruments

(Article 32(9) of Regulation (EU) No 223/2014)

1. In addition to the detailed minimum requirements for the audit trail set out in Article 3, the audit trail for operations providing food or basic material assistance, or both, to the most deprived, through vouchers, cards or other instruments in accordance with Article 23(4a) of Regulation (EU) No 223/2014 shall:

- (a) allow to reconcile the total number of vouchers, cards or other instruments issued with the total number of vouchers, cards or other instruments delivered to end-recipients and used based on accounting records and supporting documents held by the certifying authority, managing authority, intermediate bodies and beneficiaries;
- (b) allow, with regard to the eligible costs set out in Article 26(2), point (a), to reconcile the aggregate amounts certified to the Commission with the value of vouchers, cards or other instruments used by end-recipients;
- (c) include documents concerning the granting of vouchers, cards or other instruments to end-recipients, their distribution to end-recipients and their use.

For the use of cards, vouchers, or other instruments, the audit trail shall demonstrate that the vouchers, cards or other instruments are used only for the purchase of food or basic material assistance, or both.

2. Where food and/or basic material assistance is provided to the most deprived through vouchers, cards or other instruments in a paper format, the audit trail shall also include the following:

- (a) security measures avoiding falsification taken by the managing authority, intermediate bodies and beneficiaries;
- (b) measures to safeguard the stock of vouchers;
- (c) identification of the bodies identifying end-recipients and the bodies distributing the vouchers, cards or other instruments to end-recipients;
- (d) documentation that the vouchers, cards or other instruments have been received by end-recipients.';

- (2) Annex I is replaced by the text set out Annex I to this Regulation.

Article 2

The Annex to Delegated Regulation (EU) No 1255/2014 is replaced by the text set out in Annex II to this Regulation.

Article 3

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, 4 November 2020.

For the Commission
The President
Ursula VON DER LEYEN

List of data to be recorded and stored in computerised form in the monitoring system (referred to in Article 2)

Data is required for operations supported by OP I and OP II ⁽¹⁾ and for all types of delivery unless otherwise specified in the second column.

| Data fields | Indication of type of OP or type of delivery for which data is not required |
|---|---|
| Data on the beneficiary ⁽¹⁾ | |
| 1. Name or unique identifier of each beneficiary | |
| 2. Information whether the beneficiary is public law body or private law body | |
| 3. Information whether VAT on expenditure incurred by the beneficiary is non-recoverable under national VAT legislation | |
| 4. Contact details of the beneficiary | |
| Data on the operation | |
| 5. Name or unique identifier of the operation | |
| 6. Short description of the operation | |
| 7. Date of submission of the application for the operation | |
| 8. Starting date as indicated in the document setting out the conditions for support | |
| 9. End date as indicated in the document setting out the conditions for support | |
| 10. Actual date when the operation is physically completed or fully implemented | |
| 11. Body issuing the document setting out the conditions for support | |
| 12. Date of the document setting out the conditions for support | |
| 13. Currency of the operation | |
| 14. CCI of the programme(s) under which the operation is supported | |
| 15. Type(s) of material assistance addressed | Not applicable for OP II |
| 16. Type(s) of actions supported | Not applicable for OP I |

⁽¹⁾ OP I refers to food and/or material assistance operational programmes and OP II refers to social inclusion of the most deprived persons operational programmes.

| | |
|---|---|
| 17. Code(s) for form of finance | |
| 18. Code(s) for location | |
| 19. Quantity of food purchased by a public body or partner organisation, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 20. Quantity of food obtained by a public body, where applicable, in accordance with Article 23(4) of Regulation (EU) No 223/2014, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 21. Quantity of food delivered to partner organisations, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 22. Quantity of food delivered to end-recipients, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 23. Quantity of basic material assistance purchased by a public body or a partner organisation, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 24. Quantity of basic material assistance delivered to partner organisations, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 25. Quantity of basic material assistance delivered to end-recipients, where applicable | Not applicable for OP II Not applicable to indirect delivery of food, such as through vouchers, cards or other instruments |
| 26. Number of vouchers or cards (or other instruments of indirect delivery) issued | Not applicable for OP II Not applicable to direct delivery of food and/or basic material assistance |
| 27. Number of vouchers or cards (or other instruments of indirect delivery) delivered to end-recipients | Not applicable for OP II Not applicable to direct delivery of food and/or basic material assistance |
| 28. Number of vouchers or cards (or other instruments of indirect delivery) used by end-recipients | Not applicable for OP II Not applicable to direct delivery of food and/or basic material assistance |
| 29. Total amount of expenditure loaded in vouchers or cards (or other instruments of indirect delivery) delivered to end-recipients | Not applicable for OP II Not applicable to direct delivery of food and/or basic material assistance |
| 30. Total amount of expenditure in vouchers or cards (or other instruments of indirect delivery) used by end-recipients | Not applicable for OP II Not applicable to direct delivery of food and/or basic material assistance |

| Data on indicators | |
|--|-------------------------|
| 31. Title of common indicators relevant for the operation | |
| 32. Identifier for the common indicators relevant for the operation | |
| 33. Achievement level of common indicators for each year of implementation or at the end of the operation | |
| 34. Title of programme specific indicators relevant for the operation | Not applicable for OP I |
| 35. Identifier for the programme specific indicators relevant for the operation | Not applicable for OP I |
| 36. Specific targets for programme specific output indicators | Not applicable for OP I |
| 37. Achievement level of programme specific output indicators for each year of implementation or at the end of the operation, | Not applicable for OP I |
| 38. Measurement unit for each output target | Not applicable for OP I |
| 39. Baseline for result indicators | Not applicable for OP I |
| 40. Target level for result indicators | Not applicable for OP I |
| 41. Measurement unit for each result target and baseline | Not applicable for OP I |
| 42. Measurement unit for each indicator | |
| Financial data on each operation (in the currency applicable to the operation) | |
| 43. Amount of the total eligible cost of the operation approved in the document setting out the conditions for support | |
| 44. Amount of the total eligible costs constituting public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 | |
| 45. Amount of public support, as set out in the document setting out the conditions for support | |
| Data on payment claims from the beneficiary (in the currency applicable to the operation) | |
| 46. Date of receipt of each payment claim from the beneficiary | |
| 47. Date of each payment to the beneficiary on basis of payment claim | |
| 48. Amount of eligible expenditure in payment claim forming the basis for each payment to the beneficiary | |
| 49. Amount of public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the eligible expenditure forming the basis for each payment | |

| | |
|---|--|
| 50. Amount of each payment to the beneficiary on basis of payment claim | |
| 51. Start date of on the spot verifications on the operation carried out pursuant to Article 32(5)(b) of Regulation (EU) No 223/2014 | |
| 52. Date of on the spot audits of the operation pursuant to Article 34(1) of Regulation (EU) No 223/2014 and Article 6 of Delegated Regulation (EU) No 532/2014 (*) | |
| 53. Body carrying out the audit or verification | |
| Data on expenditure in payment claim from beneficiary based on real costs(in the currency applicable to the operation) | |
| 54. Eligible public expenditure declared to the Commission established on the basis of costs actually incurred and paid | |
| 55. Public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the eligible public expenditure declared to the Commission established on the basis of costs actually reimbursed and paid | |
| 56. Contract type if the contract award is subject to the provisions of Directive 2004/18/EC of the European Parliament and of the Council (*) (provision of services/provision of goods) or Directive 2014/23/EU of the European Parliament and of the Council (*) | |
| 57. Contract amount if the contract award is subject to the provisions of Directive 2004/18/EC or Directive 2014/23/EU | |
| 58. Eligible expenditure incurred and paid based on a contract if the contract is subject to the provisions of Directive 2004/18/EC or Directive 2014/23/EU | |
| 59. The procurement procedure used if the contract award is subject to the provisions of Directive 2004/18/EC or Directive 2014/23/EU | |
| 60. Name or unique identifier of the contractor if the contract award is subject to the provisions of Directive 2014/23/EU | |
| Data on expenditure in payment claim from beneficiary based on standard scales of unit costs (amounts in the currency applicable to the operation) | |
| 61. Amount of eligible public expenditure declared to the Commission established on the basis of standard scales of unit costs | |
| 62. Public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the eligible public expenditure declared to the Commission established on the basis of standard scales of unit costs | |
| 63. Definition of a unit to be used for the purposes of the standard scale of unit costs | |
| 64. Number of units delivered as indicated in the payment claim for each unit item | |
| 65. Unit cost for a single unit for each unit item | |

Data on expenditure in payment claim from beneficiary based on lump sum payments (amounts in the currency applicable to the operation)

| | |
|---|--|
| 66. Amount of eligible public expenditure declared to the Commission established on the basis of lump sums | |
| 67. Public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the eligible public expenditure declared to the Commission established on the basis of lump sums | |
| 68. For each lump sum, deliverables (outputs or results) agreed in the document setting out the conditions for support as the basis for disbursement of lump sum payments | |
| 69. For each lump sum, agreed amount in the document setting out the conditions for support | |

Data on expenditure in payment claim from beneficiary based on flat rates (in the currency applicable to the operation)

| | |
|---|--|
| 70. Amount of eligible public expenditure declared to the Commission established on the basis of a flat rate | |
| 71. Public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the eligible public expenditure declared to the Commission established on the basis of a flat rate | |

Data on recoveries from the beneficiary

| | |
|---|--|
| 72. Date of each recovery decision | |
| 73. Amount of public support affected by each recovery decision | |
| 74. Total eligible expenditure affected by each recovery decision | |
| 75. Date of receipt of each amount paid back by the beneficiary following a recovery decision | |
| 76. Amount of public support paid back by the beneficiary following a recovery decision (without interest or penalties) | |
| 77. Total eligible expenditure corresponding to the public support paid back by the beneficiary | |
| 78. Amount of public support irrecoverable following a recovery decision | |
| 79. Total eligible expenditure corresponding to irrecoverable public support | |

Data on payment applications to the Commission (in EUR)

| | |
|---|--|
| 80. Date of submission of each payment application including eligible expenditure from the operation | |
| 81. The total amount of eligible public expenditure incurred by the beneficiary and paid in implementing the operation included in each payment application | |
| 82. The total amount of public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 of the operation included in each payment application | |

Data on accounts submitted to the Commission under Article 48 of Regulation (EU) No 223/2014 (in EUR)

| | |
|---|--|
| 83. The date of submission of each set of accounts including expenditure under the operation | |
| 84. Date of submission of the accounts in which the final expenditure of the operation is included following the completion of the operation (where the total eligible expenditure is EUR 1 000 000 or more (Article 51 of Regulation (EU) No 223/2014)) | |
| 85. Total amount of eligible public expenditure of the operation entered into the accounting systems of the certifying authority which has been included in the accounts | |
| 86. Total amount of public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 incurred in implementing the operation corresponding to the total amount of eligible public expenditure entered into the accounting systems of the certifying authority which has been included in the accounts | |
| 87. Total amount of payments made to the beneficiary under Article 42(2) of Regulation (EU) No 223/2014 corresponding to the total amount of public eligible expenditure entered into the accounting systems of the certifying authority which has been included in the accounts | |
| 88. Total public eligible expenditure of the operation withdrawn during the accounting year included in the accounts | |
| 89. Total public expenditure as defined in Article 2(12) of Regulation (EU) No 223/2014 corresponding to the public eligible expenditure withdrawn during the accounting year included in the accounts | |
| 90. Total public eligible expenditure of the operation recovered during the accounting year included in the accounts | |
| 91. Total public expenditure corresponding to the total public eligible expenditure of the operation recovered during the accounting year included in the accounts | |
| 92. Total public eligible expenditure of the operation to be recovered as at the end of the accounting year included in the accounts | |

| | |
|---|--|
| 93. Total public expenditure of the operation corresponding to the total public eligible expenditure to be recovered as at the end of the accounting year included in the accounts | |
| 94. Total eligible amount of public expenditure of the operation irrecoverable as at the end of the accounting year included in the accounts | |
| 95. Total public expenditure of the operation corresponding to the total eligible amount of public expenditure irrecoverable as at the end of the accounting year included in the accounts' | |

(¹) Beneficiary includes, where applicable, other bodies incurring expenditure under the operation which is treated as expenditure incurred by the beneficiary.

(²) Commission Delegated Regulation (EU) No 532/2014 of 13 March 2014 supplementing Regulation (EU) No 223/2014 of the European Parliament and of the Council on the Fund for European Aid to the Most Deprived (OJ L 148, 20.5.2014, p. 54).

(³) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, 30.4.2004, p. 114).

(⁴) Directive of the European Parliament and of the Council 2014/23/EU of 26 February 2014 on the award of concession contracts (OJ L 94, 28.3.2014, p. 1).

ANNEX II

‘ANNEX

COMMON INDICATORS FOR OP I AND OP II**Input indicators**

- (1) Total amount of eligible public expenditure approved in the documents setting out the conditions for support of operations.
- (2) Total amount of eligible public expenditure incurred by beneficiaries and paid in implementing operations.
Thereof, where relevant:
 - (a) total amount of eligible public expenditure incurred by beneficiaries and paid in implementing operations relating to food provided directly to the most deprived;
 - (b) total amount of eligible public expenditure incurred by beneficiaries and paid in implementing operations relating to basic material assistance provided directly to the most deprived;
 - (c) total amount of eligible public expenditure incurred by beneficiaries and paid in implementing operations relating to food and/or basic material assistance provided indirectly to the most deprived, such as through vouchers, cards or other instruments.
- (3) Total amount of eligible public expenditure declared to the Commission.
These data shall be expressed in euro.

COMMON INDICATORS FOR OP I FOR SUPPORT PROVIDED DIRECTLY TO THE MOST DEPRIVED**Output indicators on food support distributed ⁽¹⁾**

- (4) Quantity of fruits and vegetables.
- (5) Quantity of meat, eggs, fish, seafood.
- (6) Quantity of flour, bread, potatoes, rice and other starchy products.
- (7) Quantity of sugar.
- (8) Quantity of milk products.
- (9) Quantity of fats, oil.
- (10) Quantity of convenience food, other foodstuff (not falling under the aforementioned categories).
- (11) Total quantity of food support distributed.
Thereof:
 - (a) share of food for which only transport, distribution and storage were paid for by the OP (in %);
 - (b) proportion of FEAD co-financed food products in the total volume of food distributed by the partner organisations (in %) ⁽²⁾.
- (12) Total number of meals distributed partly or totally financed by the OP ⁽³⁾.
- (13) Total number of food packages distributed partly or totally financed by the OP ⁽⁴⁾.

Result indicators on food support distributed ⁽⁵⁾

(14) Total number of persons receiving food support.

Thereof:

- (a) number of children aged 15 years or below;
- (b) number of persons aged 65 years or above;
- (c) number of women;
- (d) number of migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma);
- (e) number of persons with disabilities;
- (f) number of homeless.

Output indicators on basic material assistance distributed

(15) Total monetary value of goods distributed.

Thereof:

- (a) total monetary value of goods for children;
- (b) total monetary value of goods for the homeless;
- (c) total monetary value of goods for other target groups.

(16) List of most relevant categories of goods distributed to children ⁽⁶⁾:

- (a) layette;
- (b) school bags;
- (c) stationery, exercise books, pens, painting equipment and other equipment required in school (non-clothes);
- (d) sports equipment (sport shoes, leotard, swimsuit, etc.);
- (e) clothes (winter coat, footwear, school uniform, etc.);
- (f) other category – to be specified.

(17) List of most relevant categories of goods distributed to the homeless ⁽⁶⁾:

- (a) sleeping bags/blankets;
- (b) kitchen equipment (pots, pans, cutlery, etc.);
- (c) clothes (winter coat, footwear, etc.);
- (d) household linen (towels, bedclothes);
- (e) hygiene articles (first aid kit, soap, toothbrush, disposable razor, etc.);
- (f) other category – to be specified.

(18) List of most relevant categories of goods distributed to other target groups ⁽⁶⁾:

- (a) categories to be specified.

Result indicators on basic material assistance distributed ⁽⁵⁾

(19) Total number of persons receiving basic material assistance.

Thereof:

- (a) number of children aged 15 years or below;
- (b) number of persons aged 65 years or above;
- (c) number of women;
- (d) number of migrants, participants with a foreign background, minorities including marginalised communities such as the Roma;
- (e) number of persons with disabilities;
- (f) number of homeless.

COMMON INDICATORS FOR OP I FOR SUPPORT PROVIDED INDIRECTLY TO THE MOST DEPRIVED, SUCH AS THROUGH VOUCHERS, CARDS OR OTHER INSTRUMENTS**Result indicators on support distributed through electronic vouchers, cards or other instruments of indirect delivery ⁽¹⁾**

(19bis) Total number of persons receiving support through vouchers, cards or other instruments of indirect delivery.

Thereof:

- (a) number of children aged 15 years or below;
- (b) number of persons aged 65 years or above;
- (c) number of women;
- (d) number of migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma);
- (e) number of persons with disabilities;
- (f) number of homeless.

COMMON INDICATORS FOR OP II**Output indicators on social inclusion assistance**

(20) Total number of persons receiving social inclusion assistance.

Thereof:

- (a) number of children aged 15 years or below;
- (b) number of persons aged 65 years or above;
- (c) number of women;
- (d) number of migrants, participants with a foreign background, minorities (including marginalised communities such as the Roma);
- (e) number of persons with disabilities;
- (f) number of homeless.

These data for OP II are personal data according to Article 7 of Directive 95/46/EC. Their processing is necessary for compliance with the legal obligation to which the controller is subject (Article 7(c) of Directive 95/46/EC). For the definition of controller, see Article 2 of Directive 95/46/EC.'

⁽¹⁾ The indicators (4) to (11) include any form of these products, e.g. fresh, canned and frozen foodstuff and should be expressed in tons.

⁽²⁾ Values for this indicator shall be established by an informed estimation of the partner organisations.

⁽³⁾ The definition of what is to be understood as a meal can be provided at the level of the partner organisation/operation/managing authority. Values for this indicator shall be established by an assessment by the partner organisations.

⁽⁴⁾ The definition of what is to be understood as a food package can be provided at the level of the partner organisation/operation/managing authority. Packages do not need to be standardised in size or content. Values for this indicator shall be established by an assessment by the partner organisations.

⁽⁵⁾ Values for these indicators shall be determined based on the informed estimation of the partner organisations. It is neither expected nor required that they are based on information provided by end-recipients.

⁽⁶⁾ The list shall include all relevant categories covering at least 75 % of the goods distributed.

COMMISSION DELEGATED REGULATION (EU) 2021/630**of 16 February 2021****supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽¹⁾ and in particular Article 48(h) and Article 77(1)(k) thereof,

Whereas:

- (1) Article 48(h) and Article 77(1)(k) of Regulation (EU) 2017/625 empower the Commission to adopt delegated acts to establish cases where, and conditions under which, certain low risk goods, including composite products, might be exempted from official controls at border control posts, and to lay down rules for the performance of specific official controls on those goods.
- (2) The risk posed by composite products to public and animal health depends on the types of ingredients and on their storage conditions and packaging. Shelf-stable composite products that do not contain processed meat as an ingredient and do not need to be transported or stored under controlled temperatures pose the lowest risk as regards animal health and microbiological food safety. This is the case for dairy and egg products contained in shelf-stable composite products that have undergone treatment during their manufacture, such as sterilisation or treatment using ultra-high temperatures to eliminate the risk. Risks for animal health and microbiological food safety are mitigated where composite products are securely packaged or sealed.
- (3) However, chemical food safety risks are not reduced by treatments that make composite products shelf-stable. From the perspective of chemical food safety, certain shelf-stable composite products that do not contain processed meat may be exempted from official controls at the border control posts, provided that the processed products of animal origin that are ingredients of the composite products are produced in establishments located in third countries authorised for importing into the Union those processed products of animal origin or in establishments located in Member States.
- (4) Shelf-stable composite products that do not contain processed meat should be produced in a third country listed in Commission Decision 2011/163/EU ⁽²⁾. The third country producing the composite product should either have an approved residue control plan for each of the ingredients of animal origin contained in composite product or it should source the animal ingredients from a Member State or from another third country which is listed in the Decision 2011/163/EU for those commodities.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Commission Decision 2011/163/EU of 16 March 2011 on the approval of plans submitted by third countries in accordance with Article 29 of Council Directive 96/23/EC (OJ L 70, 17.3.2011, p. 40).

- (5) Considering their low risk for public health and animal health, it is appropriate to exempt certain shelf-stable composite products not containing processed meat from official controls at border control posts and to list them in the Annex to this Regulation, indicating their codes from the Combined Nomenclature (CN) as laid down in Annex I to Council Regulation (EEC) No 2658/87 ⁽³⁾.
- (6) Certain shelf-stable composite products not containing processed meat, exempted from official controls at border control posts in accordance with this Regulation and entering the Union from third countries should be accompanied by a private attestation provided by the importing food business operator.
- (7) To ensure that certain shelf-stable composite products not containing processed meat and exempted from checks at border control posts in accordance with this Regulation meet public and animal health requirements, the competent authorities should perform official controls regularly, on a risk basis and with appropriate frequency, at the place of destination, at the point of release for free circulation in the Union, or at the warehouses or the premises of the operator responsible for the consignment.
- (8) The rules on composite products exempted from official controls at the border control posts and on official controls to be performed on such composite products are substantively linked and are intended to be applied in tandem. In the interests of simplicity and transparency, as well as to facilitate their application and to avoid a multiplication of rules, they therefore should be laid down in a single act rather than in separate acts with many cross-references and the risk of duplication.
- (9) Exemptions from official controls at border control posts for certain composite products already exist pursuant to Commission Decision 2007/275/EC ⁽⁴⁾. Since this Regulation lays down exemptions for products currently covered by Decision 2007/275/EC, certain provisions in that Decision should be deleted from the date of application of this Regulation and that Decision should be amended accordingly.
- (10) The public health requirements for the entry into the Union of composite products laid down in Commission Delegated Regulation (EU) 2019/625 ⁽⁵⁾ will only apply as of 21 April 2021. Similarly, the animal health requirements for the entry into the Union of composite products laid down in Commission Delegated Regulation (EU) 2020/692 ⁽⁶⁾ will only apply as of 21 April 2021. Accordingly, the rules laid down in this Regulation should also apply from that date,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes rules concerning:

- (1) the cases where and the conditions under which composite products are exempted from official controls at border control posts and when such exemption is justified;
- (2) the performance of specific official controls on composite products exempted from official controls at border control posts.

⁽³⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

⁽⁴⁾ Commission Decision 2007/275/EC of 17 April 2007 concerning lists of composite products subject to controls at border control posts (OJ L 116, 4.5.2007, p. 9).

⁽⁵⁾ Commission Delegated Regulation (EU) 2019/625 of 4 March 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption (OJ L 131, 17.5.2019, p. 18).

⁽⁶⁾ Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignment of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

*Article 2***Definitions**

For the purposes of this Regulation, the following definitions apply:

- (1) 'composite product' means composite product as defined in point (14) of Article 2 of Delegated Regulation (EU) 2019/625;
- (2) 'shelf-stable composite products' means products that do not need to be transported or stored under controlled temperatures.

*Article 3***Composite products exempted from official controls at border control posts**

1. Shelf-stable composite products not containing processed meat and listed in the Annex shall be exempted from official controls at border control posts provided such products meet all of the following requirements:
 - (a) they comply with the requirements for the entry into the Union laid down in Article 12(2)(c) of Delegated Regulation (EU) 2019/625;
 - (b) any dairy and egg products contained in the shelf-stable composite products have been subjected to treatment in accordance with Article 163(a) of Delegated Regulation (EU) 2020/692;
 - (c) they are identified as intended for human consumption; and
 - (d) they are securely packaged or sealed.
2. At the time of placing on the market, shelf-stable composite products referred to in paragraph 1 shall be accompanied by a private attestation in accordance with the model laid down in Annex V to Commission Implementing Regulation (EU) 2020/2235 ⁽⁷⁾.

*Article 4***Official controls on composite products exempted from official controls at border control posts**

1. The competent authorities shall perform official controls on shelf-stable composite products referred to in Article 3(1) regularly, on a risk basis and with appropriate frequency, taking into account the criteria referred to in Article 44(2) of Regulation (EU) 2017/625.
2. The official controls referred to in paragraph 1 shall be performed at any of the following places within the customs territory of the Union:
 - (a) the place of destination;
 - (b) the point of release for free circulation in the Union;
 - (c) the warehouses or the premises of the operator responsible for the consignment.
3. The official controls referred to in paragraph 1 shall be performed in accordance with Articles 45 and 46 of Regulation (EU) 2017/625.

⁽⁷⁾ Commission Implementing Regulation (EU) 2020/2235 of 16 December 2020 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates, model official certificates and model animal health/official certificates, for the entry into the Union and movements within the Union of consignments of certain categories of animals and goods, official certification regarding such certificates and repealing Regulation (EC) No 599/2004, Implementing Regulations (EU) No 636/2014 and (EU) 2019/628, Directive 98/68/EC and Decisions 2000/572/EC, 2003/779/EC and 2007/240/EC (OJ L 442, 30.12.2020, p. 1).

*Article 5***Amendments to Decision 2007/275/EC**

Decision 2007/275/EC is amended as follows:

- (1) Article 6 is deleted;
- (2) Annex II is deleted.

*Article 6***Entry into force and date of application**

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

It shall apply from 21 April 2021.

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

Done at Brussels, 16 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

List of composite products exempted from official controls at border control posts (Article 3)

This list sets out composite products, in accordance with the Combined Nomenclature (CN) in use in the Union, that do not need to be submitted for official controls at border control posts.

Notes relating to the table:

Column (1) – CN code

This column indicates the CN code. The CN, established by Regulation (EEC) No 2658/87, is based on the Harmonized Commodity Description and Coding System ('Harmonized System (HS)') drawn up by the Customs Cooperation Council, now the World Customs Organisation, and approved by Council Decision 87/369/EEC ⁽¹⁾. The CN reproduces the headings and subheadings of the HS to six digits. The seventh and eighth digits identify further CN subheadings.

Where a four-, six- or eight-digit code not marked with 'ex' is used, and unless otherwise specified, all composite products prefixed with or covered by these four-, six- or eight-digits are not required to be submitted for official controls at border control posts.

Where only certain specified composite products under any four-, six- or eight-digit code contain animal products and no specific subdivision under this code exists in the CN, the code is marked 'ex'. For example, with respect to 'ex 2001 90 65', checks at border control posts are not required for the products outlined in column (2).

Column (2) – Explanations

This column gives details of the composite products covered by the exemption from official controls at border control posts.

| CN codes | Explanations |
|---|--|
| (1) | (2) |
| 1704, ex 1806 20, ex 1806 31 00, ex 1806 32, ex 1806 90 11, ex 1806 90 19, ex 1806 90 31, ex 1806 90 39, ex 1806 90 50, ex 1806 90 90 | Confectionery (including sweets), chocolate and other food preparations containing cocoa that meet the requirements of Article 3(1) |
| ex 1902 19, ex 1902 30, ex 1902 40 | Pasta, noodles and couscous that meet the requirements of Article 3(1) |
| ex 1905 10, ex 1905 20, ex 1905 31, ex 1905 32, ex 1905 40, ex 1905 90 | Bread, cakes, biscuits, waffles and wafers, rusks, toasted bread and similar toasted products that meet the requirements of Article 3(1) |
| ex 2001 90 65, ex 2005 70 00, ex 1604 | Olives stuffed with fish that meet the requirements of Article 3(1) |
| 2101 | Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté thereof that meet the requirements of Article 3(1). Roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof that meet the requirements of Article 3(1). |
| ex 2104 | Soup stocks and flavourings packaged for the final consumer that meet the requirements of Article 3(1) |

⁽¹⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).

| | |
|------------|--|
| ex 2106 | Food supplements packaged for the final consumer, containing processed animal products (including glucosamine, chondroitin or chitosan) that meet the requirements of Article 3(1) |
| ex 2208 70 | Liqueurs and cordials that meet the requirements of Article 3(1) |

COMMISSION IMPLEMENTING REGULATION (EU) 2021/631**of 12 April 2021****entering a name in the register of protected designations of origin and protected geographical indications ('Budaörsi őszibarack' (PGI))**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs ⁽¹⁾, and in particular Article 52(2) thereof,

Whereas:

- (1) Pursuant to Article 50(2)(a) of Regulation (EU) No 1151/2012, Hungary's application to register the name 'Budaörsi őszibarack' was published in the *Official Journal of the European Union* ⁽²⁾.
- (2) As no statement of opposition under Article 51 of Regulation (EU) No 1151/2012 has been received by the Commission, the name 'Budaörsi őszibarack' should therefore be entered in the register,

HAS ADOPTED THIS REGULATION:

Article 1

The name 'Budaörsi őszibarack' (PGI) is hereby entered in the register.

The name specified in the first paragraph denotes a product in Class 1.6. – Fruit, vegetables and cereals, fresh or processed, as listed in Annex XI to Commission Implementing Regulation (EU) No 668/2014 ⁽³⁾.*Article 2*This Regulation shall enter into force on the twentieth 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, 12 April 2021.

For the Commission,
On behalf of the President,
Janusz WOJCIECHOWSKI
Member of the Commission

⁽¹⁾ OJ L 343, 14.12.2012, p. 1.

⁽²⁾ OJ C 447, 23.12.2020, p. 21.

⁽³⁾ Commission Implementing Regulation (EU) No 668/2014 of 13 June 2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs (OJ L 179, 19.6.2014, p. 36).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/632**of 13 April 2021**

laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to official controls at border control posts, and repealing Commission Implementing Regulation (EU) 2019/2007 and Commission Decision 2007/275/EC

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products, amending Regulations (EC) No 999/2001, (EC) No 396/2005, (EC) No 1069/2009, (EC) No 1107/2009, (EU) No 1151/2012, (EU) No 652/2014, (EU) 2016/429 and (EU) 2016/2031 of the European Parliament and of the Council, Council Regulations (EC) No 1/2005 and (EC) No 1099/2009 and Council Directives 98/58/EC, 1999/74/EC, 2007/43/EC, 2008/119/EC and 2008/120/EC, and repealing Regulations (EC) No 854/2004 and (EC) No 882/2004 of the European Parliament and of the Council, Council Directives 89/608/EEC, 89/662/EEC, 90/425/EEC, 91/496/EEC, 96/23/EC, 96/93/EC and 97/78/EC and Council Decision 92/438/EEC (Official Controls Regulation) ⁽¹⁾, and in particular point (a) of the first subparagraph of Article 47(2) thereof,

Whereas:

- (1) Regulation (EU) 2017/625 establishes rules on the performance of official controls by the competent authorities of the Member States on animals and goods entering the Union in order to verify compliance with Union agri-food chain legislation.
- (2) In accordance with Regulation (EU) 2017/625, certain categories of animals and goods from third countries are to be presented at a border control post for official controls to be performed prior to their entry into the Union.
- (3) Regulation (EU) 2017/625 requires the Commission to establish lists of animals and products of animal origin, germinal products, animal by-products including derived products, composite products, and hay and straw to be presented for official controls at border control posts with the indication of their respective Combined Nomenclature (CN) codes provided for in Council Regulation (EEC) No 2658/87 ⁽²⁾.
- (4) In order to facilitate official controls by the competent authorities at border control posts in accordance with Regulation (EU) 2017/625, the list established in this Regulation should describe, in detail, the animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw subject to such official controls.
- (5) This Regulation replaces the rules with regard to official controls on entry into the Union of animals and goods laid down in Commission Implementing Regulation (EU) 2019/2007 ⁽³⁾ entirely. That Implementing Regulation should therefore be repealed.

⁽¹⁾ OJ L 95, 7.4.2017, p. 1.

⁽²⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2019/2007 of 18 November 2019 laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the lists of animals, products of animal origin, germinal products, animal by-products and derived products and hay and straw subject to official controls at border control posts and amending Decision 2007/275/EC (OJ L 312, 3.12.2019, p. 1).

- (6) Commission Delegated Regulation (EU) 2021/630 ⁽⁴⁾ establishes cases where, and conditions under which, certain low risk goods, including composite products, might be exempted from official controls at border control posts, and lays down rules for the performance of specific official controls on those goods. Delegated Regulation (EU) 2021/630 deletes the provisions of Commission Decision 2007/275/EC ⁽⁵⁾ that exempt composite products from official controls at border control posts. This Regulation replaces the remaining provisions of Decision 2007/275/EC concerning composite products subject to official controls at border control posts. In order to ensure legal certainty and clarity, Decision 2007/275/EC should therefore be repealed.
- (7) As Delegated Regulation (EU) 2021/630 applies from 21 April 2021, this Regulation should apply from the same date.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes the lists of animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw that are subject to official controls at border control posts in accordance with Regulation (EU) 2017/625 and indicates their codes from the Combined Nomenclature.

Article 2

Definitions

For the purposes of this Regulation, the following definitions shall apply:

- (1) 'composite product' means a composite product as defined in point (14) of Article 2 of Delegated Regulation (EU) 2019/625;
- (2) 'untreated pig bristles' means untreated pig bristles as defined in point 33 of Annex I to Commission Regulation (EU) No 142/2011 ⁽⁶⁾;
- (3) 'untreated feathers and parts of feathers' means untreated feathers and parts of feathers as defined in point 30 of Annex I to Regulation (EU) No 142/2011;
- (4) 'untreated hair' means untreated hair as defined in point 32 of Annex I to Regulation (EU) No 142/2011;
- (5) 'intermediate product' means intermediate product as defined in point 35 of Annex I to Regulation (EU) No 142/2011;
- (6) 'treated hides and skins' means treated hides and skins as defined in point 28 of Annex I to Regulation (EU) No 142/2011;
- (7) 'untreated wool' means untreated wool as defined in point 31 of Annex I to Regulation (EU) No 142/2011.

⁽⁴⁾ Commission Delegated Regulation (EU) 2021/630 of 16 February 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC (see page 17 of this Official Journal).

⁽⁵⁾ Commission Decision 2007/275/EC of 17 April 2007 concerning lists of composite products to be subject to controls at border control posts (OJ L 116, 4.5.2007, p. 9).

⁽⁶⁾ Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).

*Article 3***Official controls of animals and goods listed in the Annex**

The animals, products of animal origin, germinal products, animal by-products and derived products, composite products, and hay and straw listed in the Annex to this Regulation shall be subject to official controls at border control posts in accordance with Regulation (EU) 2017/625.

*Article 4***Repeals**

1. Implementing Regulation (EU) 2019/2007 and Decision 2007/275/EC are repealed with effect from 21 April 2021.
2. References to those repealed acts shall be constructed as references to this Regulation.

*Article 5***Entry into force and application**

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

It shall apply from 21 April 2021.

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

Done at Brussels, 13 April 2021.

For the Commission

The President

Ursula VON DER LEYEN

ANNEX

**LIST OF ANIMALS, PRODUCTS OF ANIMAL ORIGIN, GERMINAL PRODUCTS, ANIMAL
BY-PRODUCTS AND DERIVED PRODUCTS, COMPOSITE PRODUCTS, AND HAY AND STRAW
SUBJECT TO OFFICIAL CONTROLS AT BORDER CONTROL POSTS AS REFERRED TO IN
ARTICLE 3**

Notes:**1. General remarks**

General remarks are added to certain Chapters to clarify, which animals or goods are covered in the relevant chapter. In addition, where necessary, reference is made to specific requirements laid down in Commission Regulation (EU) No 142/2011 ⁽¹⁾.

The list of composite products that meet specific conditions and are exempted from checks at border control posts are laid down in Commission Delegated Regulation (EU) 2021/630 established on the basis of Article 48(h) and Article 77(1)(k) of Regulation (EU) 2017/625 ⁽²⁾.

2. Note to Chapter

The lists in this Annex are structured in Chapters which correspond to the relevant Chapters in the Combined Nomenclature (CN) as laid down in Annex I to Council Regulation (EEC) No 2658/87 ⁽³⁾.

The Chapter notes are explanations, where necessary extracted, from the Notes to the individual Chapters of the CN.

3. Extract from the Explanatory Notes and the Classification Opinions of the Harmonized System

Additional information on the different Chapters has been extracted, where necessary, from the Explanatory Notes and the Classification Opinions of the Harmonized System of the World Customs Organisation.

Tables:**4. Column (1) – CN code**

This column indicates the CN code. The CN, established by Regulation (EEC) No 2658/87, is based on the International Convention on Harmonized Commodity Description and Coding System (HS) concluded in Brussels on 14 June 1983 and approved by Council Decision 87/369/EEC ⁽⁴⁾. The CN reproduces the headings and subheadings of the HS to six digits, with only the seventh and eighth figures creating further subheadings which are specific to it.

Where a four-digit code is used: Unless otherwise specified, all animals and goods prefixed with or covered by these four digits shall be submitted to official controls at border control posts. In most of these cases, the relevant CN codes included in the Traces system referred to in Article 133(4) of Regulation (EU) 2017/625, are broken down to six- or eight-digit codes.

⁽¹⁾ Commission Regulation (EU) No 142/2011 of 25 February 2011 implementing Regulation (EC) No 1069/2009 of the European Parliament and of the Council laying down health rules as regards animal by-products and derived products not intended for human consumption and implementing Council Directive 97/78/EC as regards certain samples and items exempt from veterinary checks at the border under that Directive (OJ L 54, 26.2.2011, p. 1).

⁽²⁾ Commission Delegated Regulation (EU) 2021/630 of 16 February 2021 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards certain categories of goods exempted from official controls at border control posts and amending Commission Decision 2007/275/EC (OJ L 132, X.X.2021, p. 17).

⁽³⁾ Council Regulation (EEC) No 2658/87 of 23 July 1987 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 256, 7.9.1987, p. 1).

⁽⁴⁾ Council Decision 87/369/EEC of 7 April 1987 concerning the conclusion of the International Convention on the Harmonized Commodity Description and Coding System and of the Protocol of Amendment thereto (OJ L 198, 20.7.1987, p. 1).

Where only certain specified animals and goods under any four-, six- or eight-digit code are required to be submitted to official controls and no specific subdivision under this code exists in the CN, the code is marked 'Ex'. In that case, the animals and goods covered by this Regulation are determined by the scope of the CN code and by that of the corresponding description in column (2) and the qualification and explanation in column (3).

5. Column (2) – Description

The description of the animals and goods is as laid down in the description column of the CN.

Without prejudice to the rules for the interpretation of the CN, the wording for the description of the animals and goods in column (2) is considered to be of indicative value only, since the animals and goods covered by this Regulation are determined by CN codes.

6. Column (3) – Qualification and explanation

This column gives details of the animals or goods covered. Further information on the animals or goods covered in the different Chapters of the CN can be found in the Explanatory Notes to the Combined Nomenclature of the European Union ⁽⁵⁾.

Products derived from animal by-products covered by Regulation (EC) No 1069/2009 of the European Parliament and of the Council ⁽⁶⁾ and Regulation (EU) No 142/2011 are not specifically identified in Union law. Official controls shall be carried out on products that are partly processed but remain raw products to be further processed in an approved or registered establishment at destination. Official inspectors at border control posts shall assess and specify, when necessary, if a derived product is sufficiently processed to not require further official controls provided for in Union law.

CHAPTER 1

Live animals

Note to Chapter 1 (extract from the Notes to this Chapter of the CN)

'1. This chapter covers all live animals, except:

- (a) fish and crustaceans, molluscs and other aquatic invertebrates, of heading 0301, 0306, 0307 or 0308;
- (b) cultures of micro-organisms and other products of heading 3002; and
- (c) animals of heading 9508.'

Extract from the Harmonized System Explanatory Notes

'Heading 0106 includes, inter alia, the following domestic or wild animals:

(A) Mammals

- (1) Primates.
- (2) Whales, dolphins and porpoises (mammals of the order Cetacea); manatees and dugongs (mammals of the order Sirenia); seals, sea lions and walruses (mammals of the suborder Pinnipedia).
- (3) Other (such as reindeer, cats, dogs, lions, tigers, bears, elephants, camels (including dromedaries), zebras, rabbits, hares, deer, antelope (other than those of the sub-family *Bovinae*), chamois, foxes, minks, and other animals for fur farms).

(B) Reptiles (including snakes and turtles)

⁽⁵⁾ Explanatory Notes to the Combined Nomenclature of the European Union (OJ C 119, 29.3.2019, p. 1), as subsequently amended.

⁽⁶⁾ Regulation (EC) No 1069/2009 of the European Parliament and of the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p. 1).

(C) Birds

- (1) Birds of prey.
- (2) Psittaciformes (including parrots, parakeets, macaws and cockatoos).
- (3) Other (such as partridges, pheasants, quail, woodcocks, snipe, pigeons, grouse, ortolan, wild ducks, wild geese, thrushes, blackbirds, larks, finches, tits, humming birds, peacocks, swans, and other birds not specified in heading 0105).

(D) Insects, such as bees (whether or not travelling in boxes or cages or hives).

(E) Other, e.g. frogs.

This heading excludes animals forming part of circuses, menageries or other similar travelling animal shows (heading 95.08).'

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| 0101 | Live horses, asses, mules and hinnies | All |
| 0102 | Live bovine animals | All |
| 0103 | Live swine | All |
| 0104 | Live sheep and goats | All |
| 0105 | Live poultry, that is to say, fowls of the species <i>Gallus domesticus</i> , ducks, geese, turkeys and guinea fowls | All |
| 0106 | Other live animals | <p>All, covers all animals from the following subheadings:</p> <p>0106 11 00 (primates)</p> <p>0106 12 00 (whales, dolphins and porpoises (mammals of the order Cetacea); manatees and dugongs (mammals of the order Sirenia); seals, sea lions and walruses (mammals of the suborder Pinnipedia)</p> <p>0106 13 00 (camels and other camelids (Camelidae))</p> <p>0106 14 (rabbits and hares)</p> <p>0106 19 00 (other): mammals other than those of heading 0101, 0102, 0103, 0104, 0106 11, 0106 12, 0106 13 and 0106 14; covers dogs and cats</p> <p>0106 20 00 (reptiles, including snakes and turtles)</p> <p>0106 31 00 (birds: birds of prey)</p> <p>0106 32 00 (birds: psittaciformes, including parrots, parakeets, macaws and cockatoos)</p> <p>0106 33 00 (ostriches; emus (<i>Dromaius novaehollandiae</i>))</p> <p>0106 39 (other): covers birds, other than those of heading 0105, 0106 31, 0106 32 and 0106 33, including pigeons</p> <p>0106 41 00 (bees)</p> <p>0106 49 00 (other insects than bees)</p> <p>0106 90 00 (other): all other live animals not covered elsewhere, other than mammals, reptiles, birds and insects. Live frogs whether for vivaria to be kept alive, or to be killed for human consumption, are covered by this heading.</p> |

CHAPTER 2

Meat and edible meat offal**Note to Chapter 2 (extract from the Notes to this Chapter of the CN)**

‘1. This chapter does not cover:

- (a) Products of the kinds described in headings 0201 to 0208 or 0210 unfit or unsuitable for human consumption;
- (b) guts, bladders or stomachs of animals (heading 0504) or animal blood (heading 0511 or 3002); or
- (c) animal fat, other than the products of heading 0209 (Chapter 15).

...’

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| 0201 | Meat of bovine animals, fresh or chilled | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0202 | Meat of bovine animals, frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0203 | Meat of swine, fresh, chilled or frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0204 | Meat of sheep or goats, fresh, chilled or frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0205 00 | Meat of horses, asses, mules or hinnies, fresh, chilled or frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0206 | Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0207 | Meat and edible offal, of the poultry of heading 0105, fresh, chilled or frozen | All. However, raw material not intended or suitable for human consumption is not covered in this code. |
| 0208 | Other meat and edible meat offal, fresh, chilled or frozen | <p>All. However, raw material not intended or suitable for human consumption is not covered in this code.</p> <p>This covers other raw material for the production of gelatine or collagen for human consumption. Covers all meat and edible meat offal from the following subheadings:</p> <p>0208 10 (of rabbits or hares)</p> <p>0208 30 00 (of primates)</p> <p>0208 40 (of whales, dolphins and porpoises (mammals of the order Cetacea); of manatees and dugongs (mammals of the order Sirenia); of seals, sea lions and walruses (mammals of the suborder Pinnipedia))</p> |

| | | |
|------|--|--|
| | | <p>0208 50 00 (of reptiles, including snakes and turtles)</p> <p>0208 60 00 (of camels and other camelids (Camelidae))</p> <p>0208 90 (other: of domestic pigeons; of game other than of rabbits or hares; etc.): covers meat of quails, reindeer or any other mammal species. Covers frogs' legs under CN code 0208 90 70.</p> |
| 0209 | Pig fat, free of lean meat, and poultry fat, not rendered or otherwise extracted, fresh, chilled frozen, salted, in brine, dried or smoked | All, covers both fat and processed fat as described in column (2), even if suitable only for industrial use (not fit for human consumption). |
| 0210 | Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal | <p>All, covers meat, meat products and other products of animal origin.</p> <p>However, raw material not intended or suitable for human consumption is not covered in this code.</p> <p>Covers processed animal protein and dried pigs ears for human consumption. Even when such dried pig ears are used as animal feed, the Annex to Commission Regulation (EC) No 1125/2006 ⁽¹⁾ clarifies that they may be covered in 0210 99 49. However, dried offal and pigs ears unfit for human consumption are in 0511 99 85.</p> <p>Bones for human consumption are covered under heading 0506.</p> <p>Sausages are covered under heading 1601.</p> <p>Extracts and juices of meat are covered under heading 1603.</p> <p>Greaves are covered under heading 2301.</p> |

⁽¹⁾ Commission Regulation (EC) No 1125/2006 of 21 July 2006 concerning the classification of certain goods in the Combined Nomenclature (OJ L 200, 22.7.2006, p. 3).

CHAPTER 3

Fish and crustaceans, molluscs and other aquatic invertebrates

General remarks

This chapter covers both live fish for breeding and reproduction, live ornamental fish, and live fish or live crustaceans transported alive but imported for human consumption.

All products in this chapter are subject to official controls.

Notes to Chapter 3 (extract from the Notes to this Chapter of the CN)

1. This chapter does not cover:

- (a) mammals of heading 0106;
- (b) meat of mammals of heading 0106 (heading 0208 or 0210);
- (c) fish (including livers, roes and milt thereof) or crustaceans, molluscs or other aquatic invertebrates, dead and unfit or unsuitable for human consumption by reason of either their species or their condition (Chapter 5); flours, meals or pellets of fish or of crustaceans, molluscs or other aquatic invertebrates unfit for human consumption (heading 2301); or

(d) caviar or caviar substitutes prepared from fish eggs (heading 1604).

...

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| 0301 | Live fish | All, covers trout, eels, carp, or any other species or any fish imported for breeding or reproduction. Live fish imported for immediate human consumption are treated for official controls purposes as if they were products. Covers ornamental fish in subheadings 0301 11 00 and 0301 19 00. |
| 0302 | Fish, fresh or chilled, excluding fish fillets and other fish meat of heading 0304 | All, covers livers, milt and roes, fresh or chilled, in CN code 0302 91 00. |
| 0303 | Fish, frozen, excluding fish fillets and other fish meat of heading 0304 | All, covers livers, milt and roes, frozen, in subheading 0303 91. |
| 0304 | Fish fillets and other fish meat (whether or not minced), fresh, chilled or frozen | All. |
| 0305 | Fish, dried, salted or in brine; smoked fish, whether or not cooked before or during the smoking process; flours, meals and pellets of fish, fit for human consumption | All, covers other fishery products such as flours, meals and pellets fit for human consumption made from fish; covers fish heads, tails and maws and other fishery products. |
| 0306 | Crustaceans, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked crustaceans, whether in shell or not, whether or not cooked before or during the smoking process; crustaceans, in shell, cooked by steaming or by boiling in water, whether or not chilled, frozen, dried, salted or in brine; flours, meals and pellets of crustaceans, fit for human consumption | All. Live crustaceans imported for immediate human consumption are considered and treated for official controls purposes as if they were products. Covers ornamental sea monkeys and their cysts for use as pet animals and all live ornamental crustaceans. |
| 0307 | Molluscs, whether in shell or not, live, fresh, chilled, frozen, dried, salted or in brine; smoked molluscs, whether in shell or not, whether or not cooked before or during the smoking process; flours, meals and pellets of molluscs, fit for human consumption | This covers molluscs that may have been cooked and then smoked. Other cooked molluscs are covered in heading 1605. Covers live ornamental molluscs. Live molluscs imported for immediate human consumption are considered and treated for official controls purposes as if they were products. Covers all from the subheadings 0307 11 to 0307 99, such as the following examples: 0307 60 (snails other than sea snails): covers terrestrial gastropods of the species <i>Helix pomatia</i> , <i>Helix aspersa</i> , <i>Helix lucorum</i> and species of the family <i>Achatinidae</i> . Covers live snails (including |

| | | |
|------|---|--|
| | | <p>fresh water snails) for immediate human consumption and also snail meat for human consumption. Covers blanched or pre-processed snails. Further processed products are covered in heading 1605.</p> <p>0307 91 00 (live, fresh, or chilled other molluscs, i.e. other than oysters, scallops, mussels (<i>Mytilus</i> spp., <i>Perna</i> spp.), cuttle fish, squid, octopus, sea snails, clams, cockles, ark shells, abalones (<i>Haliotis</i> spp.) and stromboid conchs (<i>Strombus</i> spp.): covers meat of sea water snail species, whether in shell or not.</p> <p>0307 99 (other molluscs, other than live, fresh, chilled, or frozen, i.e. other than oysters, scallops, mussels (<i>Mytilus</i> spp., <i>Perna</i> spp.), cuttle fish, squid, octopus, sea snails, clams, cockles, ark shells, abalones (<i>Haliotis</i> spp.) and stromboid conchs (<i>Strombus</i> spp.); also including flours, meals and pellets thereof, fit for human consumption).</p> |
| 0308 | Aquatic invertebrates other than crustaceans and molluscs, live, fresh, chilled, frozen, dried, salted or in brine; smoked aquatic invertebrates other than crustaceans and molluscs, whether or not cooked before or during the smoking process; flours, meals and pellets of aquatic invertebrates other than crustaceans and molluscs, fit for human consumption | All. |

CHAPTER 4

Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included**Notes to Chapter 4 (extract from the Notes to this Chapter of the CN)**

1. The expression "milk" means full-cream milk or partially or completely skimmed milk.
2. For the purposes of heading 0405:
 - (a) the term "butter" means natural butter, whey butter or recombined butter (fresh, salted or rancid, including canned butter) derived exclusively from milk, with a milkfat content of 80 % or more but not more than 95 % by weight, a maximum milk solids-not-fat content of 2 % by weight and a maximum water content of 16 % by weight. Butter does not contain added emulsifiers, but may contain sodium chloride, food colours, neutralising salts and cultures of harmless lactic-acid-producing bacteria;
 - (b) the expression "dairy spreads" means a spreadable emulsion of the water-in-oil type, containing milkfat as the only fat in the product, with a milkfat content of 39 % or more but less than 80 % by weight.
3. Products obtained by the concentration of whey and with the addition of milk or milkfat are to be classified as cheese in heading 0406 provided that they have the three following characteristics:
 - (a) a milk fat content, by weight of the dry matter, of 5 % or more;

(b) a dry matter content, by weight, of at least 70 % but not exceeding 85 %; and

(c) they are moulded or capable of being moulded.

4. This chapter does not cover:

(a) products obtained from whey, containing by weight more than 95 % lactose, expressed as anhydrous lactose calculated on the dry matter (heading 1702);

(b) products obtained from milk by replacing one or more of its natural constituents (for example, butyric fats) by another substance (for example, oleic fats) (heading 1901 or 2106); or

(c) albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter) (heading 3502) or globulins (heading 3504).

...

Extracts from the Harmonized System Explanatory Notes

'Heading 0408 covers whole eggs not in shell, and egg yolks of all birds. The products of this heading may be fresh, dried, cooked by steaming or by boiling in water, moulded (e.g. cylindrical "long eggs"), frozen or otherwise preserved. All these fall in the heading whether or not containing added sugar or other sweetening matter and whether for use as food or for industrial purposes (e.g., in tanning).

This heading does not cover:

(a) Oil of egg yolk (heading 1506).

(b) Egg preparations containing seasoning, spices or other additives (heading 2106).

(c) Lecithin (heading 2923).

(d) Separate egg white (egg albumin) (heading 3502).

...

Heading 0409 covers honey produced by bees (*Apis mellifera*) or by other insects, centrifuged or in the comb or containing comb chunks, provided that neither sugar nor other substance has been added. Such honey may be designated by floral source, origin or colour.

Heading 0409 excludes artificial honey and mixtures of natural and artificial honey (heading 1702).

...

Heading 0410 covers products of animal origin suitable for human consumption, not specified or included elsewhere in the Combined Nomenclature. This includes:

(a) Turtles eggs. These are eggs laid by river or marine turtles; they may be fresh, dried or otherwise preserved.

Turtle-egg oil is excluded (heading 1506).

(b) Salanganes' nests ("birds nests"). These consist of a substance secreted by the bird which solidifies rapidly on exposure to air.

The nests may be presented untreated, or they may have been cleaned to remove feathers, down, dust and other impurities in order to render them suitable for consumption. They are generally in the form of whitish strips or threads.

Salanganes' nests have a high protein content and are used almost exclusively to make soups or other food preparations.

Heading 0410 excludes animal blood, edible or not, liquid or dried (heading 0511 or 3002).'

| CN code | Description | Qualification and explanation |
|------------|---|--|
| (1) | (2) | (3) |
| 0401 | Milk and cream, not concentrated nor containing added sugar or other sweetening matter | All. Milk for animal feed is covered under this heading, whereas animal feed containing milk is covered in heading 2309. Milk for therapeutic/prophylactic uses is covered in heading 3001. |
| 0402 | Milk and cream, concentrated or containing added sugar or other sweetening matter | All. |
| 0403 | Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit, nuts or cocoa | All, covers cream, flavoured or containing fruits, frozen and fermented milk, for human consumption. Ice cream is covered in heading 2105. Beverages containing milk flavoured with cocoa or other substances are covered in heading 2202. |
| 0404 | Whey, whether or not concentrated or containing added sugar or other sweetening matter; products consisting of natural milk constituents, whether or not containing added sugar or other sweetening matter, not elsewhere specified or included | All, covers milk products for infants. Covers in CN code 0404 10 48 bovine colostrum, in liquid form, defatted and de-caseinated, for human consumption, and in CN code 0404 90 21 spray-dried, reduced-fat colostrum powder which has not been de-caseinated, for human consumption. |
| 0405 | Butter and other fats and oils derived from milk; dairy spreads | All. |
| 0406 | Cheese and curd | All. |
| 0407 | Birds' eggs, in shell, fresh, preserved or cooked | All, covers hatching eggs and specified pathogen free eggs (SPF), fertilised eggs for incubation (0407 11 and 0407 19). Covers fresh eggs (0407 21 to 0407 29) and other eggs (0407 90), not fit and fit for human consumption. Covers '100 year old eggs'. Egg albumin not fit and fit for human consumption is covered in heading 3502. |
| 0408 | Birds' eggs, not in shell, and egg yolks, fresh, dried, cooked by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter | All: this heading covers egg products whether or not heat treated and products not fit for human consumption. |
| 0409 00 00 | Natural honey | All. |

| | | |
|------------|---|--|
| 0410 00 00 | Edible products of animal origin, not elsewhere specified or included | <p>All.</p> <p>This heading covers 'royal jelly' and propolis (used in manufacture for pharmaceutical products and food supplements) and other animal derived material for human consumption, except bones (which are covered in 0506).</p> <p>Insects or insect eggs for human consumption are covered in this CN code.</p> |
|------------|---|--|

CHAPTER 5

Products of animal origin, not elsewhere specified or included**General remarks**

Specific requirements for certain products in this chapter are laid down in Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011:

Row 7: pig bristles

Row 8: untreated wool and hair produced from animals other than those of the porcine species

Row 9: treated feathers, parts of feathers and down.

Notes to Chapter 5 (extract from the Notes to this Chapter of the CN)

'1. This chapter does not cover:

- (a) edible products (other than guts, bladders and stomachs of animals, whole and pieces thereof, and animal blood, liquid or dried);
- (b) hides or skins (including furskins), other than goods of heading 0505 and parings and similar waste of raw hides or skins of heading 0511 (Chapter 41 or 43);
- (c) animal textile materials, other than horsehair and horsehair waste (Section XI); or
- (d) prepared knots or tufts for broom or brush making (heading 9603).

...

- 3. Throughout the nomenclature, elephant, hippopotamus, walrus, narwhal and wild boar tusks, rhinoceros horns and the teeth of all animals are regarded as 'ivory'.
- 4. Throughout the nomenclature, the expression "horsehair" means hair of the manes or tails of equine or bovine animals. Heading 0511 covers, inter alia, horsehair and horsehair waste, whether or not put up as a layer with or without supporting material.'

Extract from the Harmonized System Explanatory Notes

'Heading 0505 covers

- (1) Skins and other parts of birds (e.g., heads, wings) with their feathers or down, and
- (2) Feathers and parts of feathers (whether or not with trimmed edges), and down,

provided they are either unworked, or merely cleaned, disinfected or treated for preservation but not otherwise worked or mounted.

Heading 0505 also covers powder, meal and waste of feathers or parts of feathers.'

| CN code | Description | Qualification and explanation |
|------------|---|---|
| (1) | (2) | (3) |
| 0502 10 00 | Pigs', hogs' or boars' bristles and hair and waste thereof | All, treated and untreated. |
| 0504 00 00 | Guts, bladders and stomachs of animals (other than fish), whole and pieces thereof, fresh, chilled, frozen, salted, in brine, dried or smoked | All, covers stomachs, bladders and intestines cleaned salted dried or heated of bovine, porcine, ovine, caprine, or of poultry origin. |
| Ex05 05 | Skins and other parts of birds, with their feathers or down, feathers and parts of feathers (whether or not with trimmed edges) and down, not further worked than cleaned, disinfected or treated for preservation; powder and waste of feathers or parts of feathers | <p>All, including game trophies of birds, but excluding treated decorative feathers, treated feathers carried by travellers for their private use or consignments of treated feathers sent to private individuals for non-industrial purposes.</p> <p>Article 25(1)(b) of Regulation (EU) No 142/2011 prohibits the importation into and transit through the Union of untreated feathers and parts of feathers and down.</p> <p>Official controls are applicable for feathers independent from their treatment as referred to in point C of Chapter VII of Annex XIII to Regulation (EU) No 142/2011.</p> <p>Further specific requirements for game trophies are laid down in Section 5 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Section 6 of Chapter II of Annex XIV to Regulation (EU) No 142/2011 covers feathers used for stuffing, down, raw or other feathers.</p> |
| 0506 | Bones and horn-cores, un-worked, defatted, simply prepared (but not cut to shape), treated with acid or de-gelatinised; powder and waste of these products | <p>Covers bones used as dog chews and bones for the production of gelatine or of collagen, if derived from carcasses that have been slaughtered for human consumption.</p> <p>Bone flour for human consumption is covered under heading 0410.</p> <p>Specific requirements for such products not intended for human consumption are laid down in Row 6 (game trophies), in Row 11 (bones and bone products (excluding bone meal), horns and horn products (excluding horn meal) and hooves and hoof products (excluding hoof meal) for uses other than as feed material, organic fertiliser or soil improver) and in Row 12 (dog chews) of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |
| 0507 | Ivory, tortoise-shell, whalebone and whalebone hair, horns, antlers, hooves, nails, claws and beaks, un-worked or simply prepared but not cut to shape; powder and waste of these products | <p>Covers treated game trophies from birds and ungulates being solely bones, horns, hooves, claws, antlers and teeth.</p> <p>Specific requirements for game trophies are laid down in Row 6 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |

| | | |
|---------------|---|---|
| Ex05 08 00 00 | Coral and similar materials, unworked or simply prepared but not otherwise worked; shells of molluscs, crustaceans or echinoderms and cuttle-bone, unworked or simply prepared but not cut to shape, powder and waste thereof | <p>Empty shells for food use and use as raw material for glucosamine.</p> <p>In addition, shells, including cuttle-bones, containing soft tissue and flesh as referred to in point (k)(i) of Article 10 of Regulation (EC) No 1069/2009 are covered.</p> |
| Ex05 10 00 00 | Ambergris, castoreum, civet and musk, cantharides, bile, whether or not dried; glands and other animal products used in the preparation of pharmaceutical products, fresh, chilled, frozen or otherwise provisionally preserved | <p>Ambergris and cantharides are excluded.</p> <p>Glands, other animal products and bile are covered by this code.</p> <p>Dried glands and products are covered by heading 3001.</p> <p>Specific requirements may be laid down in Row 14 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011 for animal by-products for the manufacture of pet food other than raw pet food and of derived products for uses outside the feed chain (for pharmaceuticals and other technical products).</p> |
| Ex05 11 | Animal products not elsewhere specified or included; dead animals of Chapter 1 or 3, unfit for human consumption | <p>All.</p> <p>Covers genetic material (semen and embryos of animal origin such as of the bovine, ovine, caprine, equine and porcine species) and animal by-products of Categories 1 and 2 materials as referred to in Articles 8 and 9 of Regulation (EC) No 1069/2009.</p> <p>The following are examples of animal products falling within subheadings 0511 10 to 0511 99:</p> <p>0511 10 00 (bovine semen).</p> <p>0511 91 (products of fish or crustaceans, molluscs or other aquatic invertebrates): all, covers fish eggs for hatching, dead animals, animal by-products for the manufacture of pet food and for pharmaceuticals and other technical products. Covers dead animals referred to in Chapter 3, inedible or classed unfit for human consumption, for example, daphnids, known as water fleas, and other ostracoda or phyllopods, dried, for feeding aquarium fish; covers fish bait.</p> <p>Ex05 11 99 10 (sinews or tendons; parings and similar waste of raw hides and skins).</p> <p>Official controls are necessary for hides and skins not treated as referred to in point C.2 of Chapter V of Annex XIII to Regulation (EU) No 142/2011, if in compliance with points B.1 or C.1 of Chapter V of Annex XIII to Regulation (EU) No 142/2011.</p> <p>Ex05 11 99 31 (raw natural sponges of animal origin): all, if for human consumption; if not for human consumption, only those intended for pet food. Specific requirements for non-human consumption are set out in Row 12 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |

| | | |
|--|--|---|
| | | <p>Ex05 11 99 39 (other than raw natural sponges of animal origin): all, if for human consumption; if not for human consumption, only those intended for pet food. Specific requirements for non-human consumption are set out in Row 12 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Ex05 11 99 85 (other animal products not elsewhere specified or included; dead animals of Chapter 1, unfit for human consumption): Covers embryos, ova, semen and genetic material not covered in 0511 10 and of species other than bovine fall under this heading. Covers animal by-products for the manufacture of pet food or other technical products.</p> <p>Covers untreated horsehair, apiculture products other than waxes for apiculture or technical use, spermaceti for technical use, dead animals referred to in Chapter 1 which are inedible or not for human consumption (for example: dogs, cats, insects), animal material where the essential characteristics have not been changed, and edible animal blood not derived from fish, for human consumption.</p> |
|--|--|---|

CHAPTER 6

Live trees and other plants; bulbs, roots and the like; cut flowers and ornamental foliage**General remarks**

This chapter covers mushroom spawn in a compost of sterilised manure of animal origin.

Extract from the Explanatory Notes to the CN

'0602 90 10 Mushroom spawn:

Mushroom spawn is the term given to a net of fragile threads (*Thallus* or *Mycelium*), often found underground, which lives and grows on the surface of decomposing animal or vegetable matter and develops in the tissues themselves and produces mushrooms.

This subheading also includes a product consisting of mushroom spawn, not fully developed, placed in microscopic amounts on a layer of cereal grains enclosed in a compost of sterilized horse manure (a mixture of straw and horse dung).'

| CN code | Description | Qualification and explanation |
|---------------|----------------|---|
| (1) | (2) | (3) |
| Ex06 02 90 10 | Mushroom spawn | Only if containing processed manure of animal origin and specific rules are set out in Row 1 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |

CHAPTER 12

Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medicinal plants; straw and fodder

| CN code | Description | Qualification and explanation |
|---------------|--|-------------------------------|
| (1) | (2) | (3) |
| Ex12 12 99 95 | Other vegetable products of a kind used primarily for human consumption, not elsewhere specified or included | Bee pollen. |
| Ex12 13 00 00 | Cereal straw and husks, unprepared, whether or not chopped, ground, pressed or in the form of pellets | Only straw. |
| Ex12 14 90 | Swedes, mangolds, fodder roots, hay, lucerne (alfalfa), clover, sainfoin, forage kale, lupines, vetches and similar forage products whether or not in form of pellets: other than lucerne (alfalfa) meal and pellets | Only hay. |

CHAPTER 15

Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes**General remarks**

All animal derived fats and oils. Specific requirements for the following products are set out in Annex XIV to Regulation (EU) No 142/2011:

1. rendered fats and fish oils in Row 3 of Table 1 in Section 1 of Chapter I;
2. rendered fats from Category 2 materials for certain purposes outside the feed chain for farmed animals (for example, for oleochemical purposes) in Row 17 of Table 2 in Section 1 of Chapter II;
3. fat derivatives in Row 18 of Table 2 in Section 1 of Chapter II.

Fat derivatives include first stage products derived from fats and oils when in their pure state produced by a method set out in point 1 of Chapter XI of Annex XIII to Regulation (EU) No 142/2011.

Derivatives mixed with other materials are subjected to official controls.

Notes to Chapter 15 (extract from the Notes to this Chapter of the CN)

1. This chapter does not cover:

- (a) pig fat or poultry fat on heading 0209;
- (b) cocoa butter, fat and oil (heading 1804);
- (c) edible preparations containing by weight more than 15 % of the products of heading 0405 (generally Chapter 21);
- (d) greaves (heading 2301) or residues of headings 2304 to 2306;

...

3. Heading 1518 does not cover fats or oils or their fractions, merely denatured, which are classified in the heading appropriate to the corresponding undenatured fats and oils and their fractions.
4. Soap stocks, oil foots and dregs, stearin pitch, glycerol pitch and wool grease residues fall in heading 1522.'

Extract from the Harmonized System Explanatory Notes

'Heading 1516 covers animal and vegetable fats and oils, which have undergone a specific chemical transformation of a kind mentioned below, but have not been further prepared.

The heading also covers similarly treated fractions of animal or vegetable fats and oils.

Hydrogenation, which is effected by bringing the products into contact with pure hydrogen at a suitable temperature and pressure in the presence of a catalyst (usually finely divided nickel), raises the melting points of fats and increases the consistency of oils by transforming unsaturated glycerides (e.g. of oleic, linoleic, etc. acids) into saturated glycerides of higher melting points (e.g. of palmitic, stearic, etc. acids).

Heading 1518 covers inedible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of the Chapter, not elsewhere specified or included.

This part covers, inter alia, used deep-frying oil containing, for example, rape oil, soya-bean oil and a small quantity of animal fat, for use in the preparation of animal feeds.

The heading also includes hydrogenated, inter-esterified, re-esterified or elaidinised fats and oils or their fractions, where modification involves more than one fat or oil.'

| CN code | Description | Qualification and explanation |
|------------|---|--|
| (1) | (2) | (3) |
| 1501 | Pig fat (including lard) and poultry fat, other than that of heading 0209 or 1503 | All. |
| 1502 | Fats of bovine animals, sheep or goats, other than those of heading 1503 | All. |
| 1503 00 | Lard stearin, lard oil, oleostearin, oleo-oil and tallow oil, not emulsified or mixed or otherwise prepared | All. |
| 1504 | Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified | All, fish oils and oils from fishery products and marine mammals. Miscellaneous edible preparations are covered in general under heading 1517 or Chapter 21. |
| 1505 00 | Wool grease and fatty substances derived therefrom (including lanolin) | All, wool grease imported as rendered fat as set out in Annex XIV to Regulation (EU) No 142/2011, or lanolin imported as intermediate product. |
| 1506 00 00 | Other animal fats and oils and their fractions, whether or not refined, but not chemically modified | All. Unsplit fats or oils, and also their initial fractions produced by a method set out in point 1 of Chapter XI of Annex XIII to Regulation (EU) No 142/2011. |
| 1516 10 | Animal fats and oils and their fractions, partly or wholly hydrogenated, inter-esterified, | All animal fats and oils. For official controls fat derivatives include first stage products derived from animal fats and oils when in their pure state |

| | | |
|---------------|--|--|
| | re-esterified or elaidinised, whether or not refined, but not further prepared | produced by a method set out in point 1 of Chapter XI of Annex XIII to Regulation (EU) No 142/2011. |
| Ex15 17 | Margarine, edible mixtures or preparations of animal or vegetable fats or oils or of fractions of different fats or oils of this chapter, other than edible fats or oils or their fractions of heading 1516 | Only if containing products of animal origin. |
| Ex15 18 00 91 | Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516 | Only if containing animal fats and oils. Fat derivatives produced by a method set out in point 1 of Chapter XI of Annex XIII to Regulation (EU) No 142/2011. Specific requirements are set out in Row 17 (rendered fats) and Row 18 (fat derivatives) of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |
| Ex15 18 00 95 | Inedible mixtures or preparations of animal or of animal and vegetable fats and oils and their fractions | Only fats and oil preparations, rendered fats and derivatives derived from animals; including used cooking oil, intended to be used within the scope of Regulation (EC) No 1069/2009. Fat derivatives produced by a method set out in point 1 of Chapter XI of Annex XIII to Regulation (EU) No 142/2011. |
| Ex15 18 00 99 | Other | Only if containing fat from animal origin. |
| Ex15 20 00 00 | Glycerol, crude; glycerol waters and glycerol lyes | Only if containing animal products. |
| 1521 90 91 | Raw beeswax and other insect waxes | All, covers waxes in natural combs, raw beeswax for apiculture or technical purposes. Article 25(1)(c) of Regulation (EU) No 142/2011 prohibits the importation into and transit through the Union of beeswax in the form of honeycomb. Specific requirements for apiculture by-products are set out in Row 10 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |
| 1521 90 99 | Beeswax and other insect waxes, whether or not refined or coloured, other than raw | All, covers waxes, processed or refined, whether or not bleached or coloured, for apiculture or technical purposes. Specific requirements for apiculture by-products are set out in Row 10 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. Apiculture by-products other than beeswaxes shall be submitted for official controls under CN code 0511 99 85 'Other'. |
| Ex15 22 00 | Degras; residues resulting from the treatment of fatty substances or animal or vegetable waxes | Only if containing animal products. Specific requirements are set out in Row 18 (fat derivatives) of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |

CHAPTER 16

Preparations of meat, of fish or of crustaceans, molluscs or other aquatic invertebrates**Notes to Chapter 16 (extract from the Notes to this Chapter of the CN)**

1. This chapter does not cover meat, meat offal, fish, crustaceans, molluscs or other aquatic invertebrates prepared or preserved by the process specified in Chapter 2 or 3 or heading 0504.
2. Food preparations fall in this chapter provided that they contain more than 20 % by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof. In cases where the preparation contains two or more of the products mentioned above, it is classified in the heading of Chapter 16 corresponding to the component or components which predominate by weight. These provisions do not apply to the stuffed products of heading 1902 or to the preparations of heading 2103 or 2104.

For preparations containing liver, the provisions of the second sentence shall not apply in determining the subheadings within heading 1601 or 1602.

...

| CN code | Description | Qualification and explanation |
|---------|--|--|
| (1) | (2) | (3) |
| 1601 00 | Sausages and similar products, of meat, meat offal or blood; food preparations based on these products | All, covers preserved meat in various forms. |
| 1602 | Other prepared or preserved meat, meat offal or blood | All, covers preserved meat in various forms. |
| 1603 00 | Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates | All, covers meat extracts and meat concentrates, fish protein in gel form whether chilled or frozen, and also shark cartilage. |
| 1604 | Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs | All, cooked or pre-cooked culinary preparations containing or mixed with fish or fishery products. Covers preparations of surimi in CN code 1604 20 05. Covers canned fish and canned caviar in airtight containers, and also sushi (provided that they are not to be classified in a CN code referred to in Chapter 19). So-called fish skewers (raw fish meat or raw shrimps with vegetables presented on a wooden stick) are classified in CN code 1604 19 97. |
| 1605 | Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved | All, including fully prepared or pre-prepared snails, canned crustaceans, or other aquatic invertebrates as well as mussel powder. |

CHAPTER 17

Sugars and sugar confectionery**Notes to Chapter 17 (extract from the Notes to this Chapter of the CN)**

‘1. This chapter does not cover:

- (a) sugar confectionery containing cocoa (heading 1806);
- (b) chemically pure sugars (other than sucrose, lactose, maltose, glucose and fructose) or other products of heading 2940;

...’

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| Ex17 02 | Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey | Only if containing products of animal origin. Sugars and artificial honey, where mixed with natural honey. |
| Ex17 04 | Sugar confectionery (including white chocolate), not containing cocoa | Only if containing products of animal origin. |

CHAPTER 18

Cocoa and cocoa preparations**Notes to Chapter 18 (extract from the Notes to this Chapter of the CN)**

- ‘1. This chapter does not cover the preparations of heading 0403, 1901, 1904, 1905, 2105, 2202, 2208, 3003 or 3004.
2. Heading 1806 includes sugar confectionery containing cocoa and, subject to Note 1 to this Chapter, other food preparations containing cocoa.

...’

| CN code | Description | Qualification and explanation |
|---------|--|--|
| (1) | (2) | (3) |
| Ex18 06 | Chocolate and other food preparations containing cocoa | Only if containing products of animal origin |

CHAPTER 19

Preparations of cereals, flour, starch or milk; pastry cooks' products**Notes to Chapter 19 (extract from the Notes to this Chapter of the CN)**

'1. This chapter does not cover:

- (a) except in the case of stuffed products of heading 1902, food preparations containing more than 20 % by weight of sausage, meat, meat offal, blood, fish, or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16);

...'

| CN code | Description | Qualification and explanation |
|---------------|--|---|
| (1) | (2) | (3) |
| Ex19 01 | Food preparations of flour, groats, meal, starch or malt extract, not containing cocoa or containing less than 40 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included; food preparations of goods of headings 0401 to 0404, not containing cocoa or containing less than 5 % by weight of cocoa calculated on a totally defatted basis, not elsewhere specified or included | Only if containing products of animal origin. Covers uncooked foodstuffs (e.g. pizzas) containing products of animal origin. Culinary preparations are covered by Chapters 16 and 21. |
| Ex19 02 11 00 | Uncooked pasta, not stuffed or otherwise prepared, containing eggs | Only if containing products of animal origin. |
| Ex19 02 20 10 | Stuffed pasta, whether or not cooked or otherwise prepared containing more than 20 % by weight of fish, crustaceans, molluscs or other aquatic invertebrates | Only if containing products of animal origin. |
| Ex19 02 20 30 | Stuffed pasta, whether or not cooked or otherwise prepared containing more than 20 % by weight of sausages and the like, of meat and meat offal of any kind, including fats of any kind or origin | Only if containing products of animal origin. |
| Ex19 02 20 91 | Cooked stuffed pasta | Only if containing products of animal origin. |
| Ex19 02 20 99 | Other [other stuffed pasta, not cooked] | Only if containing products of animal origin. |
| Ex19 02 30 | Other pasta than pasta of subheadings 1902 11, 1902 19 and 1902 20 | Only if containing products of animal origin. |
| Ex19 02 40 | Couscous | Only if containing products of animal origin. |

| | | |
|---------------|---|--|
| Ex19 04 10 10 | Prepared food obtained by the swelling or roasting of maize | Only if containing products of animal origin. |
| Ex19 04 90 10 | Prepared food obtained from rice | Only if containing products of animal origin. For example sushi (provided they are not to be classified in Chapter 16). |
| Ex19 05 | Pastries | Only if containing products of animal origin. |

CHAPTER 20

Preparations of vegetables, fruit, nuts, or other parts of plants**Notes to Chapter 20 (extract from the Notes to this Chapter of the CN)**

'1. This chapter does not cover:

...

- (b) food preparations containing more than 20 % by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any combination thereof (Chapter 16).

...'

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| Ex20 01 | Vegetables, fruit, nuts and other edible parts or plants, prepared or preserved by vinegar or acetic acid | Only if containing products of animal origin. |
| Ex20 04 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen, other than products of heading 2006 | Only if containing products of animal origin. |
| Ex20 05 | Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, not frozen, other than products of heading 2006 | Only if containing products of animal origin. |

CHAPTER 21

Miscellaneous edible preparations**Notes to Chapter 21 (extract from the Notes to this Chapter of the CN)**

'1. This chapter does not cover:

...

- (e) food preparations, other than the products described in 2103 or 2104, containing more than 20 % by weight of sausage, meat, meat offal, blood, fish or crustaceans, molluscs or other aquatic invertebrates, or any other combinations thereof (Chapter 16).

...

3. For the purposes of heading 2104, the expression 'homogenised composite food preparations' means preparations consisting of a finely homogenised mixture of two or more basic ingredients such as meat, fish, vegetables, fruits or nuts, put up for retail sale as food suitable for infants or young children or for dietetic purposes, in containers of a net weight content not exceeding 250 g. For the application of this definition, no account is to be taken of small quantities of any ingredients which may be added to the mixture for seasoning, preservation or other purposes. Such preparations may contain a small quantity of visible pieces of ingredients.

Additional notes

...

5. Other food preparations presented in measured doses, such as capsules, tablets, pastilles and pills, and which are intended for use as food supplements are to be classified under heading 2106, unless elsewhere specified or included.

...'

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| Ex21 01 | Extracts, essences and concentrates, of coffee, tea or maté and preparations with a basis of these products or with a basis of coffee, tea or maté; roasted chicory and other roasted coffee substitutes, and extracts, essences and concentrates thereof | Only if containing products of animal origin. |
| Ex21 03 | Sauces and preparations therefor; mixed condiments and mixed seasonings; mustard flour and meal and prepared mustard | Only if containing products of animal origin. |
| Ex21 04 | Soups and broths and preparations therefore; homogenised composite food preparations | Only if containing products of animal origin. |
| Ex21 05 00 | Ice cream and other edible ice, whether or not containing cocoa | Only if containing products of animal origin. |
| Ex21 06 10 | Protein concentrates and textured protein substances | Only if containing products of animal origin. |
| Ex21 06 90 51 | Lactose syrup | Only if containing products of animal origin. |
| Ex21 06 90 92 | Other food preparations not elsewhere specified or included, containing no milk fats, sucrose, isoglucose, glucose or starch or containing, by weight, less than 1,5 % milkfat, 5 % sucrose or isoglucose, 5 % glucose or starch | Only if containing products of animal origin. |
| Ex21 06 90 98 | Other food preparations not elsewhere specified or included | Only if containing products of animal origin. |

CHAPTER 22

Beverages, Spirits and Vinegar**Notes to Chapter 22 (extract from the Notes to this Chapter of the CN)**

‘...

3. For the purposes of heading 2202, the term “non-alcoholic beverages” means beverages of an alcoholic strength by volume not exceeding 0,5 % vol. Alcoholic beverages are classified in headings 2203 to 2206 or heading 2208 as appropriate.

...’

| CN code | Description | Qualification and explanation |
|---------------|--|---|
| (1) | (2) | (3) |
| Ex22 02 99 91 | Other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009 and containing less than 0,2 % by weight of fat obtained from the products of heading 0401 to 0404. | Only if containing products of animal origin. |
| Ex22 02 99 95 | Other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009 and containing 0,2 % or more but less than 2 % by weight of fat obtained from the products of heading 0401 to 0404. | Only if containing products of animal origin. |
| Ex22 02 99 99 | Other non-alcoholic beverages, not including fruit or vegetable juices of heading 2009 and containing 2 % or more by weight of fat obtained from the products of heading 0401 to 0404 | Only if containing products of animal origin. |
| Ex22 08 70 | Liqueurs and cordials | Only if containing products of animal origin. |

CHAPTER 23

Residues and waste from the food industries; prepared animal fodder**Note to Chapter 23 (extract from the Notes to this Chapter of the CN)**

- ‘1. Heading 2309 includes products of a kind used in animal feeding, not elsewhere specified or included, obtained by processing vegetable or animal materials to such an extent that they have lost the essential characteristics of the original material, other than vegetable waste, vegetable residues and by-products of such processing.

...’

Extract from the Harmonized System Explanatory Notes

‘Greaves, the membranous tissues remaining after pig or other animal fats have been rendered. They are used mainly in the preparation of animal foods (e.g., dog biscuits), but they remain in heading 2301 even if suitable for human consumption.’

| CN code | Description | Qualification and explanation |
|---------|--|---|
| (1) | (2) | (3) |
| 2301 | Flours, meals and pellets, of meat or meat offal, of fish or of crustaceans, molluscs or other aquatic invertebrates, unfit for human consumption; greaves | <p>All, covers processed animal protein not for human consumption, meat meal not for human consumption, and greaves, whether or not for human consumption.</p> <p>Feather meal is covered in heading 0505.</p> <p>Specific requirements for processed animal protein are set out in Row 1 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011.</p> |
| Ex23 09 | Preparations of a kind used in animal feeding | <p>All, if containing animal products, except subheadings 2309 90 20 and 2309 90 91.</p> <p>Covers, among other things, dog or cat food, put up for retail sale (subheading 2309 10), containing animal products and fish or marine mammal solubles (CN code 2309 90 10). Animal products for animal feeding purposes, including mixtures of meals (such as hoof and horn).</p> <p>This heading covers liquid milk, colostrum and products containing milk products, colostrum, or carbohydrates, all not fit for human consumption but for animal feeding.</p> <p>Covers pet food, dog chews and mixtures of meals, mixtures can include dead insects.</p> <p>Specific requirements for pet food including dog chews are set out in Row 12 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Covers egg products not for human consumption and other processed animal products not for human consumption.</p> <p>Specific requirements for egg products are set out in Row 9 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011.</p> |

CHAPTER 28

Inorganic chemicals; organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes

| CN code | Description | Qualification and explanation |
|---------------|--|---|
| (1) | (2) | (3) |
| Ex28 35 25 00 | Calcium hydrogenorthophosphate ('dicalcium phosphate') | <p>Animal origin only.</p> <p>Specific requirements for dicalcium phosphate are set out in Row 6 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011.</p> |
| Ex28 35 26 00 | Other phosphates of calcium | <p>Tricalcium phosphate of animal origin only.</p> <p>Specific requirements for tricalcium phosphate are set out in Row 7 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011.</p> |

CHAPTER 29

Organic chemicals

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| Ex29 22 41 | Lysine and its esters; salts thereof | Animal origin only. |
| Ex29 22 42 | Glutamic acid and its salts | Animal origin only. |
| Ex29 22 43 | Anthranilic acid and its salts | Animal origin only. |
| Ex29 22 49 | Other Amino-acids, other than those containing more than one kind of oxygen function, and their esters; salts thereof | Animal origin only. |
| Ex29 25 29 00 | Other imines and their derivatives than Chlordimeform (ISO); salts thereof | Creatine of animal origin. |
| Ex29 30 | Organo-sulphur compounds | Amino-acids of animal origin such as: Ex29 30 90 13 Cysteine and cystine; Ex29 30 90 16 Derivates of cysteine or cystine. |
| Ex29 32 99 00 | Other heterocyclic compounds with oxygen hetero-atom(s) only | Animal origin only, for example glucosamine, glucosamine-6-phosphate and their sulphates. |
| Ex29 42 00 00 | Other organic compounds | Animal origin only. |

CHAPTER 30

Pharmaceutical products**General remarks**

Finished medicinal products, which are not covered by Regulations (EC) No 1069/2009 and (EU) No 142/2011, are excluded from the list. Intermediate products are included.

In heading 3001 (glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included) only animal derived products of subheadings 3001 20 and 3001 90 are relevant for official controls. Refer to the following specific requirements in Annex XIV to Regulation (EU) No 142/2011:

1. Row 2 of Table 2 in Section 1 of Chapter II for blood products for technical products excluding from equidae, and
2. Row 3 of Table 2 in Section 1 of Chapter II for blood and blood products from equidae, and
3. Row 14 of Table 2 in Section 1 of Chapter II for animal by-products for the manufacture of pet food other than raw pet food and of derived products for uses outside the feed chain.

In heading 3002 (human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products) only subheadings 3002 12 and 3002 90 are relevant for official controls. Human blood of 3002 90 10 and vaccines of subheadings 3002 20 and 3002 30 do not need to be subjected to official controls.

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| 3001 20 90 | Extracts of glands or other organs or of their secretions, other than of human origin | All, covers a product acting as a replacement for maternal colostrum and used in the feeding of calves. |
| Ex30 01 90 91 | Animal substances prepared for therapeutic or prophylactic uses: heparin and its salts | All animal products, which are destined for further processing, in accordance with Article 34(1) of Regulation (EC) No 1069/2009, for the manufacture of the derived products referred to in points (a) to (f) of Article 33 of that Regulation. |
| 3001 90 98 | Other animal substances than heparin and its salts prepared for therapeutic or prophylactic uses, not elsewhere specified or included | All. In addition to the glands and other organs mentioned in the Harmonized System Explanatory Notes to heading 3001, this subheading covers the hypophysis, the suprarenal capsules and the thyroid gland; except those specified in Article 33 of Regulation (EC) No 1069/2009. |
| Ex30 02 12 00 | Antisera and other blood fractions | Animal derived products only. Excludes finished medicinal products for the final consumer. Excludes antibodies and DNA. Under heading 3002, specific requirements are set out for animal by-products covered by Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011 and specified in the following Rows: Row 2: blood products other than from equidae; Row 3: blood and blood products from equidae. |
| 3002 90 30 | Animal blood prepared for therapeutic, prophylactic or diagnostic uses | All. |
| Ex30 02 90 50 | Cultures of micro organisms | Only pathogens and cultures of pathogens for animals. |
| Ex30 02 90 90 | Other | Only pathogens and cultures of pathogens for animals. |
| Ex30 06 92 00 | Waste pharmaceuticals | Animal derived products only. Pharmaceutical waste, pharmaceutical products, which are unfit for their original intended purpose. |

CHAPTER 31

Fertilisers

Notes to Chapter 31 (extract from the Notes to this Chapter of the CN)

‘1. This chapter does not cover:

(a) animal blood of heading 0511;

...’

| CN code | Description | Qualification and explanation |
|---------------|--|--|
| (1) | (2) | (3) |
| Ex31 01 00 00 | Animal or vegetable fertilisers, whether or not mixed together or chemically treated; fertilisers produced by the mixing or chemical treatment of animal or vegetable products | Only animal derived products in an un-adulterated form. Covers guano excluding mineralised guano. Covers manure mixed with processed animal protein, if used as fertiliser; but manure–chemical mixtures used as fertilisers are excluded (see heading 3105, which covers only mineral or chemical fertilisers). Specific requirements for processed manure, derived products from processed manure and guano from bats are set out in Row 1 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |
| Ex31 05 10 00 | Goods of this chapter in tablets or similar forms or in packages of a gross weight not exceeding 10 kg | Only fertilisers containing animal derived products. Specific requirements for processed manure, derived products from processed manure and guano from bats are set out in Row 1 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011. |

CHAPTER 32

Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks

Notes to Chapter 32 (extract from the Notes to this Chapter of the CN)

‘...

3. Headings 3203, 3204, 3205 and 3206 apply also to preparations based on colouring matter (including, in the case of heading 3206, colouring pigments of heading 2530 or Chapter 28, metal flakes and metal powders), of a kind used for colouring any material or used as ingredients in the manufacture of colouring preparations. The headings do not apply, however, to pigments dispersed in non- aqueous media, in liquid or paste form, of a kind used in the manufacture of paints, including enamels (heading 3212), or to other preparations of headings 3207, 3208, 3209, 3210, 3212, 3213 or 3215.

...’

| CN code | Description | Qualification and explanation |
|---------|---|--|
| (1) | (2) | (3) |
| Ex32 03 | Colouring matter of animal origin (including dyeing extracts but excluding animal black), whether or not chemically defined, preparations as specified in note 3 to this chapter based on colouring matter of animal origin | Only colour dispersions in milk fat base, used in the food or feed production. |
| Ex32 04 | Synthetic organic colouring matter, whether or not chemically defined; preparations as specified in note 3 to this chapter based on synthetic | Only colour dispersions in milk fat base, used in the food or feed production. |

| | | |
|--|---|--|
| | organic colouring matter; synthetic organic products of a kind used as fluorescent brightening agents or as luminophores, whether or not chemically defined | |
|--|---|--|

CHAPTER 33

Essential oils and resinoids; perfumery, cosmetic or toilet preparations

| CN code | Description | Qualification and explanation |
|---------|---|---|
| (1) | (2) | (3) |
| Ex33 02 | Mixtures of odoriferous substances and mixtures (including alcoholic solutions) with a basis of one or more of these substances, of a kind used as raw materials in industry; other preparations based on odoriferous substances, of a kind used for the manufacture of beverages | Only flavourings in a milk fat base used for food or feed production. |

CHAPTER 35

Albuminoidal substances; modified starches; glues; enzymes

| CN code | Description | Qualification and explanation |
|---------|--|--|
| (1) | (2) | (3) |
| Ex35 01 | Casein, caseinates and other casein derivatives; casein glues | Casein for human consumption, animal feeding or technical purposes. Specific requirements for milk, milk-based products and colostrum not for human consumption are set out in Row 4 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011. |
| Ex35 02 | Albumins (including concentrates of two or more whey proteins, containing by weight more than 80 % whey proteins, calculated on the dry matter), albuminates and other albumin derivatives | Covers products derived from eggs and derived from milk whether for human consumption or not for human consumption (including animal feed purposes). Specific requirements for milk, milk-based products and colostrums not for human consumption are set out in Row 4 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011 and for egg products not for human consumption in Row 9 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011. |

| | | |
|---------------|--|---|
| 3503 00 | Gelatine (including gelatine in rectangular (including square) sheets, whether or not surface-worked or coloured) and gelatine derivatives; isinglass; other glues of animal origin excluding casein glues of heading 3501 | <p>Covers gelatine for human consumption, for animal feed and technical use.</p> <p>Gelatine classified in heading 3913 (hardened proteins) and in 9602 (worked, unhardened gelatine and articles of unhardened gelatine), for example, empty capsules if not for food or animal consumption are excluded from official controls.</p> <p>Specific requirements are set out in Row 5 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011 for gelatine and hydrolysed protein not for human consumption and in Section 11 of Chapter II of Annex XIV to that Regulation for photogelatine.</p> |
| Ex35 04 00 | Peptones and their derivatives; other protein substances and their derivatives, not elsewhere specified or included; hide powder whether or not chromed | <p>Covers collagen and hydrolysed proteins for human consumption, for animal feed and technical use.</p> <p>Covers protein based collagen products derived from hides, skins and tendons of animals, including bones in the case of pigs, poultry and fish.</p> <p>Covers hydrolysed proteins consisting of polypeptides, peptides or amino acids, and mixtures thereof, obtained by the hydrolysis of animal by-products. They are excluded from official controls when they are used as additives in food preparations (heading 2106).</p> <p>Covers any milk by-products for human consumption in case they are not covered in heading 0404.</p> <p>Specific requirements for collagen are set out in Row 8 and for gelatine and hydrolysed protein in Row 5 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011.</p> |
| Ex35 07 10 00 | Rennet and concentrates thereof | Rennet and concentrates for human consumption, deriving from animal products only. |
| Ex35 07 90 90 | Other enzymes than rennet and concentrates thereof or lipoprotein lipase or aspergillus alkaline protease | Animal origin only. |

CHAPTER 38

Miscellaneous chemical products**Notes to Chapter 38 (extract from the Notes to this Chapter of the CN)**

‘...

4. Throughout the nomenclature, “municipal waste” means waste of a kind collected from households, hotels, restaurants, hospitals, shops, office, etc., road and pavement sweepings, as well as construction and demolition waste. Municipal waste generally contains a large variety of material as such as plastics, rubber, wood, paper, textiles, glass, metals, food materials, broken furniture and other damaged or discarded articles.

...’

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| Ex38 22 00 00 | Diagnostic or laboratory reagents on a backing, prepared diagnostic or laboratory reagents whether or not on a backing, other than those of heading 3002 or 3006; certified reference materials | Animal derived products only, except medical devices as defined in Article 1(2)(a) of Council Directive 93/42/EEC ⁽¹⁾ and <i>in vitro</i> diagnostic medical devices as defined in Article 1(2)(b) of Directive 98/79/EC of the European Parliament and of the Council ⁽²⁾ |
| Ex38 25 10 00 | Municipal waste | Only catering waste containing animal products, if it falls within the scope of point (g) of Article 2(2) of Regulation (EC) No 1069/2009, except catering waste originating directly from means of transport operating internationally and disposed in line with Article 12(d) of that Regulation. Used cooking oil intended to be used within the scope of Regulation (EC) No 1069/2009, for example, for organic fertilisers, biogas, biodiesel or fuel can be covered by this CN code. |

⁽¹⁾ Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ L 169, 12.7.1993, p. 1).

⁽²⁾ Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on *in vitro* diagnostic medical devices (OJ L 331, 7.12.1998, p. 1).

CHAPTER 39

Plastics and articles thereof

| CN code | Description | Qualification and explanation |
|---------------|--|---|
| (1) | (2) | (3) |
| Ex39 13 90 00 | Other natural polymers (except alginic acid, its salts and esters) and modified natural polymers (for example, hardened proteins, chemical derivatives of natural rubber), not elsewhere specified or included, in primary forms | Animal derived products only, for example, chondroitin sulphate, chitosan, hardened gelatine. |
| Ex39 17 10 10 | Artificial guts (sausage casings) of hardened protein or of cellulosic materials | Animal derived products only. |
| Ex39 26 90 97 | Other articles of plastics and articles of other materials of headings 3901 to 3914 made from other than sheet | Empty capsules of hardened gelatine for food and animal consumption; specific requirements are set out in Row 5 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011. |

CHAPTER 41

Raw hides and skins (other than furskins) and leather**General remarks**

Only hides and skins of ungulates covered in headings 4101, 4102, 4103 are to be subjected to official controls.

Specific requirements for hides and skins of ungulates are laid down in Rows 4 and 5 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.

Notes to Chapter 41 (extract from the Notes to this Chapter of the CN)

1. This chapter does not cover:

- (a) parings or similar waste, of raw hides or skins (heading 0511);
- (b) birdskins or parts of birdskins, with their feathers or down, of heading 0505 or 6701; or
- (c) hides or skins, with the hair or wool on, raw, tanned or dressed (Chapter 43); the following are, however, to be classified in Chapter 41, namely, raw hides and skins with the hair or wool on, of bovine animals (including buffalo), of equine animals, of sheep or lambs (except Astrakhan, Broadtail, Caracul, Persian or similar lambs, Indian, Chinese, Mongolian or Tibetan lambs), of goats and kids (except Yemen, Mongolian or Tibetan goats and kids), of swine (including peccary), of chamois, of gazelle, of camels (including dromedaries), of reindeer, of elk, of deer, of roebucks or of dogs.

...

| CN code | Description | Qualification and explanation |
|---------|---|--|
| (1) | (2) | (3) |
| Ex41 01 | Raw hides and skins of bovine (including buffalo) or equine animals (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split | Only fresh, chilled or treated hides and skins, including dried, dry-salted, wet-salted, or preserved by a process other than by tanning or an equivalent process. Import without restrictions may be possible for treated hides and skins as referred to in point C.2 of Chapter V of Annex XIII to Regulation (EU) No 142/2011, if in compliance with Article 41(3) of Regulation (EC) No 1069/2009, in particular for ex 4101 20 80 and ex 4101 50 90. |
| Ex41 02 | Raw skins of sheep or lambs (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not with wool on or split, other than those excluded by Note 1(c) to this Chapter | Only fresh, chilled or treated hides and skins, including dried, dry-salted, wet-salted, or preserved by a process other than by tanning or an equivalent process. Import without restrictions may be possible for treated hides and skins as referred to in point C.2 of Chapter V of Annex XIII to Regulation (EU) No 142/2011, if in compliance with Article 41(3) of Regulation (EC) No 1069/2009, in particular for ex 4102 21 00 and ex 4102 29 00. |
| Ex41 03 | Other raw hides and skins (fresh, or salted, dried, limed, pickled or otherwise preserved, but not tanned, parchment-dressed or further prepared), whether or not dehaired or split, other than those excluded by Note 1(b) or 1(c) to this Chapter | Only fresh, chilled or treated hides and skins, including dried, dry-salted, wet-salted, or preserved by a process other than by tanning or an equivalent process. Import without restrictions may be possible for treated hides and skins as referred to in point C.2 of Chapter V of Annex XIII to Regulation (EU) No 142/2011, if in compliance with Article 41(3) of Regulation (EC) No 1069/2009, in particular for ex 4103 90 00. |

CHAPTER 42

Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut)**Notes to Chapter 42 (extract from the Notes to this Chapter of the CN)**

‘...

2. This chapter does not cover:

(a) sterile surgical catgut or similar sterile suture materials (heading 3006);

...

(ij) strings, skins for drums or the like, or other parts of musical instruments (heading 9209).

...’

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| Ex42 05 00 90 | Other articles of leather or of composition leather | Covers dog chews and material for manufacture of dog chews. |
| Ex42 06 00 00 | Articles of gut (other than silkworm gut) of goldbeater's skin, of bladders or of tendons | Covers dog chews and material for manufacture of dog chews. |

CHAPTER 43

Furskins and artificial fur; manufactures thereof**Notes to Chapter 43 (extract from the Notes to this Chapter of the CN)**

‘1. Throughout the nomenclature, references to “furskins”, other than raw furskins of heading 4301, apply to hides and skins of all animals which have been tanned or dressed with the wool on.

2. This chapter does not cover:

(a) bird skins or parts of bird skins, with their feathers or down (heading 0505 or 6701);

(b) raw hides or skins, with the hair or wool on, of Chapter 41 (see note 1(c) to that chapter);

...’

Extract from the Harmonized System Explanatory Notes

‘Heading 4301: Furskins are regarded as raw and falling in this heading not only when in the natural state, but also if cleaned and preserved from deterioration, e.g., by drying or salting (wet or dry). The fur may also be “pulled” or “sheared”, i.e., the coarse hairs extracted or cut down, or the skin surface may be “fleshed” or scraped.’

| CN code | Description | Qualification and explanation |
|---------|---|--|
| (1) | (2) | (3) |
| Ex43 01 | Raw furskins (including heads, tails, paws and other pieces or cuttings, suitable for furriers' use), other than raw hides and skins of headings 4101, 4102 or 4103 | All, excluding furskins treated in accordance with Chapter VIII of Annex XIII to Regulation (EU) No 142/2011, if in compliance with Article 41(3) of Regulation (EC) No 1069/2009. |

| | | |
|--|--|---|
| | | <p>Covers the following subheadings:</p> <p>Ex43 01 10 00 (of mink, whole, with or without head, tail or paws): specific requirements for derived products for uses outside the feed chain (fur) are set out in Row 14 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Ex43 01 30 00 (of lamb, the following: Astrakhan, Broadtail, Caracul, Persian and similar lamb, Indian, Chinese, Mongolian, or Tibetan lamb, whole, with or without head, tail, or paws): specific requirements for hides and skins of ungulates are set out in Row 5 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Ex43 01 60 00 (of fox, whole, with or without head, tail or paws): specific requirements for derived products for uses outside the feed chain (fur) are set out in Row 14 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Ex43 01 80 00 (other furskins, whole, with or without head, tail or paws): other than ungulates, for example marmots, wild felines, seals, nutria. Specific requirements for derived products for uses outside the feed chain (fur) are set out in Row 14 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> <p>Ex43 01 90 00 (heads, tails, paws and other pieces or cuttings, suitable for furriers' use): specific requirements for derived products for uses outside the feed chain (fur) are set out in Row 14 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |
|--|--|---|

CHAPTER 51

Wool, fine or coarse animal hair; horsehair yarn and woven fabric**General remarks**

For headings 5101 to 5103 specific requirements for untreated wool and hair are set out in Row 8 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.

Note to Chapter 51 (extract from the Notes to this Chapter of the CN)

'1. Throughout the nomenclature:

- (a) "Wool" means the natural fibre grown by sheep or lambs.
- (b) "Fine animal hair" means the hair of alpaca, llama, vicuna, camel (including dromedary), yak, angora, Tibetan, Kashmir or similar goats (but not common goats), rabbit, (including angora rabbit), hare, beaver, nutria or muskrat.
- (c) "Coarse animal hair" means the hair of animals not mentioned above, excluding brush-making hair and bristles (heading 0502) and horsehair (heading 0511).'

Extract from the Harmonized System Explanatory Notes

‘Throughout the Nomenclature the term “coarse animal hair” means all other animal hair than “fine animal hair” except wool (heading 5101), hair of the manes or tails of equine or bovine animals (classified as “horsehair” heading 0511), pigs’, hogs’ or boars’ bristles or hair and badger hair or other brush-making hair (heading 0502) (see Note 1(c)).’

| CN code | Description | Qualification and explanation |
|---------|--|--|
| (1) | (2) | (3) |
| Ex51 01 | Wool, not carded or combed | Untreated wool. |
| Ex51 02 | Fine or coarse animal hair, not carded or combed | Untreated hair, including coarse hair from the flanks of bovine or equine animals. |
| Ex51 03 | Waste of wool or of fine or coarse animal hair, including yarn waste but excluding garnetted stock | Untreated wool or hair. |

CHAPTER 67

Prepared feathers and down and articles made of feathers or of down; artificial flowers; articles of human hair**Extract from the Harmonized System Explanatory Notes**

‘Heading 6701 covers:

- (A) Skins and other parts of birds with their feathers or down, feathers and down, and parts of feathers, which though not yet constituting made up articles, have undergone a process other than a simple treatment of cleaning, disinfection or preservation (see Explanatory Note to heading 0505); the goods of this heading may, for example, be bleached, dyed, curled or waved.
- (B) Articles made of skins or of other parts of birds with their feathers or down, articles made of feathers, of down or of parts of feathers, even if the feathers or down, etc., are unworked or merely cleaned, but not including articles made of scapes or quills. The heading therefore includes:
- (1) Single feathers the quills of which have been wired or bound for use as, for example, millinery mounts, and also single composite feathers assembled from different elements.
 - (2) Feathers assembled in the form of clusters, and feathers or down assembled by glueing or fixing on textile fabric or other base.
 - (3) Trimmings made of birds, parts of birds, of feathers or down, for hats, boas, collars, capes or other articles of apparel or clothing accessories.
 - (4) Fans made of ornamental feathers, with frames of any material. However, fans with frames of precious metal are classified in heading 7113.’

| CN code | Description | Qualification and explanation |
|---------------|--|--|
| (1) | (2) | (3) |
| Ex67 01 00 00 | Skins and other parts of birds with their feathers or down, feathers, parts of feathers, down and articles thereof (other than goods of heading 0505 and worked quills and scapes) | Only skins and other parts of birds with their feathers or down, feathers and down, and parts of feathers. Articles of unworked or merely cleaned skins, feathers or down, and parts of feathers. |

| | | |
|--|--|--|
| | | <p>Excluding treated decorative feathers, treated feathers carried by travellers for their private use or consignments of treated feathers sent to private individuals for non- industrial purposes.</p> <p>Specific requirements for feathers are set out in Row 9 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |
|--|--|--|

CHAPTER 71

Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coin

Harmonized System Classification Opinion 7101,21/1

‘Oysters unfit for human consumption, containing one or more cultured pearls, preserved in brine and put up in airtight metal containers.’

| CN code | Description | Qualification and explanation |
|---------------|--------------------------|---|
| (1) | (2) | (3) |
| Ex71 01 21 00 | Unworked cultured pearls | <p>Includes oysters unfit for human consumption, containing one or more cultured pearls, preserved in brine or by different methods, packaged in airtight containers.</p> <p>Unworked cultured pearls referred to in Section 2 of Chapter IV of Annex XIV to Regulation (EU) No 142/2011 unless they are excluded from the scope of Regulation (EC) No 1069/2009 as provided for in point (f) of Article 2(2) of that Regulation.</p> |

CHAPTER 95

Toys, games and sports requisites; parts and accessories thereof

Extract from the Harmonized System Explanatory Notes

‘Fairground amusements, travelling circuses, travelling menageries and travelling theatres fall in heading 9508 provided they comprise all the essential units required for their normal operation. The heading also includes items of auxiliary equipment provided they are presented with, and as components of, these various amusements, notwithstanding that when presented separately such items (e.g., tents, animals, musical instruments, power plants, motors, lighting fittings, seats and arms and ammunition) would fall in other headings of the Nomenclature.’

| CN code | Description | Qualification and explanation |
|---------------|---|-------------------------------|
| (1) | (2) | (3) |
| Ex95 08 10 00 | Travelling circuses and travelling menageries | Live animals only. |
| Ex95 08 90 00 | Other: fairground amusements, travelling theatres | Live animals only. |

CHAPTER 96

Miscellaneous manufactured articles**Extract from the Harmonized System Explanatory Notes**

For the purposes of this heading, the expression “worked” refers to materials which have undergone processes extending beyond the simple preparations permitted in the heading for the raw material in question (see the Explanatory Notes to headings 05.05 to 05.08). The heading therefore covers pieces of ivory, rods, etc., cut to shape (including square or rectangular) or polished or otherwise worked by grinding, drilling, milling, turning, etc. However, pieces which are identifiable as parts of articles are excluded from this heading if such parts are covered by another heading of the Nomenclature. Thus, piano-key plates and plates for insertion in butts of firearms fall in headings 92.09 and 93.05 respectively. However, worked materials not identifiable as parts of articles remain classified in this heading (e.g., simple discs, plates or strips for inlaying, etc., or for subsequent use in the manufacture of piano-keys).

Heading 9602 includes sheets of unhardened gelatine cut to shape other than square or rectangular. Sheets cut to rectangular (including square) shape, whether or not surface worked, fall in heading 35.03 or in Chapter 49 (e.g., postcards) (see the Explanatory Note to heading 35.03). Articles of unhardened gelatine include, for example:

- (i) Small discs for sticking billiard cue tips.
- (ii) Capsules for pharmaceutical products and for mechanical lighter fuel.’

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| ex 9602 00 00 | Worked, unhardened gelatine (except gelatine of heading 3503) and articles of unhardened gelatine | Empty capsules of unhardened gelatine for food or animal consumption; specific requirements are set out in Row 5 of Table 1 in Section 1 of Chapter I of Annex XIV to Regulation (EU) No 142/2011 for animal consumption. |

CHAPTER 97

Works of art, collectors’ pieces and antiques**Extract from the Harmonized System Explanatory Notes**

‘(A) **The heading includes collections and collectors’ pieces of zoological, botanical, mineralogical or anatomical interest, such as:**

- (1) Dead animals of any species, preserved dry or in liquid; stuffed animals for collections.
- (2) Blown or sucked eggs; insects in boxes, frames, etc. (other than mounted articles constituting imitation jewellery or trinkets); empty shells, other than those of a kind suitable for industrial use.
- (3) Seeds or plants, dried or preserved in liquid; herbariums.
- (4) Specimens of minerals (not being precious or semi-precious stones falling in Chapter 71); specimens of petrification.
- (5) Osteological specimens (skeletons, skulls, bones).
- (6) Anatomical and pathological specimens.’

| CN code | Description | Qualification and explanation |
|---------------|---|---|
| (1) | (2) | (3) |
| Ex97 05 00 00 | Collections and collectors’ pieces of zoological, botanical, mineralogical, anatomical, historical, archaeological, palaeontological, ethnographic or numismatic interest | Animal derived products only. Excludes game trophies and other preparations of any animal species having undergone a complete taxidermy treatment ensuring their preservation at ambient temperatures. |

| | | |
|--|--|---|
| | | <p>Excludes game trophies and other preparations from other species than ungulates and birds (whether treated or untreated).</p> <p>Specific requirements for game trophies are set out in Row 6 of Table 2 in Section 1 of Chapter II of Annex XIV to Regulation (EU) No 142/2011.</p> |
|--|--|---|

CHAPTER 99

Special CN codes**Statistical codes for certain specific movements of goods****General remarks**

This chapter covers goods originating from third countries and delivered to vessels and aircrafts within the European Union under customs transit procedure (T1).

| CN code | Description | Qualification and explanation |
|---------------|--|---|
| (1) | (2) | (3) |
| Ex 9930 24 00 | Goods of CN Chapters 1 to 24 delivered to vessels and aircraft | Products of animal origin destined for ship supply as provided for in Articles 21 and 29 of Commission Delegated Regulation (EU) 2019/2124 ⁽⁷⁾ . |
| Ex 9930 99 00 | Goods classified elsewhere delivered to vessels and aircraft | Products of animal origin destined for ship supply as provided for in Articles 21 and 29 of Delegated Regulation (EU) 2019/2124. |

⁽⁷⁾ Commission Delegated Regulation (EU) 2019/2124 of 10 October 2019 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules for official controls of consignments of animals and goods in transit, transshipment and onward transportation through the Union, and amending Commission Regulations (EC) No 798/2008, (EC) No 1251/2008, (EC) No 119/2009, (EU) No 206/2010, (EU) No 605/2010, (EU) No 142/2011, (EU) No 28/2012, Commission Implementing Regulation (EU) 2016/759 and Commission Decision 2007/777/EC (OJ L 321, 12.12.2019, p. 73).

COMMISSION IMPLEMENTING REGULATION (EU) 2021/633**of 14 April 2021****imposing a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China and in Indonesia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

- (1) Following an anti-dumping investigation ('the original investigation, China'), the Council imposed, by means of Regulation (EC) No 1187/2008 ⁽²⁾, a definitive anti-dumping duty on imports of monosodium glutamate ('MSG') originating in the People's Republic of China ('the PRC' or 'China').
- (2) In January 2015, by Implementing Regulation (EU) 2015/83 ⁽³⁾, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of MSG originating in China following an expiry review in accordance with Article 11(2) of the basic Regulation ('previous expiry review').
- (3) In January 2015, by Regulation (EU) 2015/84 ⁽⁴⁾, the Commission imposed anti-dumping duties on imports of MSG originating in Indonesia ('the original investigation, Indonesia').
- (4) The rates of anti-dumping duty currently in force range from 33,8 % to 36,5 % on imports from the exporting producers that cooperated in the original investigation, and 39,7 % on imports from all other companies in China. As for Indonesia, the rates of anti-dumping duty currently in force range from 7,2 % to 13,3 % on imports from the exporting producers that cooperated in the original investigation, Indonesia, and 28,4 % on imports from all other companies in Indonesia.

1.2. Request for an expiry review

- (5) Following the publication of two notices of impending expiry ⁽⁵⁾, the Commission received two requests for review pursuant to Article 11(2) of the basic Regulation.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1187/2008 of 27 November 2008 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of monosodium glutamate originating in the People's Republic of China (OJ L 322, 2.12.2008, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2015/83 of 21 January 2015 imposing a definitive anti-dumping duty on imports of monosodium glutamate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 15, 22.1.2015, p. 31).

⁽⁴⁾ Commission Implementing Regulation (EU) 2015/84 of 21 January 2015 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of monosodium glutamate originating in Indonesia (OJ L 15, 22.1.2015, p. 54).

⁽⁵⁾ Notices of the impending expiry of certain anti-dumping measures (OJ C 165, 14.5.2019, p. 4 and p. 5).

- (6) Both requests were lodged on 21 October 2019 by Ajinomoto Foods Europe S.A.S. ('AFE' or 'the applicant'), representing 100 % of the total Union production of MSG. The requests were based on the grounds that the expiry of the measures would be likely to result in continuation and recurrence of dumping and continuation or recurrence of injury to the Union industry ⁽⁶⁾.

1.3. Initiation of an expiry review

- (7) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 21 January 2020 the Commission initiated an expiry review with regard to imports of MSG originating in the PRC and in Indonesia ('the countries concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽⁷⁾ ('the Notice of Initiation').

1.4. Parallel anti-circumvention investigation

- (8) On 19 February 2020, the Commission initiated an investigation, pursuant to Article 13(3) of the basic Regulation, concerning possible circumvention of anti-dumping measures in force with regard to imports of MSG originating in the PRC, and made such imports subject to registration ⁽⁸⁾. The initiation of the investigation followed a request submitted by Ajinomoto Foods Europe S.A.S. the company which is also the applicant of the current expiry reviews. The product under investigation for possible circumvention was MSG in mixture or in solution, containing by dry weight 50 % or more of MSG.
- (9) The investigation concluded that the existing measures on imports of MSG originating in the PRC were circumvented by imports of the product under investigation. By Regulation (EU) 2020/1427 ⁽⁹⁾ the Commission extended the measures in force to imports of MSG in mixture or in solution, containing by dry weight 50 % or more of MSG, originating in the PRC.

1.5. Review investigation period and period considered

- (10) The investigation of continuation or recurrence of dumping covered the period from 1 January 2019 to 31 December 2019 (the 'review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2016 to the end of the review investigation period ('the period considered') ⁽¹⁰⁾.

1.6. Interested parties

- (11) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, the known producers of MSG in China and Indonesia and the authorities of the countries concerned, known importers and users about the initiation of the investigation and invited them to participate.

⁽⁶⁾ Due to the fact that there is only one producer of MSG in the Union, some of the data in this Regulation are presented in ranges or in index form to preserve the confidentiality of the data of the Union producer.

⁽⁷⁾ Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of monosodium glutamate originating in the People's Republic of China and in Indonesia (OJ C 20, 21.1.2020, p. 18).

⁽⁸⁾ Commission Implementing Regulation (EU) 2020/230 of 19 February 2020 initiating an investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2015/83 on imports of monosodium glutamate originating in the People's Republic of China, and making such imports subject to registration (OJ L 47, 20.2.2020, p. 9).

⁽⁹⁾ Commission Implementing Regulation (EU) 2020/1427 of 12 October 2020 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2015/83 on imports of monosodium glutamate originating in the People's Republic of China to imports of monosodium glutamate in mixture or in solution originating in the People's Republic of China (OJ L 336, 13.10.2020, p. 1).

⁽¹⁰⁾ On 31 January 2020, the United Kingdom withdrew from the Union. The Union and the United Kingdom jointly agreed on a transition period during which the United Kingdom remained subject to Union law, which ended on 31 December 2020. The United Kingdom is no longer a Member State of the Union and therefore the figures, findings and conclusions in this Regulation treat the United Kingdom as a third country.

- (12) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

1.6.1. Sampling

- (13) In view of the apparent large number of producers in the countries concerned and unrelated importers in the Union, the Commission stated in the Notice of Initiation that it might sample the producers and unrelated importers in accordance with Article 17 of the basic Regulation.

1.6.1.1. Sampling of producers in the People's Republic of China and Indonesia

- (14) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all producers in China and Indonesia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Missions of the PRC and Indonesia to the European Union to identify and/or contact other producers, if any, that could be interested in participating in the investigation.
- (15) Two exporting producers in the PRC provided the requested information and agreed to be included in the sample. The Commission invited these companies to participate in the investigation and sent questionnaires to them. In view of the low number, the Commission decided that sampling was not necessary and informed all the interested parties by a Note to the file.
- (16) The Commission notified the Mission of the PRC that due to the insufficient cooperation from these two exporting producers in the PRC, it intended to apply Article 18 of the basic Regulation and therefore base its findings on continuation or recurrence of dumping and injury in respect of the PRC on the facts available. No comments were received in response to this notification.
- (17) No exporting producer in Indonesia came forward. Nevertheless, one group of companies in Indonesia producing and selling MSG on the Indonesian domestic market ('group of cooperating Indonesian producers') submitted the sampling forms. These companies were not exporting the product under review to the Union. The Commission invited these companies to participate in the investigation and sent questionnaires to them.
- (18) The Commission notified the Mission of Indonesia that due to the insufficient cooperation from exporting producers/producers in Indonesia, it intended to apply Article 18 of the basic Regulation and therefore base its findings on continuation or recurrence of dumping and injury in respect of exporting producers/producers in Indonesia on the facts available. No comments were received in response to this notification.

1.6.1.2. Sampling of importers

- (19) To decide whether sampling was necessary and, if so, to select a sample, the Commission invited unrelated importers to provide the information specified in the Notice of Initiation.
- (20) Four unrelated importers provided the requested information and agreed to be included in the sample. The Commission decided that sampling was not necessary and to investigate all unrelated importers that came forward. All four unrelated importers fully cooperated by submitting a complete questionnaire reply.

1.6.2. Replies to the questionnaire

- (21) Complete questionnaire replies were received from the group of cooperating Indonesian producers of MSG, the sole Union producer and four unrelated importers.
- (22) The Commission invited all the exporting producers/producers in the PRC that came forward and provided the requested information on sampling to complete the questionnaire for exporting producers. At the initiation, a copy of the questionnaire was made available on DG Trade's website.

- (23) No questionnaire replies of exporting producers/producers in the PRC were received. As mentioned above in recitals (15) and (16), the Commission notified the two exporting producers/producers in the PRC that came forward initially that it intended to apply Article 18 of the basic Regulation and therefore base its findings on facts available that may be less favourable to the party concerned. No comments were received.
- (24) Therefore, there was no cooperation from exporting producers/producers in the PRC or in Indonesia. However, as mentioned in recital (17), one group of companies in Indonesia producing and selling MSG on the Indonesian domestic market, but not exporting to the Union, cooperated.

1.6.3. Verification

- (25) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest. Due to the outbreak of the COVID-19 pandemic and the consequent measures taken to deal with the outbreak ('the COVID-19 Notice')⁽¹⁾, the Commission was however unable to carry out verification visits at the premises of all companies. Instead, the Commission performed remote cross-checks ('RCCs') of the information provided by the following companies via videoconference:
- Ajinomoto Foods Europe SAS, Mesnil-Saint-Nicaise, France ('AFE')
 - Group of cooperating producers in Indonesia
 - PT Ajinomoto Indonesia, Indonesia
 - PT Ajinomoto Sales Indonesia, Indonesia.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (26) The product subject to this review is the same as the one covered by the previous investigations mentioned in recitals (1) to (4), namely monosodium glutamate originating in the PRC and Indonesia, currently falling under CN code ex 2922 42 00 (TARIC code 2922 42 00 10) ('the product under review'). MSG is a food additive and mainly used as a flavour enhancer in soups, broths, fish and meat dishes, spice blends and ready-made foods. It is produced in the form of white, odourless crystals of various sizes. MSG is also used in the chemical industry for non-food applications such as detergents.
- (27) It is mainly produced by fermentation of various sugar sources (corn starch, tapioca starch, sugar syrup, sugar cane molasses and sugar beet molasses).

2.2. Like product

- (28) As established in the previous investigations mentioned in recitals (1) to (4), this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review,
 - the product produced and sold on the domestic market of the countries concerned, and
 - the product produced and sold in the Union by the Union industry.

⁽¹⁾ Notice – On the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations (2020/C 86/06) (OJ C 86, 16.3.2020, p. 6).

- (29) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

3.1. Preliminary remarks

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

3.1.1. PRC

- (31) None of the Chinese exporting producers/producers cooperated in the investigation. They failed to submit any information or provide supporting evidence regarding the alleged significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. Likewise, as mentioned in the recital (23), none of the exporting producers in China submitted a reply to the questionnaire.
- (32) The GOC did not provide any questionnaire reply nor addressed the evidence on the case file provided by the applicant, including the 'Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations' ('the Report') ⁽¹²⁾.
- (33) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation of dumping set out in recitals (36) to (135) were based on facts available, in particular, information in the request for the expiry review and statistics available, namely those from Eurostat and the Global Trade Atlas ('GTA').

3.1.2. Indonesia

- (34) As mentioned in recital (17), no exporting producer in Indonesia cooperated in the investigation. However, a group of Indonesian producers selling on the domestic market and other third country markets cooperated.
- (35) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation of dumping set out in recitals (137) to (144) were based on facts available, in particular, information in the request for the expiry review, statistics available, namely Eurostat and the GTA, and also, as explained in the recital (21), data submitted by the group of cooperating Indonesian producers.

3.2. Continuation of dumping during the review investigation period

3.2.1. PRC

- (36) For the review investigation period, the statistical data from Eurostat show that 3 500 tonnes of MSG were imported from the PRC, representing [4 – 7] % of the market share in the Union ⁽¹³⁾. The Commission concluded that such volume of imports is sufficiently representative to examine whether dumping continued during the review investigation period.

⁽¹²⁾ Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.

⁽¹³⁾ As mentioned in recital (6) the applicant represents 100 % of the total Union production of MSG. Therefore, in order to protect business secrets, some data in this Regulation are presented only in ranges and/or indexes.

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

(37) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation.

(38) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the Government of China ('GOC'). In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline.

(39) In point 5.3.2 of the Notice of Initiation the Commission also specified that, in view of the evidence available, Thailand was provisionally selected as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in 2(6a)(a), first indent of the basic Regulation.

(40) On 21 February 2020, the Commission informed by a note ('first note on production factors') the interested parties on the relevant sources it intended to use for the determination of the normal value if the application of the methodology under Article 2(6a) of the basic Regulation would be confirmed. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of MSG. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission expressed its intention to choose Thailand or Malaysia as an appropriate representative country. The Commission invited interested parties to comment and received comments only by the applicant. It supported the choice of Thailand, due to the higher number of companies with publicly available data in this country. In its comments, the applicant also requested that the data of the suitable companies should be averaged to provide a better, more sound basis for the Commission's determinations, as compared to the use of data based on information for a single company.

(41) On 8 April 2020, the Commission informed by a second note ('second note on production factors') the interested parties on the relevant sources it intended to use for the determination of the normal value, with Thailand as the representative country if the application of the methodology under Article 2(6a) of the basic Regulation would be confirmed. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the following five companies, producers of MSG in the representative country:

(1) Ajinomoto Co. (Thailand) Ltd.

(2) Thai Fermentation Industry Co Ltd. (Racha Churos)

(3) Thai Churos

(4) Thai Foods International Co. Ltd.

(5) KT MSG.

(42) The Commission invited interested parties to comment and received comments only by one importer, who supported the selection of Thailand as the representative country.

3.2.2.1. Normal value

(43) According to Article 2(1) of the basic Regulation, 'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country'.

- (44) However, according to Article 2(6a)(a) of the basic Regulation, *'in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits' ('administrative, selling and general costs' is referred hereinafter as 'SG&A').*
- (45) As further explained in recitals (46) to (107), the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.3. Existence of significant distortions

3.2.3.1. Introduction

- (46) Article 2(6a)(b) of the basic Regulation defines *'significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:*
- *the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country,*
 - *state presence in firms allowing the state to interfere with respect to prices or costs,*
 - *public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces,*
 - *the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws,*
 - *wage costs being distorted,*
 - *access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'.*
- (47) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product under review. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.
- (48) Article 2(6a)(c) of the basic Regulation provides that *'[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'.*

- (49) Pursuant to this provision, the Commission has issued a country report concerning China (see footnote 12), showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as chemicals or corn processing). The Report was placed in the investigation file at the initiation stage. Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation of which the Report was an integral part. No comment was received.
- (50) The request for review provided additional evidence on significant distortions in the MSG sector within the meaning of Article 2(6a)(b), complementing the Report. The applicant provided evidence that the production and sale of the product under review is affected (at least potentially) by the distortions mentioned in the Report, in particular high levels of state interference in the MSG value chain, i.e. in the MSG sector and the sectors related to the production of MSG, in particular input sectors and the factors of production.
- (51) The Commission examined whether it was appropriate to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources, notably on Chinese legislation, published official Chinese policy documents, reports published by international organisations and studies/articles by renowned academics, specifically identified in the Report. That analysis covered the examination of the substantial government interventions in its economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC.
- (52) As specified in recital (32), the GOC did not provide any reply to the questionnaire. As mentioned in recital (23), nor was there cooperation from any exporting producers/producers in China. Furthermore, none of the exporting producers/producers in China that were granted the status of an interested party provided any evidence supporting or rebutting the existing evidence on the case file, including the Report, and the additional evidence provided by the applicant in the request for review on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

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

- (53) The Chinese economic system is based on the concept of a '*socialist market economy*'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*' ⁽¹⁴⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽¹⁵⁾.
- (54) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing

⁽¹⁴⁾ Report – Chapter 2, p. 6-7.

⁽¹⁵⁾ Report – Chapter 2, p. 10.

first sentence of the provision: '[t]he socialist system is the basic system of the People's Republic of China' a new second sentence was inserted which reads: '[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.' ⁽¹⁶⁾ This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.

- (55) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ⁽¹⁷⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.
- (56) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets while this was a regular feature in previous planning cycles. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also Section 3.2.3.5 below) ⁽¹⁸⁾.
- (57) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also Section 3.2.3.8 below) ⁽¹⁹⁾. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector other than the banking sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ⁽²⁰⁾.
- (58) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ⁽²¹⁾. Similarly, in the area of investment, the GOC maintains significant control and influence over the destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ⁽²²⁾.

⁽¹⁶⁾ Available at http://www.fdi.gov.cn/1800000121_39_4866_0_7.html (last viewed on 27 October 2020).

⁽¹⁷⁾ Report – Chapter 2, p. 20-21.

⁽¹⁸⁾ Report – Chapter 3, p. 41, 73-74.

⁽¹⁹⁾ Report – Chapter 6, p. 120-121.

⁽²⁰⁾ Report – Chapter 6, p. 122-135.

⁽²¹⁾ Report – Chapter 7, p. 167-168.

⁽²²⁾ Report – Chapter 8, p. 169-170, 200-201.

- (59) In sum, the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ⁽²³⁾.

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

- (60) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.

- (61) In the absence of any cooperation from the PRC, the Commission has limited information concerning the ownership structure of companies active in the MSG sector in the PRC. Among the three Chinese companies indicated as major producers by the applicant, and confirmed as such by other sources based on the Commission own research, ⁽²⁴⁾ none appears to be State-owned.

- (62) However, the Commission found that one of the major exporting producers – Fufeng Group – had the support of CCP members and local public authorities and that the latter coordinated matters of interest for the company. For example, the official website of the company states the following about an official visit of local government representatives: *‘After his speech, Jiao Gangwei mentioned the coal-related problem hindering the enterprises over the past two years, and emphasized that the Zhalantun Municipal Party Committee and Government had been ensuring coordination on this matter. [...] Liu Qifan’s delegation continued to learn about the company’s social contributions, party building work, as well as MSG [...]. Liu Qifan also praised the impact of Fufeng’s launching of mass production of high-end amino acids on global prices and supported the company’s party building work. Finally, he said to his delegation: “ This company is a leading company, and there are no such good projects elsewhere. The government must serve it well.” Secretary Liu mentioned three times in a row that the government should serve the company well. Furthermore, he supported the company saying its situation reflects the determination of the senior leaders of the Inner Mongolia Autonomous Region to build a service-oriented government’.* ⁽²⁵⁾ The local government support is also visible in relation to Fufeng’s subsidiary in Heilongjiang Qiqihar, as confirmed on the Qiqihar government’s website: *‘In order to show the enterprise’s strength, gather internal strength, expand the fighting spirit and thank the local government for their strong support to the Group’s subsidiary, Qiqihar Longjiang Fufeng Biotechnology Co., Ltd., the media meeting “ new starting point, new journey, new dream ” was held in Wanda Jiahua Hotel in Qiqihar, in the afternoon of 26 July on the 20th anniversary of the founding of Fufeng group’.* ⁽²⁶⁾ The Commission found further evidence of Fufeng’s relations with the CCP, as well as the support and guidance of local authorities in the following statement from the Group’s website: *‘On 7 December 2019, Qiqihar Municipal Party Committee Deputy Secretary and Mayor Li Yugang visited the Fufeng Group headquarters. Deputy Mayor Wang Yongshi, Municipal Government Secretary-General Qi Xiaotong, Angangxi District Party Committee Deputy Secretary and Mayor Ren Guangcai, and Deputy Mayor Li Yugang Jing, etc. accompanied him on the investigation. Chairman of the Board Li Xuechun, General Manager Zhao Qiang and other leaders accompanied the visit. [...] During the discussion, Mayor Li said that key deep processing as well as its by-products are particularly important in the current industrial layout of Qiqihar City. As the world’s first amino acid manufacturer, the company has provided great help to the local corn deep processing. The chairman of the Board expressed his gratitude to Mayor Li for coming and said: “ Qiqihar City has provided the company with “incubator” services. This time it will*

⁽²³⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

⁽²⁴⁾ See excerpt from the analytical publication by Guosheng Securities about one of the said companies – Meihua Biological: *‘The supply side of monosodium glutamate is composed of three stakeholders and the oligopoly pattern is clear: MSG is characterized by an oligopoly structure dominated by Fufeng Group, Meihua Biological and Ningxia Eppen whose production capacity and output account for more than 90 % of the country’s figures. Thanks to industry competition and integration, together with huge capital investments, the three enterprises have developed a comprehensive industrial chain, formed a relatively huge gap between them and others, and now have a clear industry leading advantage. [...] From the perspective of MSG, Meihua, Fufeng and Eppen have reached an interdependent and pure oligopoly layout. There are only rare products for which the concentration is so high in the chemical industry subsector.’* 1 August 2019. http://pdf.dfcfw.com/pdf/H3_AP201908011342041272_1.PDF (last viewed on 19 January 2021).

⁽²⁵⁾ See article from the company’s website, published on 2 January 2018: Liu Qifan, member of the Standing Committee of the Party Committee and Secretary of the Disciplinary Committee of Inner Mongolia Autonomous Region, visited Northeast Fufeng Company for investigation. http://www.fufeng-group.com/news/details-236_1.html (last viewed on 19 January 2021).

⁽²⁶⁾ See article Fufeng’s 20th birthday press conference organised in Qiqihar city. 29 July 2019. http://www.qqhr.gov.cn/News_showNews.action?messagekey=175677 (last viewed on 19 January 2021).

not make headlines in Qiqihar City only, but also on CCTV. The company will, in accordance with the governmental economic thinking, continue to stabilize foreign trade, stabilize foreign capital, stabilize investment and stabilize expectations. It will continue to expand the fighting spirit, exploit its own advantages and steadily cooperate with the local government for a joint development.”⁽²⁷⁾ Additionally, the following press statement confirms that Fufeng has been following State policy goals and ideology in its activities: ‘Fufeng Group responded to President Xi Jinping’s cooperation initiatives proposals to build the “New Silk Road Economic Belt” and the “21st Century Maritime Silk Road”, and actively developed economic partnerships with countries along the Belt and Road.’⁽²⁸⁾

- (63) In the case of another of the three main producers of MSG – Ningxia Eppen – the Commission found that the company was implementing State policies and CCP ideology in its activities, as stated by the Ningxia Federation of Industry and Commerce: ‘Since the beginning of this year, Ningxia Eppen Biological Company has meticulously organized, comprehensively deployed, deeply studied and implemented the spirit of the 18th National Congress of the Communist Party of China, taking into account the actual situation of the company and aiming at “Two strengthenings, Six goods”, it strengthened the Party building, which has greatly helped the enterprise’s development.’⁽²⁹⁾ The company had also benefitted from support from public authorities in establishing a national technology center. According to the Ningxia Hui Department of Industry and Information Technology, the construction of such centers has as aim to notably guide companies towards certain policy achievements: ‘In order to implement the innovation-driven development strategy and guide and support enterprises to strengthen their technological innovation capacities, the Autonomous Region’s Industry and Information Technology Department vigorously promotes the construction of Enterprise Technology Centers. [...] Enterprise Technology Centers have become the main actors of technological innovation in our Region and provide strong effective technological support for the high-quality development of industry in our Region. [...] Ningxia Eppen Company’s Enterprise Technology Center was established in 2006 and was recognized as a national level enterprise technology center in 2011. The Technology Center ensure leadership over the industry’s progression through continuous innovation and has achieved significant results.’⁽³⁰⁾
- (64) With respect to the providers of inputs for the production of MSG, as submitted by the applicant and confirmed by other sources⁽³¹⁾, the main raw material in the manufacturing of MSG in the PRC is usually corn starch, representing a substantial part of the production costs. As found by the Commission, at least one major producer of corn starch – Cofco Biotech – is an SOE supervised by the State-owned Assets Supervision and Administration Commission (SASAC)⁽³²⁾. State authorities are also shareholders, directly or indirectly, of several other major corn starch producers. As a notable example, in the case of Zhucheng Xingmao Corn Developing Co. Ltd – the leading corn starch producer (13,29 % of the market)⁽³³⁾ – 74 % of shares are held by Zhucheng Foreign Trade Corp., which is in turn owned in 26,54 % by Zhucheng City.⁽³⁴⁾

⁽²⁷⁾ See article Qiqihar Mayor Li Yugang visited Fufeng Group’s headquarters for investigation. 11 December 2019. http://en.fufeng-group.cn/news/details-260_1.html (last viewed on 19 January 2021).

⁽²⁸⁾ See article from Dongfang Financial News: *Strengthen the leadership on industry, focus on poverty alleviation as a core, secure leading positions; 20 years of Fufeng: growth is coming to light*. 19 August 2019. <http://www.jinxingwenshi.com/caijing/shh/201908195018.html> (last viewed on 21 January 2021).

⁽²⁹⁾ See article about Ningxia Eppen Biotech of 20 August 2013: http://nxgsl.com/hyzl/hyfc/201308/t20130820_1163706.html (last viewed on 21 January 2021).

⁽³⁰⁾ See the official website of the Ningxia Hui Department of Industry and Information Technology: *Results of the Ningxia Eppen Biotech’s Enterprise Technology Center*. 23 November 2020. <https://gxt.nx.gov.cn/info/1004/8250.htm> (last viewed on 26 January 2021).

⁽³¹⁾ ‘The main costs of MSG are corn and coal. Therefore, companies that have seized the opportunity of corn and coal low prices already enjoy a comparative advantage as regards cost’ – from the article *2018-2022 Forecast and Analysis of the MSG industry development prospects*. China Investment Consulting Network, 5 May 2018. <http://www.ocn.com.cn/touzi/chanye/201806/ypxwt05100100-2.shtml> (last viewed on 25 January 2021).

⁽³²⁾ See SASAC website: <http://www.sasac.gov.cn/n2588035/n2641579/n2641645/index.html> (last viewed on 22 January 2021).

⁽³³⁾ See data from the China Starch Industry Association, presented in the website: <https://www.ershicimi.com/p/a14ff87430b1ea50d458d1347123cba5> (last viewed on 22 January 2021).

⁽³⁴⁾ See: <https://www.qcc.com/firm/d8b3787389e66016cbde3e1dea817bf.html> (last viewed on 22 January 2021).

- (65) As submitted by the applicant, the production of MSG consists in a chemical process involving the use of corn starch and ammonia. Therefore, producers of MSG can also be considered as active participants of the Chinese chemical sector. With regard to that sector, the Commission found that that, according to national statistics, State-owned enterprises (SOEs) represented 52 % of the total assets of chemical companies in 2015 ⁽³⁵⁾. SOEs, in particular large central ones, have traditionally played a dominant role in the PRC's chemical industry due to their oligopoly position in upstream/feedstock, easy access to government-allocated resources (funds, loans, land etc.) and strong influence in government decision-making.
- (66) With respect to the above, the GOC and the CCP maintain structures that ensure their continued influence over enterprises, and in particular State-owned or State-controlled enterprises. The State (and in many aspects also the CCP) not only actively formulates and oversees the implementation of general economic policies by companies (in particular State-owned or State-controlled ones), but it also claims its rights to participate in their operational decision making. This is typically done through rotation of cadres between government authorities and these companies, through presence of party members in the companies' executive bodies and of 'party cells' in the companies' structures (see also Section 3.2.3.4), as well as through shaping the corporate structure of the sector ⁽³⁶⁾. In the case of State-owned or State-controlled enterprises, the latter enjoy in exchange, a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finance ⁽³⁷⁾. The elements that point to the existence of government control over enterprises in the MSG value chain, and the chemical sector at large, are further developed in Section 3.2.3.4 below.
- (67) With the significant level of government intervention in chemical value chains in the PRC, State ownership and control of certain leading corn starch producing enterprises, and the fact that – as found by the Commission – certain leading MSG producers are subject to the guidance of the State, rely on its support and, in certain cases, implement the CCP's ideology, even privately owned producers of the product under review are prevented from operating under market conditions. Both public and privately owned enterprises active in the production of MSG and of the inputs used in the manufacturing of the latter, are also subject, directly or indirectly, to policy supervision and guidance as set out in Section 3.2.3.5 below.

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

- (68) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights ⁽³⁸⁾, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ⁽³⁹⁾) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline ⁽⁴⁰⁾. In 2017, it was reported that party cells existed

⁽³⁵⁾ Data for 2015 on the basis of the China Statistical Yearbook 2016, National Bureau of Statistics of China.

⁽³⁶⁾ Report – Chapter 3, p. 22-24 and Chapter 5, p. 97-108.

⁽³⁷⁾ Report – Chapter 5, p. 104-9.

⁽³⁸⁾ Report – Chapter 5, p. 100-1.

⁽³⁹⁾ Report – Chapter 2, p. 26.

⁽⁴⁰⁾ Report – Chapter 2, p. 31-2.

in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ⁽⁴¹⁾. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of MSG and the suppliers of their inputs.

- (69) By way of example, CCP structures personally overlap with the management body in the case of a number of leading MSG producers. The Commission found that the Chairman of the Board of Fufeng Group, Li Xuechun, was appointed in 2013, for a period of five years, as member of the Linyi City People's Congress. ⁽⁴²⁾ Moreover, as evidenced in recital (62), the company hosts Party-building activities, which influence its operations.
- (70) In the case of Meihua Group, another of the three major producers of MSG, five out of 12 members of the Board were stated to be CCP members in 2019 ⁽⁴³⁾. The Commission also found the following evidence of Meihua's Party-building activities and of the CCP's influence on the company's operations: *'On June 30th, Jilin Meihua organized and carried out a party day event dedicated to "Building a Learning Enterprise, Glowing at work" . The representative of the Baicheng Municipal Party Committee Organization Department and Jilin Meihua Party Building Instructor Wang Xingang, Baicheng Industrial Park's Party Bureau Director Guo Baoyu, Jilin Meihua Party Secretary and General Manager Zhang Jinlong, and 22 Party members attended the event. [...] In the event, Wang Xingang gave all Party members a lively party lesson focusing on "the Party's development process, on what should be done by Party branch members in newly-built enterprises, and how Party member representatives should play a leading role". Then, Wang Xingang gave the Party emblem and the "Party Constitution" to each Party member in turn. Like in a renewed Party baptism, with the Party emblem on the chest and the "Party Constitution" in the hands, a "heart-to-heart bridge" between the Party organization and Party members has been build and has effectively enhanced the sense of honour, responsibility and belonging of each Party member and cadre. But this is not only about honour, this is also about responsibility. Such a "political birthday" allows Party members to always keep in mind their identity and mission, to give full play to their pioneering and exemplary role in their future work, to unite and lead the majority of cadres and employees, work hard, be creative, dare to be the first, never give up. "I volunteer to join the Communist Party of China, support the Party's program, and abide by the Party's constitution" – under the leadership of the Party secretary Zhang Jinlong, the participating Party members raised their right fists together at the end of the event, and reviewed the Party oath in front of the bright red Party flag. This Party day event allowed all Party members to further strengthen their ideals and beliefs, strengthen their Party spirit, and clarify the direction of future work.'* ⁽⁴⁴⁾
- (71) In the case of Ningxia Eppen, the third major producer of MSG, the Commission found that, the company's Chairman held the post of representative to the 12th People's Congress of the Ningxia Hui Autonomous Region, at least until July 2020. ⁽⁴⁵⁾ At the same time, the Ningxia Federation of Industry and Commerce gives a clear account of the CCP's role with regard to the company's operations: *'First, regulations stipulate that the Party Committee Secretary must attend and fully listen to opinions and suggestions made during meetings in which decisions are made on major corporate matters and other important meetings; Second, as of now, the relevant person in charge of the Party Organization must attend and fully listen to opinions and suggestions made during important meetings or important decisions related to the production management and business departments. The relevant person in charge of the Party Organization shall, with a high sense of responsibility, duly communicate in due time the decisions and major work projects related to the production to the Party Members and fully involve the main stakeholders to promote them.'* ⁽⁴⁶⁾
- (72) The State's presence and intervention in the financial markets (see also Section 3.2.3.8 below), as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ⁽⁴⁷⁾. Thus, the State presence in firms, including SOEs, in the MSG sector and other related sectors (such as the financial and input sectors) allows the GOC to interfere with respect to prices and costs.

⁽⁴¹⁾ Available at <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU> (last viewed on 27 October 2020).

⁽⁴²⁾ See the Linyi People's Congress website: <http://www.lyrenda.gov.cn/view-SpecialArticles.aspx?id=1285&spid=39> (last viewed on 22 January 2021)

⁽⁴³⁾ See the company's 2019 Annual report: http://pdf.dfcfw.com/pdf/H2_AN202004151378041301_1.pdf, page 54 (last viewed on 22 January 2021).

⁽⁴⁴⁾ See the company's website: <http://www.meihuagrp.com/index.php/article/1237.html> (last viewed on 22 January 2021).

⁽⁴⁵⁾ See <https://baike.baidu.com/item/%E9%97%AB%E6%99%93%E5%B9%B3> (last viewed on 22 January 2021).

⁽⁴⁶⁾ See information on the website of the Ningxia Federation of Industry and Commerce about Ningxia Eppen Biotech of 20 August 2013: http://nxgsl.com/hyzl/hyfc/201308/t20130820_1163706.html (last viewed on 22 January 2021).

⁽⁴⁷⁾ Report – Chapters 14.1 to 14.3.

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

- (73) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being allocated to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽⁴⁸⁾.
- (74) The chemical industry, to which producers of MSG belong, is regarded as an important sector by the GOC. This is confirmed in the numerous plans, directives and other documents pertaining to the chemical sector, which are issued at national, regional and municipal level ⁽⁴⁹⁾.
- (75) More specifically, MSG is also subject in the PRC to specific policy documents pertaining to the deep processing of corn, the latter being one of the key inputs used in its production, through corn starch fermentation (see above, notably recital (64)). In particular, MSG production processes are covered by the provisions of the Grain and Oil Processing 13th Five-Year Plan. These aim to manage various aspects of the corn processing sector (including the MSG subsector), notably with regard to the development of the value chain, supply patterns, technology choice, production localisation, or policy support: *'Speed up the development of grain deep processing: Encourage large-scale processing enterprises to develop innovative grain and oil processing industry models, fully tap the potential value of by-products and extend the industrial chain as much as possible. Support the transfer of fine and deep processing industries such as corn processing to advantageous production areas and key logistics areas and accelerate the depletion of inventories. Develop new derived products from new types of functional starch sugars and new types of enzyme preparations, polyglutamic acid, polylysine and other bulk fermentation products' [...]* *'Corn deep processing industry: Encourage corn deep-processing enterprises to develop new efficient ways of using corn and significantly raise the conversion rate of corn deep processing. [...]* *Actively develop new functional fermented products with a high-tech content such amino acids and nucleosides, new organic acids, starch sugars, polyols, new enzyme preparations, as well as special modified starches used for food, papermaking, textiles, fine chemicals, etc. [...]* *The area covering three north-eastern provinces as well as the Huanghuaihai area and other major producing areas shall increase efforts to promote mergers and reorganization of enterprises producing corn processed starch and starch sugar, alcohol, monosodium glutamate, [...]* *Encourage the activation of idle production capacity through cooperation and joint operation.'* ⁽⁵⁰⁾
- (76) In addition, with regard to inputs, the Commission found that the corn sector is subject to intensive regulation in the PRC. The country holds large amounts of corn stockpiles allowing the government to artificially lower or raise the prices of this commodity by purchasing or selling large amounts of corn on the market. Even though China started tackling the problem of excessive corn reserves in 2016, it still holds very large stockpiles, which have a distortive effect on prices ⁽⁵¹⁾. Furthermore, the government is controlling the various aspects of the entire corn value chain, including subsidies for the production of corn ⁽⁵²⁾ and supervision of the processing operations, as confirmed in this NDRC notice: *'[a]ll local authorities shall expand the monitoring and analysis of the corn supply and demand in the*

⁽⁴⁸⁾ Report – Chapter 4, p. 41-42, 83.

⁽⁴⁹⁾ Report – Chapter 16, pp. 406-424.

⁽⁵⁰⁾ See the 13th Five-Year Plan for Grain and Oil Processing, p. 16 and 22. <http://www.gov.cn/xinwen/2017-01/03/5155835/files/5bd8566b8a254067a076ef41d38ce6b3.doc> (last viewed on 25 January 2021)

⁽⁵¹⁾ Report – Chapter 12, page 319.

⁽⁵²⁾ Information on subsidies available on the Ministry of Agriculture website: http://www.moa.gov.cn/gk/zcfg/qnhnzc/201904/t20190416_6179338.htm

relevant areas, strengthen the supervision of the building phase and post-building phase of corn deep processing projects, foster the balance of corn supply and demand and ensure national food security.’⁽⁵³⁾ Another key policy document of the government⁽⁵⁴⁾ states: ‘Focus on the three main cereals rice, wheat, and corn [...]; Explore the development of a “comprehensive process” social service system and a “comprehensive industry chain” production model; Develop and foster a production level increase over the “whole county”, as well as increase the green and good quality agricultural product supply. Relevant provinces undertaking these tasks shall be supported on the basis of arrangements included in the central government budget forecast.’

(77) The Commission also found that investment control measures are in place in the PRC with regard to corn production: ‘[T]he filing for building corn deep processing projects shall be subject to harmonized management in accordance with the State Council Order No 673.’⁽⁵⁵⁾

(78) State policies interfering with free market forces in the corn sector are also reflected at provincial level. As submitted by the applicant and confirmed by the Commission, Heilongjiang Province issued, in August 2017, a policy document on the management of the corn processing sector, in the form of the *Guiding Opinion on the Development Layout of Corn Deep Processing Industry in Heilongjiang Province*. The latter is addressed ‘To any city (district), county (city), people’s Government (administrative office), and all units under the direct Provincial Government’s authority’, whom should ‘ensure [its] careful implementation’. The Opinion states, in terms of market entry criteria, that ‘newly built corn deep processing projects shall be mainly located in the main corn producing areas’ and that all implementing entities should ‘(e) ncourage the construction of deep processing projects with large processing scale, long industrial chains, as well as space for product market demand; Support in particular newly built corn deep processing projects with an annual corn processing capacity of not less than 600 000 tons; and encourage newly built corn deep processing projects of over 1,2 million tons.’ The document imposes a specific vision of ‘key industry chains’: ‘Projects pertaining to the industry layout shall: primarily focus on the development and production of downstream products related to starch, alcohol and functional product ranges; extend the industry chain, optimize products’ structure, highlight the specialization of different districts and different enterprises; and implement a differentiated development of product functionalities’. For the starch products range, this translates into: ‘Primarily develop special modified starch required by industries such as food, paper, textile, and fine chemicals.’ The Opinion also stipulates rules for the geographical layout of the industrial fabric: ‘Comprehensively take into account factors such as corn production, processing, market and the continuous availability of raw materials to be processed, key guarantees, corn deep processing projects shall be mainly located in 7 areas.’ For example, in the case of one of the said areas, it instructs specifically that: ‘Longjiang, Nehe, Yi’an, Nenjiang and its surrounding Gannan, Lindian, Wudalianchi, Bei’an, Fuyu, Dorbod, Baiquan, Keshan, Tailai, Kedong and other 14 counties (cities) as well as Qiqihar City’s area can provide 8,67 million tons of corn processing volume, deploy 7 projects with a 1,2 million tons of corn deep processing capacity or 14 projects with a 600 000 tons capacity. Encourage the construction of large-scale deep processing projects over 1,2 million tons in this area’. All implementing entities are directed to re-organise the sector as follows: ‘Encourage the merger and reorganization of existing annual corn processing capacities of less than 300 000 tons to improve the market competitiveness of enterprises. As regards the idle corn deep processing capacity in the area, encourage the introduction of powerful enterprises and implement alliances of similar type of products and of upstream and downstream enterprises through mergers and acquisitions and strategic cooperation, etc. [...] Guide enterprises to strengthen marketing, increase market share, and form a number of leading enterprise groups with influence on the industry’. Additionally, in terms of policy measures, the Opinion specifically foresees State support to enterprises fulfilling given financing criteria: ‘Support the financing of enterprises on the stock market, and provide subsidies to corn deep-processing enterprises listed domestically and overseas or on the New Third Board.’⁽⁵⁶⁾

⁽⁵³⁾ See NDRC Notice 2017/627 repealing the ‘NDRC Notice on Matters Concerning the Management of Corn Deep Processing Projects’, available at:

https://www.ndrc.gov.cn/fggz/cyfz/zcyfz/201704/t20170417_1149901.html (last viewed on 25 January 2021).

⁽⁵⁴⁾ See press release: The Ministry of Agriculture and Rural Affairs and the Ministry of Finance released the key policies for strengthen and support agriculture in 2019. 16 April 2019. http://www.moa.gov.cn/gk/zcfg/qnhnzc/201904/t20190416_6179338.htm (last viewed on 25 January 2021).

⁽⁵⁵⁾ See NDRC Notice 2017/627.

⁽⁵⁶⁾ See notice of General Office of the People’s Government of Heilongjiang Province of 1 August 2017. <http://ydscl.cn/goods.php?id=1271> (last viewed on 26 January 2021).

- (79) Additionally, the Commission found that local authorities in Heilongjiang were supporting, coordinating and supervising (including by means of sanctions) the establishment and functioning of at least one industrial park engaged in corn processing activities. ⁽⁵⁷⁾
- (80) The Commission also made findings with regard to State interference in the sector of ammonia – another raw material used in the production of MSG. In the national 13th Five Year Plan (FYP) for the Petrochemical and Chemical Industry, the Chinese government has set annual targets for ammonia production by promoting ‘sets of technology and equipment ensuring a yearly production exceeding 1 million tonnes of synthetic ammonia and synthetic methanol.’ ⁽⁵⁸⁾ Such supply-side interference is further reflected in similar policies by local authorities. The Hebei Province Petrochemical 13th FYP instructs notably to ‘focus on fostering the building of the second-phase of the Cangzhou Zhengyuan 600 000 tons ammonia facility’ ⁽⁵⁹⁾. Furthermore, the industrial provinces of Chongqing and Zhejiang were found to offer preferentially lower electricity prices for the manufacturing of, notably, synthetic ammonia. ⁽⁶⁰⁾
- (81) As stated above in the footnote of recital (64), coal is usually another key input in the production process of MSG in the PRC (in relation to the provision of energy in the manufacturing process). As found by the Commission in its Report, energy prices in China are not market-based. In particular, the coal market is subject to distortions, notably as a result of subsidisation ⁽⁶¹⁾. Furthermore, the Commission found that public authorities interfere with market forces in the coal sector at provincial level, notably in Shandong Province, by means of planning documents regulating the supply, localisation and industrial patterns. One such document is the *Shandong Province’s Energy Medium and Long Term Development Plan*, released in 2016 and covering a period until 2030. The Plan’s ideological motivation to manage the market is visible notably through its guiding principle to ‘(t)horoughly implement the spirit of the 18th National Congress of the Communist Party of China and its third, fourth, fifth and sixth plenary sessions; Earnestly implement the General Secretary Xi Jinping’s series of important speeches as well as the speeches he gave while inspecting Shandong.’ It also acknowledges the centralised character of the energy market’s functioning until recently, as one of the stated Plan’s aims is to ‘promote the transformation of the fully centralised energy supply pattern towards a centralised and decentralized pattern.’ The document’s provisions aim notably at regulating the specific localisation and development patterns for the coal industry ⁽⁶²⁾. Regarding coal-generated power, the document instructs, among others, to: ‘(f)ocus on planning and building mega-kilowatt high-efficiency ultra-supercritical coal power-plants projects, and build an ecological coal-fired power-plant cluster in the Northern coastal area’ and ‘plan the construction of an integrated coal-electricity
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- ⁽⁵⁷⁾ ‘Within three years, the Heilongjiang Province, Jixi City, Mishan National Rural Industry Integration Development and Demonstration Park was set up as a Park with distinctive industry characteristics, a high degree of concentration, advanced facilities and equipment, green production methods, obvious economic benefits and a strong impact. [...] Organizational measures: Mishan City set up a small leading group composed of the Secretary of the Municipal Party Committee and the Mayor as the group leaders, the Deputy Secretary of the Municipal Party Committee and the Deputy Mayor as the Deputy Leaders, and the main leaders of various Departments. The group is in charge of promoting the demonstration park construction work, of coordinating and solving the problems encountered during the Park’s construction in due time and of ensuring the smooth progress of the demonstration park construction. At the same time, the demonstration park construction shall undergo a performance appraisal, covering the department’s key promotion work, incentives and advancement, as well as the strict reward and punishment system. As regards departments and entities providing a weak implementation of the project, poor thinking and slow promotion work, they shall undergo supervision. [...] Strengthen policy support: In 2017, Mishan City issued investment promotion support policies, actively carried out tax policy support for relevant enterprises, such as “three exemptions, three reductions” and tariff exemption, and introduced and implemented relevant national support policies regarding taxation, land use, hydropower financing, etc., hydropower prices for agricultural use and preferential supply of new construction land. Mishan City has purchased and reserved 157 hectares of land, and still has 81 hectares of land that can be used for the construction of demonstration parks.’ Excerpt from the NDRC website: *Experience and Practice of the National Rural Industry Integration Development and Demonstration Park (Heilongjiang) – Jixi Mishan Demonstration Park (Part 1)*. 26 July 2019. https://www.ndrc.gov.cn/fggz/nyncj/njxx/201907/t20190726_1144182.html (last viewed on 25 January 2021).
- ⁽⁵⁸⁾ Report – Chapter 16, p. 411.
- ⁽⁵⁹⁾ Report – Chapter 4, p. 69.
- ⁽⁶⁰⁾ Report – Chapter 10, p. 223.
- ⁽⁶¹⁾ Report – Chapter 10.
- ⁽⁶²⁾ ‘Rely on coal “backbone enterprises” to form a “1 + 5” coal development pattern: “1” being a coal-producing area in the west of Luxi: In accordance with the principle of “withdrawing from the Eastern areas, shrinking in the Central areas, stabilizing in the Western areas and keeping reserves in the Northern areas”, shrink and close Longkou, Zibo, Linyi, Jinan and other outdated mining areas with depleted resources, reduce mining volumes in Yanzhou, Jining, Zaozeng, Feicheng, Xinwen, Laiwu and other mining areas, keep Juye’s coal production basically stable and implement strategic reserves and strict control of development and construction in coal fields and areas with concentrated and unexploited coal resources located along the northern part of the Yellow River. “5” means to steadily promote the construction of overseas coal bases in addition to the five main areas that are: Ning (Inner Mongolia), Shanxi, Guizhou (Yunnan), Xinjiang and Australia and improve their development level.’

development base in Southwest Shandong'. In the frame of the document, a specific Coal Transformation and Development Action Plan instructs to pursue the following industrial development and construction patterns, without regard to the free play of market forces and free corporate decision-making: 'Orderly digest and transfer the Province's excessive production capacity and labour force; Continue to improve and strengthen the foundations of the two large enterprise groups Shandong Energy and Yankuang; Accelerate and promote the merger and reorganization of local coal mining enterprises, improve the industry's concentration level, foster the transformation of the development pattern from a pattern based on quantity and speed towards a pattern based on quality and benefit. [...] Focus on the construction of coal-power integrated projects outside the province in Inner Mongolia, Shaanxi, Xinjiang, etc.' ⁽⁶³⁾

- (82) This involvement of the government and local authorities across the entire MSG value chain has, at least potentially, a distortive effect on prices.
- (83) The GOC steers the development of the MSG sector in accordance with a broad range of tools, for example by providing State subsidies. The 2019 Annual report of the exporting producer Meihua confirms that the company received in 2018 at least RMB 130 million of government subsidies ⁽⁶⁴⁾. In the case of Ningxia Eppen, the company's 2018 Audit report showcases governmental subsidies of RMB 62,3 million received in 2017 ⁽⁶⁵⁾. Moreover, that year, Ningxia Eppen appears to have received an allocation of RMB 200 000 to establish a Party-building demonstration site ⁽⁶⁶⁾.
- (84) In addition, the Commission found that the PRC has started applying in recent years a VAT reduction of 13 % on exports of MSG, which currently results in a full VAT exemption on these exports. This also results in a cost incentive for Chinese operators in the MSG market ⁽⁶⁷⁾.
- (85) Through these and other means, the MSG sector and sectors producing raw materials used to manufacture MSG are subject to governmental intervention, with the GOC directing and controlling virtually every aspect in the development and functioning of the MSG value chain.
- (86) In sum, the GOC has measures in place to induce operators to comply with public policy objectives, including the producers of MSG and of the inputs used in the manufacturing of MSG. Such measures impede market forces from operating freely.

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

- (87) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁶⁸⁾.

⁽⁶³⁾ See <http://www.energynews.com.cn/uploadfile/2016/1220/20161220020713472.pdf> (last viewed on 27 January 2021).

⁽⁶⁴⁾ See the company's 2019 annual report: http://pdf.dfcfw.com/pdf/H2_AN202004151378041301_1.pdf, p. 167 (last viewed on 26 January 2021).

⁽⁶⁵⁾ See http://pdf.dfcfw.com/pdf/H2_AN201905051326655801_1.pdf, p. 70 (last viewed on 26 January 2021).

⁽⁶⁶⁾ Ibid, p. 68.

⁽⁶⁷⁾ See the websites http://transcustoms.com/China_HS_Code/China_Tariff.asp?HS_Code=2922422000 and <http://www.hlbrdaily.com.cn/news/3/html/286480.html> (last viewed on 26 January 2021).

⁽⁶⁸⁾ Report – Chapter 6, p. 138-149.

- (88) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC ⁽⁶⁹⁾. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁷⁰⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁷¹⁾.
- (89) Much like other sectors in the Chinese economy, the producers of MSG are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies are also subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. The present investigation revealed nothing that would call those findings into question. As such, the Commission preliminarily concluded that the Chinese bankruptcy and property laws do not work properly, thus generating distortions when maintaining insolvent firms afloat and when allocating land use rights in the PRC. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the MSG sector and the sectors manufacturing the raw materials used to produce the product under review.
- (90) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the chemical and corn processing value chains, including with respect to the product under review.

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

- (91) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining ⁽⁷²⁾. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ⁽⁷³⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ⁽⁷⁴⁾. Those findings lead to the distortion of wage costs in the PRC.
- (92) No evidence was submitted to the effect that companies producing MSG or related inputs would not be subject to the Chinese labour law system described. The MSG sector is thus affected by the distortions of wage costs both directly (when the product under review is manufactured) as well as indirectly (when MSG producers have access to capital or inputs from companies subject to the same labour system in the PRC).

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

- (93) Access to capital for corporate actors in the PRC is subject to various distortions.

⁽⁶⁹⁾ Report – Chapter 9, p. 216.

⁽⁷⁰⁾ Report – Chapter 9, p. 213-215.

⁽⁷¹⁾ Report – Chapter 9, p. 209-211.

⁽⁷²⁾ Report – Chapter 13, p. 332-337.

⁽⁷³⁾ Report – Chapter 13, p. 336.

⁽⁷⁴⁾ Report – Chapter 13, p. 337-341.

- (94) Firstly, the Chinese financial system is characterised by the strong position of State-owned banks ⁽⁷⁵⁾, which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP) ⁽⁷⁶⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ⁽⁷⁷⁾. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷⁸⁾.
- (95) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.
- (96) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ⁽⁷⁹⁾.
- (97) These issues are compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁸⁰⁾. This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (98) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (99) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government-induced distortions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (100) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the GOC has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (101) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets.
- (102) No evidence was submitted to the effect that the MSG sector would be exempted from the above-described government intervention in the financial system. The Commission has also established that leading producers of MSG benefited from government subsidies (see recital (83)). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

⁽⁷⁵⁾ Report – Chapter 6, p. 114-117.

⁽⁷⁶⁾ Report – Chapter 6, p. 119.

⁽⁷⁷⁾ Report – Chapter 6, p. 120.

⁽⁷⁸⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

⁽⁷⁹⁾ See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan, October 2016, WP/16/203.

⁽⁸⁰⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

3.2.3.9. Systemic nature of the distortions described

- (103) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.3.2 to 3.2.3.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.2.3.6 to 3.2.3.8 above and in Part B of the Report.
- (104) The Commission recalls that in order to produce MSG a range of inputs is needed. In that respect, the PRC is one of the major producers of corn – the key raw material in the MSG production process (see recital (64)). When the producers of MSG purchase/contract these inputs in the PRC, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (105) As a consequence, not only the domestic sales prices of MSG are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

3.2.3.10. Conclusion

- (106) The analysis set out in Sections 3.2.3.2 to 3.2.3.9, which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the MSG sector and related supply chain showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (107) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section.

3.2.4. Representative country

3.2.4.1. General remarks

- (108) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ⁽⁸¹⁾,
 - Production of the product under review in that country,

⁽⁸¹⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>

- Availability of relevant public data in the representative country,
- Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(109) As explained in recitals (40) and (41), the Commission issued two notes for the file available to interested parties on the sources for the determination of the normal value, filed on 21 February 2020 ('first note on production factors') and 8 April 2020 ('the second note on production factors') respectively. In the latter note, the Commission informed interested parties of its conclusion that Thailand was an appropriate representative country in the present case if the application of the methodology under Article 2(6a) of the basic Regulation would be confirmed.

3.2.4.2. Production of the product under investigation in the representative country and level of economic development similar to the PRC

(110) In the first note on production factors, the Commission indicated that, among the countries with a similar level of economic development as the PRC according to the World Bank, i.e. those classified by the World Bank as 'upper-middle income' countries on a gross national income basis, production of the product under review was known to take place in Argentina, Brazil, Fiji, Iran, Jamaica, Malaysia, Mauritius, Mexico, Peru, South Africa, Thailand and Turkey. No comments were received concerning the level of economic development and production of the product under investigation in the potential representative countries following that note.

3.2.4.3. Readily available data in the representative country

(111) The Commission could identify MSG producing companies whose financial data were readily available and who thus could be considered suitable for the purpose of Article 2(6a)(a) of the basic Regulation only in two of the countries identified by the Commission as potential representative countries, i.e. in Thailand and Malaysia.

(112) However, as stated in the second note on production factors, only one company producing MSG was identified in Malaysia: Ajinomoto Malaysia Bhd, which produced other food products and additives as well. In Thailand, five companies were identified, namely Ajinomoto Co., (Thailand) Ltd., Thai Fermentation Industry Co Ltd. (Racha Churos), Thai Churos, Thai Foods International Co. Ltd. and KT MSG. All of these companies were producing MSG and other food products or additives. However, two of them, Thai Fermentation Industry Co Ltd. (Racha Churos) and Thai Churos, appeared to produce mainly MSG and a limited range of other products. On that basis, the Commission concluded that the publicly available financial data found in Thailand would be representative and accurate for the assessment of an undistorted and reasonable amount for SG&A for this investigation.

(113) The Commission carefully analysed all relevant data available in the file for the factors of production in Thailand and noted the following:

- The Commission analysed the import statistics of all factors of production listed in the first note on production factors, as updated by the second note on production factors, and concluded that there were imports of all the factors of production necessary for the production of the product under investigation in the RIP.
- Energy statistics (industrial prices for electricity) for the RIP were readily available in the form of data provided by the Provincial Electricity Authority and published by the Thailand Board of Investment ⁽⁸²⁾.
- The source for labour cost are the statistics available on the website of the International Labour Organisation ('ILO') on average monthly wages in the manufacturing sector and weekly hours worked in Thailand ⁽⁸³⁾.

⁽⁸²⁾ https://www.boi.go.th/index.php?page=utility_costs

⁽⁸³⁾ https://ilostat.ilo.org/?_afLoop=767707374397500&_afWindowMode=0&_afWindowId=null

- (114) According to Article 2(6a)(a) of the basic Regulation, the constructed normal value shall include an undistorted and reasonable amount for SG&A and for profits. In addition, a value for manufacturing overheads needs to be established to cover costs not included in the factors of production. As aforementioned in the recital (112), the Commission concluded that five companies in Thailand, namely Ajinomoto Co. (Thailand) Ltd.; Thai Fermentation Industry Co Ltd. (Racha Churos); Thai Churos; Thai Foods International Co. Ltd. and KT MSG had readily available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for SG&A and profits.
- (115) Having established that Thailand was an appropriate representative country on the basis of these elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

3.2.4.4. Conclusion on representative country

- (116) In view of the above analysis, Thailand met all the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country. In particular, Thailand has a substantial production of the product under investigation and a complete set of data readily available for all factors of production, SG&A and profit.

3.2.5. Sources used to establish undistorted costs and benchmarks

- (117) In the second note on production factors, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it intended to use GTA ⁽⁸⁴⁾ to establish the undistorted cost of all the raw materials included in the factors of production in the representative country and the statistics of the ILO and national statistics to establish the undistorted costs of labour in the representative country. The Commission also stated that it intended use for the electricity costs the rates applicable by the Provincial Electricity Authority of Thailand. For the water cost, the Commission intended to use tariffs applicable by the Thailand's Metropolitan Waterworks Authority. Also, the financial data from five companies Ajinomoto Co. (Thailand) Ltd.; Thai Fermentation Industry Co Ltd. (Racha Churos); Thai Churos; Thai Foods International Co. Ltd. and KT MSG, would be used to establish SG&A costs and profits.

3.2.6. Factors of production

- (118) In order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation the Commission analysed all the available data for the factors of production and decided to use the following values:

Table 1

Factors of production of MSG

| Factor of production | Commodity code | Unit of measurement | Undistorted value |
|---------------------------------|-----------------|---------------------|-------------------|
| Raw materials | | | |
| Corn | 1005 90 90 00 2 | KG | 1,59 CNY/kg |
| Enzymes | 3507 | KG | 73,81 CNY/kg |
| Anhydrous ammonia | 2814 10 | KG | 1,97 CNY/kg |
| Oxygen-function amino-compounds | 2922 49 | KG | 57,89 CNY/kg |
| Sulphuric acid | 2807 0000 10 2 | KG | 0,49 CNY/kg |
| Phosphoric Acid | 2809 20 32 | KG | 7,89 CNY/kg |

⁽⁸⁴⁾ <http://www.gtis.com/gta/secure/default.cfm>

| | | | |
|--------------------------------------|--|-----|--------------------|
| Sodium hydroxide in aqueous solution | 2815 12 | KG | 2,30 CNY/kg |
| Sodium bicarbonate | 2836 30 | KG | 3,20 CNY/kg |
| Disodium phosphate | 2835 22 00 | KG | 7,4 CNY/kg |
| Activated Carbon | 3802 10 00 00 0 | KG | 25,75 CNY/kg |
| Liquid oxygen | 2804 40 | KG | 1,06 CNY/kg |
| Energy/Consumable Items | | | |
| Oil | 2710 19 | L | 3,35 CNY/L |
| Rice Husk | 1213 00 | KG | 3,91 CNY/kg |
| Electricity | Provincial Electricity Authority of Thailand | KWH | 0,71 CNY/kWh |
| Labour | | | |
| Direct Labour | International Labour Organization – ILOSTAT | HRS | 17,13 CNY/hour |
| By product/waste | | | |
| Liquid Fertilizer | 3105 | KG | 2,64 (neg.) CNY/kg |

(119) The Commission included a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount use was made of the data provided in the request, notably the data from Ajinomoto's Thai KKP plant. The methodology is duly explained in recitals (127) and (128).

3.2.6.1. Raw materials

(120) The cost structure of MSG is mainly determined by the costs of the raw materials, especially the sugar source and various chemicals (mainly carbonates) as well as energy.

(121) In order to establish the undistorted price of raw materials, the Commission relied on import prices to the representative country as reported in GTA to which import duties were added. In order to establish the normal value according to the Commission's methodology, domestic transport costs should normally be added to these import prices. However, considering the finding in recital (133), that no domestic transport costs were available due to the non-cooperation of the exporter/producers in the PRC, as well as the nature of this expiry review investigation, which is focused on finding whether dumping continued during the review investigation period rather than finding its exact magnitude, the Commission decided that adjustments for domestic transport were unnecessary, as such adjustments would only result in increasing the normal value and hence of the dumping margin.

(122) The import price of each factor of production in the representative country was determined as a weighted average of the unit import prices of that factor of production from all third countries excluding the PRC and countries that were not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council⁽⁸⁵⁾. The Commission decided to exclude imports from the PRC into the representative country as it concluded in recital (106) that it is not appropriate to use domestic prices and costs in the PRC due to the existence

⁽⁸⁵⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value and, in any event, such import data was negligible.

of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there was no evidence available showing that the same distortions did not equally affect products intended for export, the Commission considered that the same distortions affected export prices.

3.2.6.2. Labour

- (123) The ILO publishes detailed information on wages in different economic sectors in Thailand. The Commission used the latest available ILO statistics on monthly wages in the manufacturing sector and weekly hours worked in Thailand for the review investigation period ⁽⁸⁶⁾.

3.2.6.3. Electricity

- (124) The price of electricity for companies (industrial users) in Thailand is published by the Thailand Board of Investment. The Commission used the rates applicable to Large General Service companies, as applied by the Provincial Electricity Authority and published by the Thailand Board of Investment ⁽⁸⁷⁾.

3.2.6.4. Consumables/negligible quantities

- (125) Due to the large number of factors of production, some of the raw materials that only had a negligible (i.e. less than 0,5 %) weight in the total cost of production were grouped under consumables.
- (126) The Commission calculated the percentage of the consumables on the total cost of raw materials provided in the request, notably the data from Ajinomoto's Thai KKP plant, and applied this percentage to the recalculated cost of raw materials when using the established undistorted prices.

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

- (127) According to Article 2(6a)(a) of the basic Regulation, *'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'*. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production.
- (128) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese exporting producers/producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data provided in the request, notably the data from Ajinomoto's Thai KKP plant, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.
- (129) For establishing an undistorted and reasonable amount for SG&A and profit the Commission relied on the financial data from five companies in the representative country Thailand mentioned in the recital (117); namely Ajinomoto Co. (Thailand) Ltd.; Thai Fermentation Industry Co Ltd. (Racha Churos); Thai Churos; Thai Foods International Co. Ltd. and KT MSG as extracted from the databases of Orbis Bureau van Dijk ⁽⁸⁸⁾ ('Orbis'). As indicated in the second note on production factors, the data of Ajinomoto Co. (Thailand) Ltd. covered the financial year April 2018 to March 2019. The latest financial data for the other four companies covered the financial year January to December 2018. The turnover of Ajinomoto Co. (Thailand) Ltd. represented more than 80 % of the total turnover of the five companies, thus the data that partially covers the RIP has a very significant weight on the average SG&A and profit used in this investigation. The inclusion of the data of other companies, whilst covering the period just before the RIP, was considered representative in the absence of evidence to the contrary. No comments on this approach as outlined in the second note on production factors were received. The Commission believed this approach to be

⁽⁸⁶⁾ https://ilostat.ilo.org/?_afrLoop=767707374397500&_afrWindowMode=0&_afrWindowId=null

⁽⁸⁷⁾ https://www.boi.go.th/index.php?page=utility_costs

⁽⁸⁸⁾ <https://orbis4.bvdinfo.com/version-201866/orbis/Companies>

appropriate in these circumstances, considering that the SG&A and profit of Ajinomoto Co. (Thailand) Ltd. (both 16 %) was in line with the average used and listed in recital (132) reflecting the data of the other companies for which data was available until the end of 2018. In any event, either data set would have demonstrated a high dumping margin and, considering that the investigation concerned is an expiry review, there is no need to establish a precise dumping margin. In January 2021, the Commission consulted the Dun & Bradstreet ('D&B') ⁽⁸⁹⁾ database to check whether the financial data of all five companies was updated. The only update found was for Ajinomoto Co. (Thailand) Ltd. for period April 2019 to March 2020, however the data set was incomplete as it did not include the net profit. The original set of data that was disclosed in the second note on production factors was therefore used.

3.2.7. Calculation

(130) On the basis of the above, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. Given the non-cooperation of the exporting producers/producers in China and the fact that therefore no information on the product types sold on the domestic market was available normal value was not established on a per-type basis.

(131) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the Chinese exporting producers/producers, the Commission relied on the information provided by the applicant in the request based on the cost structure and relevant technical production ratios of its production plants adapted to the main sugar sources (corn starch) used in China on the usage of each factor (materials and labour) for the production of MSG. The Commission multiplied the usage factors by the undistorted costs per unit observed in the representative country Thailand.

(132) The Commission then applied the ratio of manufacturing overheads established as explained in recital (128) to the undistorted manufacturing costs. For SG&A and profit, the Commission used the weighted average of SG&A and profit recorded in the publicly available financial statements of the five identified producers of MSG in Thailand as explained in recital (129). Thus, the Commission added the following items to the undistorted cost of manufacturing:

- Manufacturing overheads which accounted for [5 – 10 %] of the total manufacturing costs as explained in recital (128),
- SG&A of 16 %, applied to the sum of costs of manufacturing and manufacturing overheads, and
- A profit of 18 %, applied to the sum of costs of manufacturing and manufacturing overheads.

3.2.8. Export price

(133) Because of the non-cooperation by the exporting producers/producers in the PRC, export prices to the Union were established on the basis of the facts available in accordance with Article 18 of the basic Regulation. The Commission established the export price based on the available statistics, namely the Comext database (Eurostat). Since the prices in Comext are recorded at Cost, Insurance, and Freight ('CIF') level, the ex-works level was established based on the evidence provided in the request for expiry review for transport cost, handling, ocean freight and insurance.

3.2.9. Comparison and dumping margin

(134) The Commission compared the constructed normal value in accordance with Article 2(6a)(a) of the basic Regulation with the export price as established above. On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price from the Comext database, duty unpaid, was 112,8 %.

3.2.10. Conclusion

(135) The Commission therefore concluded that dumping from the PRC continued during the review investigation period.

⁽⁸⁹⁾ <https://ec.altares.eu/>

3.3. Indonesia

- (136) For the review investigation period, the statistical data from Eurostat show that 5 535 tonnes of MSG were imported from Indonesia, representing [5 – 10]% of the market share in the Union. The Commission concluded that such volume of imports is sufficiently representative to examine whether dumping continued during the review investigation period.

3.3.1. Normal value

- (137) Due to the lack of cooperation from the Indonesian exporting producers, the Commission used facts available for establishing normal value, in accordance with Article 18 of the basic Regulation. In this regard, the Commission used the information provided by the group of cooperating Indonesian producers.
- (138) Normal value was thus based on the domestic sales prices provided by the group of cooperating Indonesian producers. Due to the lack of cooperation from the Indonesian exporting producers, no detailed export prices per product type were available. Consequently, it was not possible to perform a detailed ordinary course of trade test as set out in Articles 2(4) to 2(6) of the basic Regulation. The Commission established that the average domestic sales price was profitable, i.e. above the average cost of production established for the group of cooperating Indonesian producers. Therefore, normal value was based on the average domestic sales price of all domestic sales of the cooperating group of Indonesian producers.
- (139) The investigation also revealed that MSG was sold in bulk and for retail. The applicant provided information that MSG in bulk (i.e. on sales in packaging sizes of 20 kg and more) represented the vast majority of the export sales to the Union, while sales on the domestic market in Indonesia were made both in bulk and for retail (sales in small consumer packages).
- (140) The data submitted by the group of cooperating Indonesian producers confirmed that MSG in bulk was sold on the Indonesian domestic market at prices below the cost of production and showed that there was a consistent price difference between sales in bulk and for retail.
- (141) Therefore, for the sake of completeness and to ensure a fair comparison between normal value and the export price, the Commission also calculated an alternative normal value based on domestic sales in bulk only that could be compared to the export sales prices predominantly in bulk. As above, sales prices of MSG in bulk were based on the information provided by the group of cooperating Indonesian producers. Since domestic sales in bulk were made below the average cost of production, the Commission constructed normal value following Article 2(3) and (6) of the basic Regulation by adding the weighted average SG&A expenses and profit incurred by the group of cooperating Indonesian producers on all domestic sales of MSG (bulk and retail), during the review investigation period. In the absence of any other information available, it was considered the most appropriate source of information and reasonable.

3.3.2. Export price

- (142) In the absence of cooperation of Indonesian exporting producers, the export price was determined based on Comext (Eurostat) data, in accordance with Article 18 of the basic Regulation. Since the prices in Comext are recorded at CIF level and the group of cooperating Indonesian producers did not export to the Union, the ex-works level was established based on the evidence provided in the request for expiry review for transport and insurance costs from Indonesia to the Union border.

3.3.3. Comparison and dumping margin

- (143) The Commission compared the normal value under the two different scenarios described above with the export price as established above. On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was:

— 87,03 %, when calculated on the basis of all domestic sales of MSG in Indonesia as described in recital (138),

— 44,26 %, when calculated on the basis of constructed normal value as described in recital (141).

3.3.4. Conclusion

(144) The Commission therefore concluded that dumping from Indonesia continued during the review investigation period.

4. LIKELIHOOD OF CONTINUATION OF DUMPING

4.1. PRC

(145) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of continuation of dumping should the measures be repealed with regard to imports from the PRC. As a consequence of the non-cooperation of exporting producers/producers in the PRC, the Commission based its assessment on the facts available in accordance with Article 18 of the basic Regulation, namely on findings of the previous expiry review mentioned in recital (2), on information provided in the request for review, publicly available information, Comext (Eurostat) and GTA. The following elements were analysed: the production capacity and spare capacity in the PRC, export prices to third country markets, the attractiveness of the Union market and circumvention practices.

4.1.1. Production capacity and spare capacity in the PRC

(146) Due to the absence of cooperation, the Commission had to base its assessment on the facts available in accordance with Article 18 of the basic Regulation, notably on the information provided in the request and the findings of the previous expiry review, as well as other public sources as detailed in recital (149).

(147) Production capacity of MSG in China has increased continuously since 2015, according to the information provided by the applicant. Since 2013, due to strengthened environmental protection laws, smaller MSG producers in China moved out of the MSG market, while larger producers expanded their facilities and increased production capacity by [10-30] %, reaching [3 500 000-4 000 000] tonnes, between 2016 and 2018. During the same period, total spare capacity increased by [100-130] %. As of 2018, unused capacity among the active MSG producers in the PRC was estimated to be [twelve to fifteen] times the size of Union consumption in the review investigation period.

(148) Furthermore, several publicly available articles ⁽⁹⁰⁾ based on market reports, confirm the rapid increase in Chinese production volumes. Based on this publicly available information several leading MSG producers in the PRC increased their capacity since 2015.

(149) Other publicly available information ⁽⁹¹⁾ indicated that Fufeng Group, one of the leading MSG producers in the PRC and the main exporter to the Union according to the applicant, increased its production capacity by 41 %, from 940 000 tonnes in 2015 to 1 330 000 tonnes in 2019. At the same time, its capacity utilisation dropped to 80 %. This means that a single Chinese producer's spare capacity in 2019 amounted at 266 000 tonnes, that is more than [two to four] times the total Union consumption during the same period.

(150) Considering that there are several other MSG producers in the PRC with comparable size as Fufeng Group above, it is reasonable to conclude that there is a significant overcapacity in the PRC.

⁽⁹⁰⁾ <https://www.prnewswire.com/news-releases/global-monosodium-glutamate-msg-market-2019-2024-key-players-growth-price-demands-and-forecasts—reportsnreports-300795733.html>
<https://ihsmarkit.com/products/monosodium-glutamate-chemical-economics-handbook.html#:~:text=Currently%2C%20China%20is%20the%20world's,world's%20largest%20exporter%20of%20MSG>
<https://ihsmarkit.com/products/monosodium-glutamate-chemical-economics-handbook.html#:~:text=Currently%2C%20China%20is%20the%20world's,world's%20largest%20exporter%20of%20MSG>

⁽⁹¹⁾ <http://en.fufeng-group.cn/investor/>

4.1.2. Attractiveness of the Union market, export prices to third country markets and circumvention

- (151) The Commission examined whether it is likely that Chinese exporting producers would increase their export sales to the Union at dumped prices should measures be allowed to lapse. Therefore, the Commission examined the price levels of the Chinese exporting producers to the Union as compared to other third country markets, in order to determine whether the Union market was attractive in terms of price levels.
- (152) In the absence of cooperation, the Commission used Eurostat and GTA statistics. It was found that the average Chinese export price to the Union was only marginally lower than the overall average Chinese export price to other third country markets. Given that, as explained the recital (221) Chinese import prices to the EU (without anti-dumping duty) significantly undercut the Union industry prices during the RIP, it is highly likely that, should the measures be allowed to lapse, the Union market would be more attractive for Chinese exporters than other third country markets. This is because, without duties, the Chinese exporters could export to the Union at prices higher than those to other third country markets but still below the Union industry's prices.
- (153) It was also found that, despite the anti-dumping measures in force, imports from China remained relatively stable both in terms of volume and market share, representing [4 – 7 %] market share during the review investigation period (out of which more than half were under inward processing see Section 5.3.2 below). In addition, as explained in recitals (8) and (9) Chinese exporting producers have been found to circumvent the anti-dumping measure in force by exporting a slightly modified product (MSG in mixture and solution). The circumvention practices show the interest of the Chinese exporting producers in accessing the Union market without restrictions and thus the attractiveness of the Union market for Chinese exports.
- (154) Based on the significant overcapacity in the PRC and the attractiveness of the Union market for Chinese exporting producers, as evidenced by the third country export prices and circumvention practices, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase of dumped exports.

4.1.3. Conclusion on the likelihood of continuation of dumping

- (155) In view of its findings on the continuation of dumping during the RIP and on the likely development of exports should the measures lapse as explained in recital (154), the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures on imports from the PRC would result in the continuation of dumping.

4.2. Indonesia

- (156) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of continuation of dumping, should the measures be repealed. As a consequence of the non-cooperation of exporting producers in Indonesia, the Commission based its assessment on the facts available in accordance with Article 18 of the basic Regulation, notably on the information provided in the request and statistics available, namely those from Eurostat and GTA. The following elements were analysed: the production capacity and spare capacity in Indonesia, the domestic market situation in Indonesia, the export prices to other third country markets and the attractiveness of the Union market.

4.2.1. Production capacity and spare capacity in Indonesia

- (157) Given the large non-cooperation of the Indonesian exporting producers, production capacity and spare capacity in Indonesia were established on the basis of facts available and in particular the information provided by the applicant, in accordance with Article 18 of the basic Regulation.

- (158) The production capacity in Indonesia substantially exceeded the production volumes. According to the request, the production capacity of MSG amounted to around 240 thousand tonnes between July 2018 – June 2019, while the production volumes amounted to around 200 thousand tonnes in the same period. Therefore, the capacity utilisation reached around 85 % amounting to an estimated spare capacity of around 35 thousand tonnes, representing [zero to two] times the size of the total Union consumption during the review investigation period.
- (159) Based on the above, the Commission concluded that the Indonesian exporting producers have significant spare capacity, which they could use to produce MSG for export to the Union market if measures were allowed to lapse.

4.2.2. Market situation in Indonesia

- (160) According to GTA statistics exports of MSG from China to Indonesia increased by 71 % between 2016 and 2019, from 26 668 tonnes to 45 498 tonnes in 2019. During the same period, MSG prices from China to Indonesia decreased by over 8 %, from 949 EUR/tonne in 2016 to 874 EUR/tonne in 2019.
- (161) The rising levels of low-priced imports from China made it increasingly difficult for Indonesian producers to sell MSG on their domestic market and/or to cover their costs of production through domestic sales. During the investigation, this could also be observed at the level of the group of cooperating Indonesian producers that were selling MSG in bulk below cost, as explained in recital (139). Such situation is strengthening the Indonesian producers' incentive to increase their export sales to third countries, including the Union, to absorb at least the fixed cost of production.

4.2.3. Attractiveness of the Union market and export prices to third country markets

- (162) The investigation found that Indonesian market share remained representative during the whole period considered and it was [5 – 9] % during the review investigation period, despite the anti-dumping measures in force. This shows clearly the attractiveness of the Union market to the Indonesian MSG producers.
- (163) The Commission examined whether it is likely that Indonesian exporting producers would increase its export sales to the Union at dumped prices should measures be allowed to lapse. Therefore, the Commission examined the price levels of the Indonesian exporting producers to the Union as compared to other third country markets, in order to determine whether the Union market was attractive in terms of price levels.
- (164) In the absence of cooperation from the Indonesian exporting producers, the comparison of Indonesian export prices to the Union with Indonesian export prices to other export markets during the review investigation period was based on data from GTA. On that basis, the average Indonesian FOB export sale price to the Union was slightly higher (by 1,6 %) than the overall average Indonesian export sale price to other third country markets. Although, prices were only slightly higher to the Union, the constant and still significant market share of Indonesian exports in the Union confirm that price levels to the Union were attractive. In addition, considering that FOB prices recorded in GTA do not include the anti-dumping duties (which are between 7,2 % and 28,4 % for Indonesian exporting producers) the price level to the Union would clearly be attractive for the Indonesian exporters should the duties lapse, as it would allow them to increase their export prices. Under this scenario, the Union market would generate a more lucrative price level than other third markets and therefore there would be a high incentive to increase exports to the Union.
- (165) Based on the substantial excess capacity of the Indonesian producers, the domestic market situation in Indonesia and the attractiveness of the Union market for Indonesian exporting producers, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase of dumped exports.

4.2.4. Conclusion on the likelihood of continuation of dumping

- (166) In view of its findings on the continuation of dumping during the RIP and on the likely development of exports should the measures lapse as established in recital (165), the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures on imports from Indonesia would result in the continuation of dumping.

5. INJURY

5.1. Definition of the Union industry and Union production

- (167) The like product was manufactured by one producer in the Union during the period considered. It constitutes the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

5.2. Union consumption

- (168) The Commission established the Union consumption by adding the Union industry's sales on the Union market to the imports from the PRC, Indonesia and other third countries, based on Eurostat.

- (169) Union consumption developed as follows:

Table 2

Union consumption (in tonnes)

| | 2016 | 2017 | 2018 | Review Investigation Period |
|---|-------------------|-------------------|-------------------|-----------------------------|
| Free market | [48 170 – 78 448] | [49 430 – 80 501] | [46 745 – 76 127] | [45 712 – 74 445] |
| <i>Index (FY2016 = 100)</i> | 100 | 103 | 97 | 95 |
| Captive market | [78 – 127] | [104 – 169] | [125 – 204] | [190 – 310] |
| <i>Index (FY2016 = 100)</i> | 100 | 134 | 161 | 245 |
| Captive consumption v Free market consumption | 0,16 % | 0,21 % | 0,27 % | 0,42 % |

Source: Questionnaire reply, Eurostat

- (170) The Union consumption on the free market slightly increased between 2016 and 2017 before decreasing towards the end of the review investigation period. Overall, the Union consumption on the free market decreased by 5 % over the period considered.

- (171) There is also a very small captive consumption in the Union representing less than 0,5 % of the consumption of the free market during the entire period considered. The captive consumption increased by 145 % over the period considered.

5.3. Imports from the countries concerned

5.3.1. Volume and market share of the imports from the countries concerned

- (172) The Commission established the volume and market share of imports on the basis of Eurostat.

- (173) Imports from the countries concerned and their market share developed as follows:

Table 3

Import volume (in tonnes) and market share

| | 2016 | 2017 | 2018 | Review Investigation Period |
|----------------------------------|------------------|------------------|------------------|-----------------------------|
| Volume of imports from the PRC | 3 604 | 3 643 | 2 223 | 3 485 |
| <i>Index (FY2016 = 100)</i> | 100 | 101 | 62 | 97 |
| Market share | [3,7 % – 6,0 %] | [3,6 % – 5,9] | [2,3 % – 3,8 %] | [3,7 % – 6,1 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 99 | 64 | 102 |
| Volume of imports from Indonesia | 7 496 | 7 855 | 8 269 | 5 060 |
| <i>Index (FY2016 = 100)</i> | 100 | 105 | 110 | 68 |
| Market share | [7,6 % – 12,4 %] | [7,8 % – 12,7 %] | [8,7 % – 14,1 %] | [5,4 % – 8,8 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 102 | 114 | 71 |

Source: Eurostat

- (174) Import volumes from the PRC were almost constant between 2016 and 2017, decreased significantly in 2018 (by 39 % as compared to 2017), and then increased by 57 % by the end of the review investigation period as compared to 2018. Overall, the import volumes from the PRC decreased by 3 % over the period considered.
- (175) The import volumes from Indonesia increased between 2016 and 2018 by 10 % before significantly decreasing by 39 % by the end of the review investigation period as compared to 2018 levels. Over the course of the period considered, the import volumes from Indonesia decreased by 32 %.
- (176) The market share of the PRC increased by 2 % during the period considered, while for Indonesia it decreased by 29 % over the same period. Nevertheless, the market share for both the PRC and Indonesia were above de minimis during the entire period considered.

5.3.2. Inward processing system

- (177) MSG is imported from the PRC under the normal regime as well as under the inward processing system.
- (178) The imports from the PRC under the normal regime and under inward processing system developed as follows:

Table 4

Import volume (in tonnes) from the PRC under normal regime and inward processing system

| | 2016 | 2017 | 2018 | Review Investigation Period |
|--|-------|-------|------|-----------------------------|
| Import volume from the PRC under the normal regime | 1 930 | 1 022 | 872 | 1 125 |

| | | | | |
|---|-----------------|-----------------|-----------------|-----------------|
| <i>Index (FY2016 = 100)</i> | 100 | 53 | 45 | 58 |
| Market share | [2,0 % – 3,2 %] | [1,0 % – 1,7 %] | [0,9 % – 1,5 %] | [1,2 % – 2,0 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 52 | 47 | 61 |
| Import volume from the PRC under the inward processing system | 1 673 | 2 621 | 1 351 | 2 359 |
| <i>Index (FY2016 = 100)</i> | 100 | 157 | 81 | 141 |
| Market share | [1,7 % – 2,8 %] | [2,6 % – 4,2 %] | [1,4 % – 2,3 %] | [2,5 % – 4,1 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 153 | 83 | 149 |

Source: Eurostat

- (179) 68 % of total imports from the PRC were imported via inward processing system in the review investigation period. Their volume increased by 41 % over the period considered.

5.3.3. Prices of the imports from the countries concerned and price undercutting

- (180) The Commission established the prices of imports on the basis of Eurostat.

- (181) The weighted average price of imports from the countries concerned developed as follows:

Table 5

Import prices (EUR/kg)

| | 2016 | 2017 | 2018 | Review Investigation Period |
|-----------------------------|------|------|------|-----------------------------|
| The PRC | 1,06 | 0,89 | 0,88 | 0,93 |
| <i>Index (FY2016 = 100)</i> | 100 | 85 | 83 | 88 |
| Indonesia | 1,24 | 1,12 | 1,07 | 1,17 |
| <i>Index (FY2016 = 100)</i> | 100 | 91 | 87 | 94 |

Source: Eurostat (without imports under inward processing)

- (182) The import price from the PRC decreased between 2016 and 2018 by 17 % before increasing by 5 % by the end of the review investigation period. Overall, the import price from the PRC decreased by 12 % over the period considered.
- (183) The import price from Indonesia followed the same trend as the import price from the PRC, decreasing between 2016 and 2018 by 13 % and then increasing by 9 % by the end of the review investigation period. Over the period considered, the import price from Indonesia decreased by 6 %.
- (184) In view of the non-cooperation of the Chinese and Indonesian exporting producers as stated in recital (24), the Commission determined the price undercutting during the review investigation period by comparing the weighted average sales price of the sole Union producer charged to unrelated customers on the Union market, adjusted to an ex-works level and the weighted average export prices from Eurostat, including the anti-dumping duty, with

appropriate adjustments for customs duties and post-importation costs. Regarding the imports from the PRC, the price of the volumes of MSG imported under the inward processing system were not taken into account as these volumes are not released in free circulation of the Union market.

- (185) The result of the comparison was expressed as a percentage of the sole Union producers' turnover during the review investigation period. It showed no undercutting for both the PRC and Indonesia.

5.4. Imports from third countries other than the PRC and Indonesia

- (186) The imports of MSG from third countries other than the PRC and Indonesia were mainly from Vietnam and Brazil.

- (187) The volume of imports as well as the market share and price trends for imports of MSG from other third countries developed as follows:

Table 6

Imports from third countries

| Country | | 2016 | 2017 | 2018 | Review Investigation Period |
|-----------------------|------------------------|-----------------|-----------------|-----------------|-----------------------------|
| Vietnam | Volume (tonnes) | 3 399 | 1 523 | 1 642 | 2 642 |
| | Index (FY2016 = 100) | 100 | 45 | 48 | 78 |
| | Market share | [3,5 % – 5,6 %] | [1,5 % – 2,5 %] | [1,7 % – 2,8 %] | [2,8 % – 4,6 %] |
| | Index (FY2016 = 100) | 100 | 44 | 50 | 82 |
| | Average price (EUR/kg) | 1,32 | 1,34 | 1,24 | 1,31 |
| | Index (FY2016 = 100) | 100 | 101 | 94 | 99 |
| Brazil | Volume (tonnes) | 1 900 | 1 296 | 1 014 | 1 339 |
| | Index (FY2016 = 100) | 100 | 68 | 53 | 70 |
| | Market share | [1,9 % – 3,1 %] | [1,3 % – 2,1 %] | [1,1 % – 1,7 %] | [1,4 % – 2,3 %] |
| | Index (FY2016 = 100) | 100 | 67 | 55 | 74 |
| | Average price (EUR/kg) | 1,20 | 1,20 | 1,21 | 1,22 |
| | Index (FY2016 = 100) | 100 | 100 | 101 | 102 |
| Other third countries | Volume (tonnes) | 344 | 345 | 386 | 365 |
| | Index (FY2016 = 100) | 100 | 100 | 112 | 106 |

| | | | | | |
|---|-----------------------------|-----------------|-----------------|-----------------|-----------------|
| | Market share | [0,3 % – 0,6 %] | [0,3 % – 0,6 %] | [0,4 % – 0,7 %] | [0,4 % – 0,6 %] |
| | <i>Index</i> (FY2016 = 100) | 100 | 98 | 116 | 112 |
| | Average price (EUR/kg) | 2,49 | 2,83 | 2,39 | 2,65 |
| | <i>Index</i> (FY2016 = 100) | 100 | 114 | 96 | 107 |
| Total of all third countries except the countries concerned | Volume (tonnes) | 5 642 | 3 164 | 3 041 | 4 346 |
| | <i>Index</i> (FY2016 = 100) | 100 | 56 | 54 | 77 |
| | Market share | [5,7 % – 9,3 %] | [3,1 % – 5,1 %] | [3,2 % – 5,2 %] | [4,7 % – 7,6 %] |
| | <i>Index</i> (FY2016 = 100) | 100 | 55 | 56 | 81 |
| | Average price (EUR/kg) | 1,35 | 1,44 | 1,38 | 1,40 |
| | <i>Index</i> (FY2016 = 100) | 100 | 107 | 102 | 103 |

Source: Eurostat

- (188) Import volumes from other third countries overall decreased from 5 642 400 kg in 2016 to 4 345 700 kg in the review investigation period, that is a decrease of 23 % over the period considered. The corresponding market share decreased by 19 % in the same period. Overall, the prices of third countries' imports increased by 3 % during the period considered and are considerably higher than the prices of imports from the countries concerned.

5.5. Economic situation of the Union industry

5.5.1. General remarks

- (189) The assessment of the economic situation of the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

5.5.2. Production, production capacity and capacity utilisation

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

Table 7

Production, production capacity and capacity utilisation

| | 2016 | 2017 | 2018 | Review Investigation Period |
|------------------------------|------------------|------------------|------------------|-----------------------------|
| Production volume (tonnes) | [47 400–77 195] | [50 105–81 599] | [48 624–79 188] | [50 108–81 605] |
| <i>Index</i> (FY2016 = 100) | 100 | 106 | 103 | 106 |
| Production capacity (tonnes) | [61 600–100 320] | [61 600–100 320] | [61 600–100 320] | [61 600–100 320] |

| | | | | |
|-----------------------------|---------------|---------------|---------------|---------------|
| <i>Index (FY2016 = 100)</i> | 100 | 100 | 100 | 100 |
| Capacity utilisation | [54 % – 88 %] | [57 % – 93 %] | [55 % – 90 %] | [57 % – 93 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 106 | 103 | 106 |

Source: Questionnaire reply

(191) Production slightly fluctuated during the period considered. While it increased between 2016 and 2017 by 6 %, it decreased between 2017 and 2018 by 3 %, and then it increased again in the review investigation period by 3 %. Overall, the production volume increased by 6 % over the period considered. The investigation showed that the fluctuations were mainly caused by maintenance shutdowns that the Union industry undertook (in certain years 16 days and in others 10 days).

(192) The production capacity remained stable in the period considered.

(193) As a result of a stable production capacity, the capacity utilisation developed in line with the production volume, namely it first increased between 2016 and 2017, then decreased between 2017 and 2018 and increased again in the review investigation period. Therefore, capacity utilisation also increased by 6 % over the period considered.

5.5.3. Sales volume and market share

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

Table 8

Sales volume and market share

| | 2016 | 2017 | 2018 | Review Investigation Period |
|---|-------------------|-------------------|-------------------|-----------------------------|
| Sales volume on the Union market (tonnes) | [36 451 – 59 363] | [39 167 – 63 787] | [37 272 – 60 700] | [36 689 – 59 750] |
| <i>Index (FY2016 = 100)</i> | 100 | 107 | 102 | 101 |
| Market share | [53 % – 89 %] | [55 % – 93 %] | [56 % – 93 %] | [56 % – 94 %] |
| <i>Index (FY2016 = 100)</i> | 100 | 105 | 105 | 106 |

Source: Questionnaire reply

(195) Sales volume of MSG by the Union industry barely increased by 1 % over the period considered. It first increased by 7 % between 2016 and 2017 and then decreased by 6 % by the end of the review investigation period. The parallel decrease in consumption led to an increase of the market share of the Union industry by 6 % over the period considered.

5.5.3.1. Growth

(196) As stated above, while the Union consumption on free market decreased by 5 % over the period considered, the sales volume of the Union industry slightly increased by 1 %, which translates in an increase of market share of 6 %.

5.5.4. Employment and productivity

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

Table 9

Employment and productivity

| | 2016 | 2017 | 2018 | Review Investigation Period |
|--------------------------------|-------------|-------------|-------------|-----------------------------|
| Number of employees | [137 – 222] | [138 – 225] | [133 – 217] | [132 – 215] |
| <i>Index (FY2016 = 100)</i> | 100 | 101 | 97 | 97 |
| Productivity (tonnes/employee) | [243 – 396] | [253 – 413] | [256 – 416] | [266 – 433] |
| <i>Index (FY2016 = 100)</i> | 100 | 104 | 105 | 109 |
| Source: Questionnaire reply | | | | |

(198) Employment of the Union industry decreased by 3 % over the period considered. This decrease was due to synergies in shared services (such as information technology ('IT') and human resources ('HR')) after the integration of the frozen retail business into AFE.

(199) Productivity increased due to the combination of a decrease in employment and an increase in production volume as explained in recital (191).

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

(200) The dumping margins for the countries concerned were significantly above the *de minimis level* as stated in recital (134) and (143) and the volume and market share of the imports from the countries concerned remained significant during the period considered as described in recitals (174) to (176).

(201) Therefore, continuous unfair pricing by exporting producers from the PRC and Indonesia did not allow the Union industry to recover from the past dumping practices.

5.5.6. Prices and factors affecting prices

(202) The weighted average unit sales prices of the sole Union producer to unrelated customers in the Union developed over the period considered as follows:

Table 10

Sales prices and costs in the Union

| | 2016 | 2017 | 2018 | Review Investigation Period |
|--|---------------|---------------|---------------|-----------------------------|
| Average unit sales price on the free market (EUR/kg) | [0,94 – 1,52] | [0,86 – 1,40] | [0,84 – 1,36] | [0,87 – 1,42] |
| <i>Index (FY2016 = 100)</i> | 100 | 92 | 90 | 93 |
| Unit cost of production (EUR/kg) | [0,91 – 1,49] | [0,91 – 1,49] | [0,95 – 1,55] | [0,88 – 1,43] |
| <i>Index (FY2016 = 100)</i> | 100 | 100 | 104 | 96 |
| Source: Questionnaire reply | | | | |

- (203) The Union industry's average unit selling price to unrelated customers in the Union decreased by 7 % over the period considered. It had a decreasing trend between 2016 and 2018 and then it increased in the review investigation period. The trend of the Union industry's selling price followed the trend of the Chinese and Indonesian import price in the Union market.
- (204) The unit cost of production decreased over the period considered by 4 %. It was stable between 2016 and 2017 then it increased by 4 % in 2018 as compared to 2017 and decreased by 8 % in the review investigation period. The decrease in the cost of production in 2019 as compared to 2018 is due to the efforts of the Union industry to decrease the consumption of raw materials in the manufacturing process as well as a decrease in the price of raw materials.

5.5.7. Labour costs

- (205) The average labour costs of the sole Union producer developed over the period considered as follows:

Table 11

Average labour costs per employee

| | 2016 | 2017 | 2018 | Review Investigation Period |
|---|-----------------|-----------------|-----------------|-----------------------------|
| Average labour costs per employee (EUR) | [49 321–80 323] | [50 538–82 304] | [48 606–79 159] | [48 282–78 631] |
| Index (FY2016 = 100) | 100 | 102 | 99 | 98 |

Source: Questionnaire reply

- (206) The average labour cost per employee decreased by 2 % over the period considered. This decrease is linked to synergies in the IT, finance, HR and top management functions gained after the integration of the frozen retail business into AFE as mentioned in recital (198).

5.5.8. Inventories

- (207) Stock levels of the sole Union producer developed over the period considered as follows:

Table 12

Inventories

| | 2016 | 2017 | 2018 | Review Investigation Period |
|--|-----------------|----------------|----------------|-----------------------------|
| Closing stocks (tonnes) | [12 765–20 789] | [9 706–15 807] | [8 054–13 116] | [9 926–16 166] |
| Index (FY2016 = 100) | 100 | 76 | 63 | 78 |
| Closing stocks as a percentage of production | [19 % – 31 %] | [14 % – 22 %] | [12 % – 19 %] | [14 % – 23 %] |
| Index (FY2016 = 100) | 100 | 72 | 62 | 74 |

Source: Questionnaire reply

- (208) Overall closing stocks decreased by 22 % over the period considered. Closing stocks had a decreasing trend between 2016 and 2018 and then it increased in the review investigation period by 23 % as compared to 2018. Despite the decreasing trend the level of stocks remained high during the period considered.
- (209) Closing stocks as a percentage of production decreased between 2016 and 2018 by 38 % and then it increased by 20 % in the review investigation period. Overall, it decreased by 26 %. This decreasing trend followed the decreasing trend of the closing stocks and the small increase of production volume.

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

- (210) Profitability, cash flow, investments and return on investments of the sole Union producer developed over the period considered as follows:

Table 13

Profitability, cash flow, investments and return on investments

| | 2016 | 2017 | 2018 | Review Investigation Period |
|--|-----------------|-------------------|---------------------|-----------------------------|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | [1,6 % – 2,7 %] | [-7,2 % – -4,4 %] | [-15,35 % – -9,4 %] | [-0,6 % – -0,4 %] |
| <i>Index (FY2016 = 100)</i> | 100 | -269 | -574 | -22 |
| Cash flow (thousands EUR) | [5 822 – 9 481] | [3 838 – 6 251] | [-3 733 – -2 292] | [2 886 – 4 699] |
| <i>Index (FY2016 = 100)</i> | 100 | 66 | -39 | 50 |
| Investments (thousands EUR) | [4 302 – 7 006] | [4 609 – 7 506] | [5 419 – 8 825] | [3 307 – 5 386] |
| <i>Index (FY2016 = 100)</i> | 100 | 107 | 126 | 77 |
| Return on investments | [0,3 % – 0,5 %] | [-6,3 % – -3,9 %] | [-14,6 % – -8,9 %] | [-1,5 % – -0,9 %] |
| <i>Index (FY2016 = 100)</i> | 100 | -1 168 | -2 701 | -286 |

Source: Questionnaire reply

- (211) The Commission established the profitability of the sole Union producer by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The profitability decreased significantly between 2016 and 2018. The sole Union producer recorded losses between 2017 and 2019. In 2019, the profitability improved as compared to 2018 due to an increase in the selling price and a decrease of the cost of production as stated in recitals (203) and (204). Over the period considered, profitability nevertheless fell from [1,6 % – 2,7 %] in 2016 to losses of [-0,6 % – -0,4 %] in the RIP.
- (212) The net cash flow is the Union industry's ability to self-finance their activities. The net cash flow showed the same trend as profitability: it decreased between 2016 and 2018 before increasing during the review investigation period. Overall, the net cash flow decreased by 50 % over the period considered.

- (213) Investments decreased by 23 % over the period considered. They mainly represented investments necessary for maintaining the equipment, reduction of consumption of raw materials, as well as investments for compliance with legal requirements for safety and environmental protection.
- (214) The return on investments is the profit in percentage of the net book value of investments. As with the other financial indicators, the return on investment had a decreasing trend between 2016 and 2018 and slightly increased in the review investigation period. Over the period considered, return on investments fell by 386 %.
- (215) Finally, taking into account the decreasing profitability and decreasing cash flow, the company's ability to raise capital was also negatively affected.

5.6. Conclusion on injury

- (216) Despite the measures in force, the dumped imports from China and Indonesia continued in significant volumes.
- (217) The Union industry is in a difficult financial situation. Although some of the injury indicators, such as production volume, market share and stocks show a favourable trend, other indicators, such as sales prices, profitability, cash flow, investments and return on investment show a negative trend.
- (218) Despite the measures in force, the increase in productivity and the fact that the Union industry managed to decrease its cost of production, the Union industry still registered losses between 2017 and 2019.
- (219) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.
- (220) Next, the Commission assessed whether there is a causal link between imports from the countries concerned and the injury suffered by Union industry.
- (221) Regarding the PRC, the investigation revealed that the volume of imports remained above *de minimis* levels during the entire period considered. Although the undercutting margin was negative when applying the anti-dumping duties to the price of imports during the review investigation period, the undercutting margin without the anti-dumping duties included was above 20 %. Furthermore, as the Union industry is loss-making and given the target profit of between 5 % and 15 % as established during the original investigation for Indonesia ⁽⁹²⁾, Chinese imports are clearly entering the Union at injurious prices.
- (222) As regards Indonesia, the investigation also revealed that, as in the case of the PRC, the imports were above *de minimis* levels during the entire period considered. The undercutting margin was negative without the anti-dumping duties. Nevertheless, the current import prices without anti-dumping duties would result in an underselling margin of more than 7 % when compared to a target price established on the basis of the EU's industry cost of production during the RIP and the target profit of between 5 % and 15 % as established during the original investigation for Indonesia.
- (223) Considering the above, the Commission concluded that the material injury suffered by the Union industry was caused by the imports from the PRC and it could not have been caused by the imports from Indonesia as due to the effect of the measures the Indonesian imports were made at prices that did not cause injury to the Union industry.
- (224) Therefore, the Commission further examined the likelihood of continuation of injury caused by dumped imports from the PRC and the likelihood of recurrence of injury caused by dumped imports from Indonesia if the measures were repealed.

⁽⁹²⁾ Commission Implementing Regulation (EU) No 904/2014 of 20 August 2014 imposing a provisional anti-dumping duty on imports of monosodium glutamate originating in Indonesia (OJ L 246, 21.8.2014, p. 1), recital 151

6. LIKELIHOOD OF CONTINUATION AND/OR RECURRENCE OF INJURY

6.1. Likelihood of continuation of injury from the PRC

(225) The Commission concluded in recital (219) that the Union industry suffered material injury during the review investigation period. In recital (223), the Commission also determined that the material injury suffered by the Union industry was caused by the imports from the PRC. The Commission further assessed whether in this case there would be a likelihood of continuation of injury caused by the dumped imports from the PRC if the measures against were allowed to lapse.

(226) In this respect, the following elements were analysed by the Commission: the production volume and spare capacity in the PRC, the attractiveness of the Union market for the Chinese exporting producers, the likely price levels of imports from the PRC in the absence of anti-dumping measures, and their impact on the Union industry.

6.1.1. The production capacity, spare capacity in the PRC and attractiveness of the Union market

(227) As explained in recitals (147) to (153), based on the significant overcapacity in the PRC and the attractiveness of the Union market for Chinese exporting producers, there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase of exports.

6.1.2. Impact of imports from the PRC on the situation of the Union industry should the measures be allowed to lapse

(228) Regarding the likely effect of such imports, the Commission examined their likely price levels should measures be allowed to lapse. In this regard, the Commission considered the import price levels during the review investigation period without anti-dumping duty a reasonable indication. On this basis, the Commission established significant undercutting of the Union industry prices (more than 20 %).

(229) Furthermore, as the Union industry was loss-making almost the entire period considered as stated in recital (211), and considering that, as explained in recital (221) the target profit established for such industry is between 5 % and 15 %, Chinese imports have been entering the Union at injurious prices.

(230) Therefore, it is concluded that the situation of the Union industry, which is already suffering material injury, would further deteriorate should the measures be repealed. Indeed, in the absence of measures, Chinese dumped imports at injurious prices would likely exert a further downward pressure on the sales prices in the Union market. The Union industry will very likely be obliged to decrease its sales prices which would lead to further loss of profitability and, in all likelihood, important losses in the short term.

(231) Alternatively, any attempt to increase its sales prices to profitable levels on the side of the Union industry will very likely lead to a loss of sales volumes and market share to the low priced imports. Given the massive spare capacities in the PRC, Chinese exporting producers will be able to increase their exports in the short term and gain important market share at the expense of the Union industry. The Union industry will very likely lose economies of scale, which will lead to an increase of the unit production cost and consequently cause further decreases in profitability to the Union industry. As a consequence, the viability of the Union industry would be at serious risk.

6.1.3. Conclusion

(232) In view of the above findings, namely the massive spare capacity in the PRC, the attractiveness of the Union market, the price levels of imports from the PRC in the absence of anti-dumping measures and their likely impact on the Union industry, the Commission concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from the PRC at injurious prices and material injury would be likely to continue.

6.2. Likelihood of recurrence of injury from Indonesia

(233) The Commission concluded in recital (219) that the Union industry suffered material injury. In recital (223), the Commission also determined that the material injury suffered by the Union industry could not have been caused by the imports from Indonesia. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury caused by the dumped imports from Indonesia if the measures against were allowed to lapse.

(234) In this regard, the Commission examined the production capacity and spare capacity in Indonesia, the market situation in Indonesia, the attractiveness of the Union market for the Indonesian exporting producers, the likely price levels of imports from Indonesia in the absence of anti-dumping measures, and their impact on the Union industry.

6.2.1. Production capacity and spare capacity in Indonesia, market situation in Indonesia and attractiveness of the Union market

(235) As explained in recitals (158) to (165), based on the substantial excess capacity of the Indonesian producers, the domestic market situation in Indonesia and the attractiveness of the Union market for Indonesian exporting producers, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase of exports.

6.2.2. Impact of imports from Indonesia on the situation of the Union industry should the measures be allowed to lapse

(236) The Commission examined the likely price levels of Indonesian imports should measures be allowed to lapse based on Indonesian import price levels during the review investigation period and their effect on the situation of the Union industry. While there was no undercutting of the Union industry prices by the Indonesian exporters after the deduction of the anti-dumping duties in place, there was underselling of more than 7 %, using a target profit of between 5 % and 15 % as explained in recital (229). This shows that, should the measures be allowed to lapse, Indonesian imports would be made at injurious price levels, increasing the price pressure on the Union industry that would then either lose sales volume or be obliged to decrease their price levels. This would very quickly turn to a situation of significant losses, which is not viable in the short term.

6.2.3. Conclusion

(237) In view of the above findings, namely the presence of spare capacity in Indonesia, the market situation in Indonesia, the attractiveness of the Union market and the expected price levels of imports from Indonesia in the absence of anti-dumping measures and their impact on the Union industry, it is concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from Indonesia at injurious prices and material injury would be likely to recur.

7. UNION INTEREST

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

(239) All interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

(240) On this basis the Commission examined whether, despite the conclusions on the likelihood of continuation of dumping and injury for the PRC and of continuation of dumping and recurrence of injury for Indonesia, compelling reasons existed which would lead to the conclusion that it was not in the Union interest to maintain the existing measures.

7.1. Interest of the Union industry

- (241) The investigation established that the Union industry suffered material injury. As mentioned in recital (223) the material injury was caused by the dumped imports from the PRC and therefore it was concluded that there was likelihood of continuation of material injury should measures against the PRC be allowed to lapse. The investigation also established that there was a likelihood of recurrence of material injury should measures against Indonesian imports be allowed to lapse. In particular, the expected recovery of the Union industry from the material injury suffered is likely to be jeopardised should the Chinese and Indonesian imports of MSG increase on the Union market at dumped prices.
- (242) Should measures be maintained, it is expected that the Union industry will gradually be able to fully benefit from the effects of the measures imposed. This is also confirmed by the fact that the anti-dumping measures on imports of MSG from the PRC were extended to imports of MSG in mixture or in solution originating in the PRC following an anti-circumvention investigation in 2020 as explained in recitals (8) and (9).
- (243) Should the measures be allowed to lapse, the situation of the Union industry is very likely to further deteriorate as explained above in the analysis of likelihood of continuation/recurrence of injury in recitals (225) to (237).
- (244) It was therefore concluded that maintaining the measures in force against the PRC and Indonesia would be in the interest of the Union industry.

7.2. Interest of unrelated importers

- (245) Four unrelated importers came forward following the publication of the Notice of Initiation. Four of them fully cooperated in the investigation by submitting a complete questionnaire reply.
- (246) Two of the cooperating unrelated importers imported MSG from both the PRC and Indonesia and the other two only from Indonesia. For all of them the impact of the MSG activity in their total turnover was very limited (below 1,5 % of the total turnover). Furthermore, the investigation revealed that the importers were profitable, despite the measures in force. The imported MSG was used for both the food sector as well as non-food sector.
- (247) On these grounds, the Commission concluded that should measures be maintained, the impact on the economic situation of the importers is likely not to be significant.

7.3. Interest of users

- (248) Users are mainly active in the food and beverage sector and use MSG to produce spice mixes, soups and other preparations. MSG may be used for specific applications in the non-food sector for instance to produce detergents.
- (249) No users cooperated in the investigation.
- (250) The current investigation did not reveal any significant adverse impact of the measures in force on users. Previous investigations against China and Indonesia revealed that the measures did not appear to have had any significant adverse effect on the cooperating users.
- (251) On these grounds, the Commission concluded that should the measures be maintained, the impact on the economic situation of these operators is likely not to be significant.

7.4. Conclusion on Union interest

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

8. ANTI-DUMPING MEASURES

- (253) On the basis of the conclusions reached by the Commission on the likelihood of continuation of dumping for the PRC and Indonesia, the likelihood of continuation of injury for the PRC and recurrence of injury for Indonesia as well as the Union interest, the anti-dumping measures on imports of MSG originating in the PRC and Indonesia should be maintained.
- (254) To minimize the risks of circumvention due to the high difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (255) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.
- (256) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.
- (257) The individual company anti-dumping duty rates specified in this Regulation are solely applicable to imports of the product under review produced by these companies and thus by the specific legal entities mentioned. Imports of the product under review manufactured by any other company not specifically mentioned in the operative part of this Regulation with its name and address, including entities related to those specifically mentioned, cannot benefit from these rates and shall be subject to the duty rate applicable to 'all other companies'. Any claim requesting the application of these individual anti-dumping duty rates (e.g. following a change in the name of the entity or following the setting up of new production or sales entities) should be addressed to the Commission ⁽⁹³⁾ forthwith with all relevant information, in particular any modification in the company's activities linked to production, domestic and export sales associated with, for instance, that name change or that change in the production and sales entities. If appropriate, the Regulation will then be amended accordingly by updating the list of companies benefiting from individual duty rates.
- (258) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. They were also granted a period to make representations subsequent to this disclosure. Only the applicant submitted comments welcoming the Commission's findings.
- (259) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽⁹⁴⁾, 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.

⁽⁹³⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽⁹⁴⁾ 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).

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

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is imposed on imports of monosodium glutamate, currently falling under CN code ex 2922 42 00 (TARIC code 2922 42 00 10) and originating in the People's Republic of China.

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

| Country | Company | Anti-dumping duty (%) | TARIC additional code |
|---------|---|-----------------------|-----------------------|
| The PRC | Hebei Meihua MSG Group Co. Ltd and Tongliao Meihua Bio-Tech Co. Ltd | 33,8 | A883 |
| The PRC | Fujian Province Jianyang Wuyi MSG Co. Ltd | 36,5 | A884 |
| The PRC | All other companies | 39,7 | A999 |

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

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

Article 2

1. The definitive anti-dumping duty applicable to 'all other companies' as set out in Article 1 paragraph 2 is hereby extended to imports of monosodium glutamate in mixture or in solution, containing by dry weight 50 % or more of monosodium glutamate, currently falling under CN codes ex 2103 90 90, ex 2104 10 00, ex 2104 20 00, ex 3824 99 92, ex 3824 99 93 and ex 3824 99 96 (TARIC codes 2103 90 90 11, 2103 90 90 81, 2104 10 00 11, 2104 10 00 81, 2104 20 00 11, 3824 99 92 98, 3824 99 93 89 and 3824 99 96 89), originating in the People's Republic of China.

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

Article 3

1. Requests for exemption from the duty extended by Article 2 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Brussels
Belgium

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission may authorise, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Article 1 of this Regulation.

Article 4

1. A definitive anti-dumping duty is imposed on imports of monosodium glutamate, currently falling under CN code ex 2922 42 00 (TARIC code 2922 42 00 10) and originating in Indonesia.
2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below, shall be as follows:

| Country | Company | Anti-dumping duty (%) | TARIC additional code |
|-----------|----------------------------|-----------------------|-----------------------|
| Indonesia | PT. Cheil Jedang Indonesia | 7,2 | B961 |
| Indonesia | PT. Miwon Indonesia | 13,3 | B962 |
| Indonesia | All other companies | 28,4 | B999 |

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

Article 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, 14 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/634**of 15 April 2021****amending Implementing Regulation (EU) 2021/404 as regards transitional arrangements, the entries of the United Kingdom and the Crown Dependencies of Guernsey, the Isle of Man and Jersey and the list of third countries authorised for the entry into the Union of dairy products required to undergo a specific risk-mitigating treatment against foot and mouth disease****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ⁽¹⁾, and in particular Article 230(1) thereof,

Whereas:

- (1) Regulation (EU) 2016/429 lays down, inter alia, the animal health requirements for the entry into the Union of consignments of animals, germinal products and products of animal origin, and it applies from 21 April 2021. One of those animal health requirements is that those consignments must come from a third country or territory, or zone or compartment thereof, in accordance with Article 230(1) of that Regulation.
- (2) Commission Delegated Regulation (EU) 2020/692 ⁽²⁾ supplements Regulation (EU) 2016/429 as regards the animal health requirements for the entry into the Union of consignments of certain species and categories of animals, germinal products and products of animal origin from third countries or territories or zones thereof, or compartments thereof in the case of aquaculture animals. Article 3, first paragraph, point (a) of Delegated Regulation (EU) 2020/692 provides that consignments of animals, germinal products and products of animal origin falling within its scope may only be permitted to enter into the Union if they come from a third country or territory, or zone or compartment thereof, listed for the particular species of animals, germinal products and products of animal origin in accordance with the animal health requirements laid down in that Delegated Regulation.
- (3) Commission Implementing Regulation (EU) 2021/404 ⁽³⁾ establishes the lists of third countries, territories or zones thereof, or in the case of aquaculture animals compartments thereof, from which the entry into the Union of those species and categories of animals and those categories of germinal products and products of animal origin that fall within the scope of Delegated Regulation (EU) 2020/692 is permitted.
- (4) Implementing Regulation (EU) 2021/404 provides for transitional provisions as regards the entry into the Union of consignments of animals, germinal products and products of animal origin from third countries, territories or zones thereof authorised for entry into the Union pursuant Commission acts that cease to apply from 21 April 2021 accompanied by the appropriate certificate issued in accordance with those Commission acts. It should be clarified

⁽¹⁾ Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') (OJ L 84, 31.3.2016, p. 1)

⁽²⁾ Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379)

⁽³⁾ Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and the Council (OJ L 114, 31.3.2021, p. 1).

in those transitional provisions that references to provisions of repealed acts within the certificate should be construed as references to corresponding replacement provisions and shall be read in accordance with the correlation tables, where applicable.

- (5) The United Kingdom and the Crown Dependencies of Guernsey, the Isle of Man and Jersey should be included in Annexes II to XVII and Annexes XIX, XXI and XXII to Implementing Regulation (EU) 2021/404, without prejudice to the application of Union law to and in the United Kingdom in respect of Northern Ireland in accordance with Article 5(4) of the Protocol on Ireland/Northern Ireland to the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community in conjunction with Annex 2 to that Protocol.
- (6) The transition period provided for in the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community ended on 31 December 2020. Germinal products of bovine, ovine, caprine, porcine and equine animals which were collected or produced, processed and stored in the United Kingdom before 1 January 2021 and are intended for entry into the Union from 21 April 2021 should be accompanied by certificates based on model certificates for consignments of germinal products moved within the Union set out in Annex I to Commission Implementing Regulation (EU) 2021/403 ⁽⁴⁾. Therefore, this specific condition should be specified in the relevant column of the lists of third countries, territories or zones thereof from which the entry into the Union of germinal products of bovine, ovine, caprine, porcine and equine animals is permitted.
- (7) Annex XVIII to Implementing Regulation (EU) 2021/404 lays down the list of third countries, territories or zones thereof authorised from 21 April 2021 for the entry into the Union of dairy products provided that those dairy products have undergone a specific risk-mitigating treatment against foot and mouth disease. The list provided for in Annex XVIII to Implementing Regulation (EU) 2021/404 should reflect the list in column C of Annex I to Commission Implementing Regulation (EU) No 605/2010 ⁽⁵⁾ applicable until 20 April 2021. Annex XVIII to Implementing Regulation (EU) 2021/404 should therefore be amended to include Mexico, Namibia, Nicaragua, Panama, Paraguay, Russia and Singapore.
- (8) In order to avoid any ambiguity between public and animal health requirements for the entry into the Union of certain live aquatic animals intended for human consumption, the specific conditions provided for in Part 3 of Annex XXI to Implementing Regulation (EU) 2021/404 related to the use of the model official certificate MOL-HC set out in Chapter 31 of Annex III to Commission Implementing Regulation (EU) 2020/2235 ⁽⁶⁾, should be amended to clarify that consignments of live aquatic animals intended for human consumption that comply with Section VII, Chapter V, of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council ⁽⁷⁾ and the criteria laid down in Chapter I, points 1.17 and 1.25, of Annex I to Commission Regulation (EC) No 2073/2005 ⁽⁸⁾ can enter the Union only if accompanied by a certificate drawn up in compliance with that model official certificate.

⁽⁴⁾ Commission Implementing Regulation (EU) 2021/403 of 24 March 2021 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates and model animal health/official certificates, for the entry into the Union and movements between Member States of consignments of certain categories of terrestrial animals and germinal products thereof, official certification regarding such certificates and repealing Decision 2010/470/EU (OJ L 113, 31.3.2021, p. 1).

⁽⁵⁾ Commission Regulation (EU) No 605/2010 of 2 July 2010 laying down animal and public health and veterinary certification conditions for the introduction into the European Union of raw milk, dairy products, colostrum and colostrum-based products intended for human consumption (OJ L 175, 10.7.2010, p. 1).

⁽⁶⁾ Commission Implementing Regulation (EU) 2020/2235 of 16 December 2020 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates, model official certificates and model animal health/official certificates, for the entry into the Union and movements within the Union of consignments of certain categories of animals and goods, official certification regarding such certificates and repealing Regulation (EC) No 599/2004, Implementing Regulations (EU) No 636/2014 and (EU) 2019/628, Directive 98/68/EC and Decisions 2000/572/EC, 2003/779/EC and 2007/240/EC (OJ L 442, 30.12.2020, p. 1).

⁽⁷⁾ Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).

⁽⁸⁾ Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1).

- (9) Implementing Regulation (EU) 2021/404 should therefore be amended accordingly.
- (10) In the interest of legal certainty, this Regulation should enter into force as a matter of urgency.
- (11) The measures provided for in this Regulation are in accordance with the opinion the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Implementing Regulation (EU) 2021/404 is amended as follows:

- (1) Article 6 is replaced by the following:

'Article 6

Transitional provisions

1. Consignments of animals, germinal products and products of animal origin from third countries, territories or parts thereof authorised for entry into the Union in accordance with the following acts, and accompanied by the appropriate certificate issued in accordance with those acts, shall be permitted for entry into the Union until 20 October 2021, provided that the certificate was signed by the person authorised to sign the certificate in accordance with those acts before 21 August 2021:

- Regulation (EC) No 798/2008,
- Regulation (EC) No 1251/2008,
- Regulation (EU) No 206/2010,
- Regulation (EU) No 605/2010,
- Implementing Regulation (EU) No 139/2013,
- Implementing Regulation (EU) 2016/759,
- Implementing Regulation (EU) 2018/659,
- Decision 2006/168/EC,
- Decision 2007/777/EC,
- Decision 2008/636/EC,
- Decision 2010/472/EU,
- Decision 2011/630/EU,
- Implementing Decision 2012/137/EU,
- Decision (EU) 2019/294.

2. References to provisions of repealed acts within the certificate referred to in paragraph 1 shall be construed as references to corresponding replacement provisions and shall be read in accordance with the correlation tables, where applicable.;

- (2) Annexes I to XIX and Annexes XXI and XXII are amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 15 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes I to XIX and Annexes XXI and XXII to Implementing Regulation (EU) 2021/404 are amended as follows:

- (1) in Annex I, the following point is added:
 - '(12) In accordance with the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community, and in particular Article 5(4) of the Protocol on Ireland/Northern Ireland in conjunction with Annex 2 to that Protocol, for the purposes of Annexes II to XXII, references to the United Kingdom do not include Northern Ireland.'
- (2) Annex II is amended as follows:
 - (a) in Part 1, the following entries are inserted after the entry for Chile:

| | | | | | | | | | |
|----------------------|------|---------------------------|---|--------------------|--|--------------|--|--|--|
| GB United Kingdom | GB-1 | Bovine animals | Animals for further keeping ¹ | BOV-X | | BRU, EBL | | | |
| | | Ovine and caprine animals | Animals for further keeping ¹ and intended for slaughter | OV/CAP-X, OV/CAP-Y | | BRU | | | |
| | | Porcine animals | Animals for further keeping ¹ and intended for slaughter | SUI-X, SUI-Y | | ADV | | | |
| | | Camelid animals | Animals for further keeping ¹ | CAM-CER | | | | | |
| | | Cervid animals | Animals for further keeping ¹ | CAM-CER | | | | | |
| | | Other ungulates | Animals for further keeping ¹ | RUM, RHINO, HIPPO | | | | | |
| | GB-2 | Bovine animals | Animals for further keeping ¹ | BOV-X | | TB, BRU, EBL | | | |
| | | Ovine and caprine animals | Animals for further keeping ¹ and intended for slaughter | OV/CAP-X, OV/CAP-Y | | BRU | | | |
| | | Porcine animals | Animals for further keeping ¹ and intended for slaughter | SUI-X, SUI-Y | | ADV | | | |
| | | Camelid animals | Animals for further keeping ¹ | CAM-CER | | | | | |
| | | Cervid animals | Animals for further keeping ¹ | CAM-CER | | | | | |
| | | Other ungulates | Animals for further keeping ¹ | RUM, RHINO, HIPPO | | | | | |
| GG Guernsey | GG-0 | Bovine animals | Animals for further keeping ¹ | BOV-X | | | | | |
| | | Ovine and caprine animals | Animals for further keeping ¹ | OV/CAP-X | | BRU | | | |
| | | Porcine animals | Animals for further keeping ¹ | SUI-X | | ADV | | | |
| | | Other ungulates | Animals for further keeping ¹ | RUM, RHINO, HIPPO' | | | | | |

(b) in Part 1, the following entry is inserted after the entry for Greenland:

| | | | | | | | | | |
|-------------------|------|---------------------------|---|-----------------------|--|-----------------|--|--|--|
| IM Isle of Man | IM-0 | Bovine animals | Animals for further keeping ¹ and intended for slaughter | BOV-X, BOV-Y | | TB, BRU, EBL | | | |
| | | Ovine and caprine animals | Animals for further keeping ¹ and intended for slaughter | OV/CAP-X, OV/CAP-Y | | BRU' | | | |

(c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | | | | | | |
|--------------|------|----------------|---|-----------------|--|------|--|--|--|
| JE Jersey | JE-0 | Bovine animals | Animals for further keeping ¹ and intended for slaughter | BOV-X, BOV-Y | | EBL' | | | |
|--------------|------|----------------|---|-----------------|--|------|--|--|--|

(d) Part 2 is replaced by the following:

‘PART 2

Descriptions of zones of third countries or territories referred to in column 2 of the table set out in Part 1

| Name of the third country or territory | Code of the zone | Description of the zone |
|--|------------------|-------------------------|
| United Kingdom | GB-1 | England and Wales |
| | GB-2 | Scotland’ |

(3) Annex III is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for the Falkland Islands:

| | | | | |
|-----------------------------|------|--|--|--|
| GB United Kingdom | GB-0 | CONFINED-RUM, CONFINED-SUI, CONFINED-TRE, CONFINED-HIPPO | | |
| GG Guernsey | GG-0 | CONFINED-RUM, CONFINED-SUI, CONFINED-TRE, CONFINED-HIPPO’ | | |

(b) in Part 1, the following entry is inserted after the entry for Israel:

| | | | | |
|--------------------------|------|--|--|--|
| IM Isle of Man | IM-0 | CONFINED-RUM, CONFINED-SUI, CONFINED-TRE, CONFINED-HIPPO’ | | |
|--------------------------|------|--|--|--|

(c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | |
|---------------------|------|---|--|--|
| JE Jersey | JE-0 | CONFINED-RUM, CONFINED-SUI, CONFINED-TRE, ‘CONFINED-HIPPO’ | | |
|---------------------|------|---|--|--|

(4) Annex IV is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for the Falkland Islands:

| | | | | | | | | |
|-----------------------------|------|---|---|--|--|--|--|--|
| GB United Kingdom | GB-0 | A | Registered horses; registered equidae; other equine animals not for slaughter; equine animals for slaughter | EQUI-X, EQUI-TRANSIT-X, EQUI-Y, EQUI-TRANSIT-Y, EQUI-RE-ENTRY-30, EQUI-RE-ENTRY-90- COMP, EQUI-RE-ENTRY-90-RACE | | | | |
|-----------------------------|------|---|---|--|--|--|--|--|

| | | | | | | | | |
|-----------------------|------|---|--|---|--|--|--|--|
| GG Guernsey | GG-0 | A | Registered horses; registered equidae; other equine animals not for slaughter | EQUI-X, EQUI-TRANSIT-X, EQUI-RE-ENTRY-30, EQUI-RE-ENTRY-90- COMP, EQUI-RE-ENTRY-90- RACE' | | | | |
|-----------------------|------|---|--|---|--|--|--|--|

(b) in Part 1, the following entry is inserted after the entry for Israel:

| | | | | | | | | |
|-----------------------------|------|---|--|---|--|--|--|--|
| IM Isle of Man | IM-0 | A | Registered horses; registered equidae; other equine animals not for slaughter | EQUI-X, EQUI-TRANSIT-X, EQUI-RE-ENTRY-30, EQUI-RE-ENTRY-90- COMP, EQUI-RE-ENTRY-90- RACE' | | | | |
|-----------------------------|------|---|--|---|--|--|--|--|

(c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | | | | | |
|---------------------|------|---|--|---|--|--|--|--|
| JE Jersey | JE-0 | A | Registered horses; registered equidae; other equine animals not for slaughter | EQUI-X, EQUI-TRANSIT-X, EQUI-RE-ENTRY-30, EQUI-RE-ENTRY-90- COMP, EQUI-RE-ENTRY-90- RACE' | | | | |
|---------------------|------|---|--|---|--|--|--|--|

(5) Annex V is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Chile:

| | | | | | | | |
|-------------------------|--------|---|----------|-------|--|----------|----------|
| GB United Kingdom | GB-0 | Specified pathogen-free eggs | SPF | | | | |
| | GB-1 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N | | | |
| | | Breeding ratites and productive ratites | BPR | N | | | |
| | | Poultry intended for slaughter other than ratites | SP | N | | | |
| | | Day-old chicks other than ratites | DOC | N | | | |
| | | Day-old chicks of ratites | DOR | N | | | |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N | | | |
| | | Hatching eggs of poultry other than ratites | HEP | N | | | |
| | | Hatching eggs of ratites | HER | N | | | |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N | | | |
| | GB-2 | | | | | | |
| | GB-2.1 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 6.1.2021 |

| | | | | | | | |
|--|--------|---|----------|-------|--|----------|-----------|
| | GB-2.2 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 8.1.2021 |
| | GB-2.3 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 10.1.2021 |
| | GB-2.4 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 11.1.2021 |

| | | | | | | | |
|--|--------|---|----------|-------|--|----------|-----------|
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 11.1.2021 |
| | GB-2.5 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | | | | | | |
| | GB-2.6 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | | | | | | |
| | GB-2.7 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 20.1.2021 |

| | | | | | | | |
|---------|--|---|----------|-------|--|----------|-----------|
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 20.1.2021 |
| GB-2.8 | | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | | | | | | |
| GB-2.9 | | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 23.1.2021 |
| GB-2.10 | | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 28.1.2021 |

| | | | | | | | |
|--|---------|---|----------|-------|--|-----------|-----------|
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 28.1.2021 |
| | GB-2.11 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 7.2.2021 |
| | GB-2.12 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Day-old chicks of ratites | DOR | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Hatching eggs of ratites | HER | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 1.1.2021 | 31.1.2021 |
| | GB-2.13 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 27.1.2021 | |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 27.1.2021 | |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 27.1.2021 | |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 27.1.2021 | |

| | | | | | | | |
|--|----------------|---|----------|-------|--|-----------|--|
| | | Day-old chicks of ratites | DOR | N, P2 | | 27.1.2021 | |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 27.1.2021 | |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 27.1.2021 | |
| | | Hatching eggs of ratites | HER | N, P2 | | 27.1.2021 | |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 27.1.2021 | |
| | GB-2.14 | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N, P2 | | 8.2.2021 | |
| | | Breeding ratites and productive ratites | BPR | N, P2 | | 8.2.2021 | |
| | | Poultry intended for slaughter other than ratites | SP | N, P2 | | 8.2.2021 | |
| | | Day-old chicks other than ratites | DOC | N, P2 | | 8.2.2021 | |
| | | Day-old chicks of ratites | DOR | N, P2 | | 8.2.2021 | |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N, P2 | | 8.2.2021 | |
| | | Hatching eggs of poultry other than ratites | HEP | N, P2 | | 8.2.2021 | |
| | | Hatching eggs of ratites | HER | N, P2 | | 8.2.2021 | |
| | | Less than 20 hatching eggs of poultry other than ratites | HE-LT20 | N, P2 | | 8.2.2021 | |
| | | | | | | | |
| | GG Guernsey | Breeding poultry other than ratites and productive poultry other than ratites | BPP | N | | | |
| | | Less than 20 heads of poultry other than ratites | POU-LT20 | N' | | | |

(b) in Part 2, the following descriptions are inserted after the descriptions of the zones of Canada:

| | | |
|----------------|---------|---|
| United Kingdom | GB-1 | The whole country of the United Kingdom, excluding area GB-2 |
| | GB-2 | The territory of the United Kingdom corresponding to |
| | GB-2.1 | North Yorkshire County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N54.30 and W1.47 |
| | GB-2.2 | North Yorkshire County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N54.29 and W1.45 |
| | GB-2.3 | Norfolk County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N52.49 and E0.95 |
| | GB-2.4 | Norfolk County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N52.72 and E0.15 |
| | GB-2.5 | Derbyshire County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N52.93 and W1.57 |
| | GB-2.6 | North Yorkshire County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N54.37 and W2.16 |
| | GB-2.7 | Orkney Islands: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N59.28 and W2.44 |
| | GB-2.8 | Dorset County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N51.06 and W2.27 |
| | GB-2.9 | Norfolk County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N52.52 and E0.96 |
| | GB-2.10 | Norfolk County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N52.52 and E0.95 |
| | GB-2.11 | Norfolk County: The area contained within a circle of a radius of 10,4 km, centred on WGS84 dec. coordinates N52.53 and E0.66 |
| | GB-2.12 | Devon County: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N50.70 and W3.36 |
| | GB-2.13 | Near Amlwch, Isle of Anglesey, Wales: The area contained within a circle of a radius of 10 km, centred on WGS84 dec. coordinates N53.38 and W4.30 |
| | GB-2.14 | Near Redcar, Redcar and Cleveland, England: The area contained within a circle of a radius of 10 km, centred on WGS84 dec, coordinates N54.57 and W1.07' |

- (6) in Part 1 of Annex VI, the following entry is inserted after the entry for Chile:

| | | | | | | | |
|------------------------------|------|--------------------------------|-------------------|--|--|--|--|
| 'GB United Kingdom | GB-0 | Captive birds | CAPTIVE-BIRDS | | | | |
| | | Hatching eggs of captive birds | HE-CAPTIVE-BIRDS' | | | | |

- (7) Annex VII is amended as follows:

- (a) in Part 1, the following entries are inserted after the entry for Costa Rica:

| | | | | | | | |
|------------------------------|------|---------------------------------|------------|--|--|--|--|
| 'GB United Kingdom | GB-0 | Queen honeybees and bumble bees | QUE, BBEE | | | | |
| GG Guernsey | GG-0 | Queen honeybees and bumble bees | QUE, BBEE' | | | | |

- (b) in Part 1, the following entries are inserted after the entry for Israel:

| | | | | | | | |
|---------------------------|------|---------------------------------|------------|--|--|--|--|
| 'IM Isle of Man | IM-0 | Queen honeybees and bumble bees | QUE, BBEE | | | | |
| JE Jersey | JE-0 | Queen honeybees and bumble bees | QUE, BBEE' | | | | |

- (8) Annex VIII is amended as follows:

- (a) in Part 1, the following entries are inserted after the entry for the Faroe Islands:

| | | | | | | | |
|------------------------------|------|--|---------|--|--|--|--|
| 'GB United Kingdom | GB-0 | Dogs, cats and ferrets for commercial purposes | DOCAFE | | | | |
| GG Guernsey | GG-0 | Dogs, cats and ferrets for commercial purposes | DOCAFE' | | | | |

- (b) in Part 1, the following entry is inserted after the entry for Israel:

| | | | | | | | |
|---------------------------|------|--|---------|--|--|--|--|
| 'IM Isle of Man | IM-0 | Dogs, cats and ferrets for commercial purposes | DOCAFE' | | | | |
|---------------------------|------|--|---------|--|--|--|--|

- (c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | | | | |
|---------------------|------|--|---------|--|--|--|--|
| JE Jersey | JE-0 | Dogs, cats and ferrets for commercial purposes | DOCAFE' | | | | |
|---------------------|------|--|---------|--|--|--|--|

(9) Annex IX is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Chile:

| | | | | | |
|------------------------------|------|---------------------|---|----------------------------------|--|
| 'GB United Kingdom | GB-0 | Semen | BOV-SEM-A-ENTRY BOV-SEM-B-ENTRY BOV-SEM-C-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | BOV-OOCTYES-EMB-A-ENTRY BOV-in-vivo-EMB-B-ENTRY BOV-in-vitro-EMB-C-ENTRY BOV-in-vitro-EMB-D-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| GG Guernsey | GG-0 | Semen | BOV-SEM-A-ENTRY BOV-SEM-B-ENTRY BOV-SEM-C-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | BOV-OOCTYES-EMB-A-ENTRY BOV-in-vivo-EMB-B-ENTRY BOV-in-vitro-EMB-C-ENTRY BOV-in-vitro-EMB-D-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(b) in Part 1, the following entries are inserted after the entry for Iceland:

| | | | | | |
|---------------------------|------|---------------------|---|---------------------------------|--|
| 'IM Isle of Man | IM-0 | Semen | BOV-SEM-A-ENTRY BOV-SEM-B-ENTRY BOV-SEM-C-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | BOV-OOCTYES-EMB-A-ENTRY BOV-in-vivo-EMB-B-ENTRY BOV-in-vitro-EMB-C-ENTRY BOV-in-vitro-EMB-D-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |

| | | | | | |
|--------------|------|------------------------|---|----------------------------------|--|
| JE Jersey | JE-0 | Semen | BOV-SEM-A-ENTRY BOV-SEM-B-ENTRY BOV-SEM-C-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | BOV-OOCTYES-EMB-A-ENTRY BOV-in-vivo-EMB-B-ENTRY BOV-in-vitro-EMB-C-ENTRY BOV-in-vitro-EMB-D-ENTRY BOV-GP-PROCESSING-ENTRY BOV-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(c) Part 3 is replaced by the following:

'PART 3

Specific conditions referred to in column 5 of the table set out in Part 1

| | |
|-------------------------------------|--|
| Period before 1 January 2021 | The model certificates to be used for entry into the Union of semen, oocytes and embryos from the zone referred to in column 2 of the table set out in Part 1 collected or produced, processed and stored before 1 January 2021 are set out in Chapters 24, 25, 27, 28 and 29 of Annex I to Commission Implementing Regulation (EU) 2021/403 (*) |
|-------------------------------------|--|

(*) Commission Implementing Regulation (EU) 2021/403 of 24 March 2021 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates and model animal health/official certificates, for the entry into the Union and movements between Member States of consignments of certain categories of terrestrial animals and germinal products thereof, official certification regarding such certificates and repealing Decision 2010/470/EU (OJ L 113, 31.3.2021, p. 1).;

(10) Annex X is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Chile:

| | | | | | |
|--------------------------|------|------------------------|---|---------------------------------|--|
| 'GB United Kingdom | GB-0 | Semen | OV/CAP-SEM-A-ENTRY OV/CAP-SEM-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | OV/CAP-OOCTYES-EMB-A-ENTRY OV/CAP-OOCTYES-EMB-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021 | |

| | | | | | |
|----------------|------|---------------------|---|----------------------------------|--|
| GG Guernsey | GG-0 | Semen | OV/CAP-SEM-A-ENTRY OV/CAP-SEM-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | OV/CAP-OOCTYES-EMB-A-ENTRY OV/CAP-OOCTYES-EMB-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(b) in Part 1, the following entry is inserted after the entry for Greenland:

| | | | | | |
|-------------------|------|---------------------|---|----------------------------------|--|
| IM Isle of Man | IM-0 | Semen | OV/CAP-SEM-A-ENTRY OV/CAP-SEM-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | OV/CAP-OOCTYES-EMB-A-ENTRY OV/CAP-OOCTYES-EMB-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | | |
|--------------|------|---------------------|---|----------------------------------|--|
| JE Jersey | JE-0 | Semen | OV/CAP-SEM-A-ENTRY OV/CAP-SEM-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | OV/CAP-OOCTYES-EMB-A-ENTRY OV/CAP-OOCTYES-EMB-B-ENTRY OV/CAP-GP-PROCESSING-ENTRY OV/CAP-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(d) Part 3 is replaced by the following:

PART 3

Specific conditions referred to in column 5 of the table set out in Part 1

| | |
|-------------------------------------|--|
| Period before 1 January 2021 | The model certificates to be used for entry into the Union of semen, oocytes and embryos from the zone referred to in column 2 of the table set out in Part 1 collected or produced, processed and stored before 1 January 2021 are set out in Chapters 31 and 32 and Chapters 34 to 37 of Annex I to Implementing Regulation (EU) 2021/403' |
|-------------------------------------|--|

(11) Annex XI is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Switzerland:

| | | | | | |
|-----------------------------|------|---------------------|---|---------------------------------|--|
| GB United Kingdom | GB-0 | Semen | POR-SEM-A-ENTRY POR-SEM-B-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | POR-OOCTYES-EMB-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| GG Guernsey | GG-0 | Semen | POR-SEM-A-ENTRY POR-SEM-B-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | POR-OOCTYES-EMB-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| IM Isle of Man | IM-0 | Semen | POR-SEM-A-ENTRY POR-SEM-B-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | POR-OOCTYES-EMB-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |

| | | | | | |
|--------------|------|------------------------|---|----------------------------------|--|
| JE Jersey | JE-0 | Semen | POR-SEM-A-ENTRY POR-SEM-B-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Oocytes and embryos | POR-OOCTYES-EMB-ENTRY POR-GP-PROCESSING-ENTRY POR-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(b) Part 3 is replaced by the following:

PART 3

Specific conditions referred to in column 5 of the table set out in Part 1

| | |
|------------------------------|--|
| Period before 1 January 2021 | The model certificates to be used for entry into the Union of semen, oocytes and embryos from the zone referred to in column 2 of the table set out in Part 1 collected or produced, processed and stored before 1 January 2021 are set out in Chapter 39 and Chapters 41 to 44 of Annex I to Implementing Regulation (EU) 2021/403' |
|------------------------------|--|

(12) Annex XII is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Switzerland:

| | | | | | | |
|-----------------------|------|---|---------------------|---|---------------------------------|--|
| ‘GB United Kingdom | GB-0 | Registered horses | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Registered equidae | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Other equine animals not intended for slaughter | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |

| | | | | | | |
|----------------|------|---|---------------------|---|-------------------------------|--|
| GG Guernsey | GG-0 | Registered horses | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCYTES-EMB-A- ENTRY EQUI-OOCYTES-EMB-B- ENTRY EQUI-OOCYTES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Registered equidae | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCYTES-EMB-A- ENTRY EQUI-OOCYTES-EMB-B- ENTRY EQUI-OOCYTES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Other equine animals not intended for slaughter | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCYTES-EMB-A- ENTRY EQUI-OOCYTES-EMB-B- ENTRY EQUI-OOCYTES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(b) in Part 1, the following entry is inserted after the entry for Israel:

| | | | | | | |
|-------------------|------|-------------------|-------|---|------------------------------|--|
| IM Isle of Man | IM-0 | Registered horses | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
|-------------------|------|-------------------|-------|---|------------------------------|--|

| | | | | | | |
|--|--|---|---------------------|---|-------------------------------|--|
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Registered equidae | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Other equine animals not intended for slaughter | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021' | |
| | | | | | | |

(c) in Part 1, the following entry is inserted after the entry for Iceland:

| | | | | | | |
|--------------|------|---|---------------------|---|-------------------------------|--|
| JE Jersey | JE-0 | Registered horses | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Registered equidae | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | Other equine animals not intended for slaughter | Semen | EQUI-SEMEN-A-ENTRY EQUI-SEMEN-B-ENTRY EQUI-SEMEN-C-ENTRY EQUI-SEMEN-D-ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021 | |
| | | | Oocytes and embryos | EQUI-OOCTYES-EMB-A- ENTRY EQUI-OOCTYES-EMB-B- ENTRY EQUI-OOCTYES-EMB-C- ENTRY EQUI-GP-PROCESSING-ENTRY EQUI-GP-STORAGE-ENTRY | Period before 1 January 2021' | |

(d) Part 3 is replaced by the following:

PART 3

Specific conditions referred to in column 6 of the table set out in Part 1

| | |
|-------------------------------------|--|
| Period before 1 January 2021 | The model certificates to be used for entry into the Union of semen, oocytes and embryos from the zone referred to in column 2 of the table set out in Part 1 collected or produced, processed and stored before 1 January 2021 are set out in Chapters 46, 47 and 48 and Chapters 50 to 54 of Annex I to Implementing Regulation (EU) 2021/403' |
|-------------------------------------|--|

(13) Annex XIII is amended as follows:

(a) in Part 1, the following entry is inserted after the entry for the Falkland Islands:

| | | | | | | | |
|------------------------------|------|---------------------------|----------------------------|--|--|--|--|
| 'GB United Kingdom | GB-0 | Bovine animals | BOV, RUM-MSM | | | | |
| | | Ovine and caprine animals | OVI, RUM-MSM | | | | |
| | | Porcine animals | POR, SUI-MSM | | | | |
| | | Farmed game ungulates | RUF, SUF, RUM-MSM, SUI-MSM | | | | |
| | | Wild game ungulates | RUW, SUW' | | | | |

(b) in Part 1, the following entry is inserted after the entry for Honduras:

| | | | | | | | |
|---------------------------|------|---------------------------|---------------|--|--|--|--|
| 'IM Isle of Man | IM-0 | Bovine animals | BOV, RUM-MSM | | | | |
| | | Ovine and caprine animals | OVI, RUM-MSM | | | | |
| | | Porcine animals | POR, SUI-MSM' | | | | |

(14) Annex XIV is amended as follows:

(a) in Part 1, the following entry is inserted after the entry for China:

| | | | | | | | |
|------------------------------|--------|--|-----|-------|--|----------|-----------|
| 'GB United Kingdom | GB-1 | Fresh meat of poultry other than ratites | POU | N | | | |
| | | Fresh meat of ratites | RAT | N | | | |
| | | Fresh meat of game birds | GBM | | | | |
| | GB-2 | | | | | | |
| | GB-2.1 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 6.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 6.1.2021 |
| | GB-2.2 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 8.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 8.1.2021 |
| | GB-2.3 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 10.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 10.1.2021 |
| | GB-2.4 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 11.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 11.1.2021 |

| | | | | | | | |
|--|---------|--|-----|-------|--|-----------|------------|
| | GB-2.5 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 17.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 17.1.2021 |
| | GB-2.6 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 19.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 19.1.2021 |
| | GB-2.7 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 20.1.2021 |
| | GB-2.8 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 20.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 20.1.2021 |
| | GB-2.9 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 23.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 23.1.2021 |
| | GB-2.10 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 28.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 28.1.2021 |
| | GB-2.11 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 7.2.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 7.2.2021 |
| | GB-2.12 | Fresh meat of poultry other than ratites | POU | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Fresh meat of ratites | RAT | N, P2 | | 1.1.2021 | 31.1.2021 |
| | | Fresh meat of game birds | GBM | N, P2 | | 1.1.2021 | 31.1.2021' |
| | GB-2.13 | Fresh meat of poultry other than ratites | POU | N, P2 | | 27.1.2021 | |

| | | | | | | | |
|--|---------|--|-----|-------|--|-----------|--|
| | | Fresh meat of ratites | RAT | N, P2 | | 27.1.2021 | |
| | | Fresh meat of game birds | GBM | N, P2 | | 27.1.2021 | |
| | GB-2.14 | Fresh meat of poultry other than ratites | POU | N, P2 | | 8.2.2021 | |
| | | Fresh meat of ratites | RAT | N, P2 | | 8.2.2021 | |
| | | Fresh meat of game birds | GBM | N, P2 | | 8.2.2021 | |

(b) in Part 2, the following descriptions are inserted after the descriptions of zones of China:

| | | |
|-----------------|-------------|---|
| 'United Kingdom | GB-1 | Whole country of the United Kingdom, excluding the area GB-2 |
| | GB-2 | The zones of the United Kingdom described under GB-2 in Part 2 of Annex V |

(15) Annex XV is amended as follows:

(a) in Part 1, Section A, the following entries are inserted after the entry for Ethiopia:

| | | | | | | | | | | | | | |
|------------------------------|------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------------|--|
| 'GB United Kingdom | GB-0 | A | A | A | A | A | A | A | Not authorised | Not authorised | Not authorised | MPNT** MPST | |
| | GB-1 | A | A | A | A | A | A | A | A | A | A | MPNT** MPST | |
| | GB-2 | A | A | A | A | A | A | A | D | D | D | MPNT** MPST | |
| GG Guernsey | GG-0 | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | | |

(b) in Part 1, Section A, the following entry is inserted after the entry for Israel:

| | | | | | | | | | | | | | |
|---------------------------|------|----------------|---|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------------|--|
| 'IM Isle of Man | IM-0 | Not authorised | A | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | Not authorised | MPNT** MPST | |
|---------------------------|------|----------------|---|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|------------------------|--|

(c) in Part 1, Section A, the following entry is inserted after the entry for India:

| | | | | | | | | | | | | | |
|---------------------|------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|--|--|
| JE Jersey | JE-0 | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | Not author- ised | | |
|---------------------|------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|--|--|

(d) in Part 2, the following descriptions are inserted after the descriptions of zones of China:

| | | |
|-----------------|-------------|---|
| 'United Kingdom | GB-1 | Whole country of the United Kingdom, excluding the area GB-2 |
| | GB-2 | The zones of the United Kingdom described under GB-2 in Part 2 of Annex V |

(16) Annex XVI is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Colombia:

| | | | | | |
|------------------------------|------|-----------------------|-----|--|--|
| 'GB United Kingdom | GB-0 | Ungulates and poultry | CAS | | |
| GG Guernsey | GG-0 | Ungulates and poultry | CAS | | |
| IM Isle of Man | IM-0 | Ungulates and poultry | CAS | | |

(b) in Part 1, the following entry is inserted after the entry for India:

| | | | | | |
|----------------------|------|-----------------------|-----|--|--|
| 'JE Jersey | JE-0 | Ungulates and poultry | CAS | | |
|----------------------|------|-----------------------|-----|--|--|

(17) Annex XVII is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Chile:

| | | | | | | | |
|-----------------------------------|------|-----------|---|--|--|--|--|
| 'GB United King- dom | GB-0 | Ungulates | MILK-RM, MILK-RMP/NT, COLOSTRUM, COLOSTRUM-BP, DAIRY-PRODUCTS-PT | | | | |
| GG Guernsey | GE-0 | Ungulates | MILK-RM, MILK-RMP/NT, COLOSTRUM, COLOSTRUM-BP, DAIRY-PRODUCTS-PT' | | | | |

(b) in Part 1, the following entry is inserted after the entry for Greenland:

| | | | | | | | |
|----------------------|------|-----------|---|--|--|--|--|
| 'JE Jersey | JE-0 | Ungulates | MILK-RM, MILK-RMP/NT, COLOSTRUM, COLOSTRUM-BP, DAIRY-PRODUCTS-PT' | | | | |
|----------------------|------|-----------|---|--|--|--|--|

(18) in Part 1 of Annex XVIII, the following entries are inserted after the entry for Mauritius:

| | | | | |
|------------------------|------|-----------|--------------------|--|
| 'MX Mexico | MX-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| NA Namibia | NA-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| NI Nicaragua | NI-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| PA Panama | PA-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| PY Paraguay | PY-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| RU Russia | RU-0 | Ungulates | DAIRY-PRODUCTS-ST | |
| SG Singapore | SG-0 | Ungulates | DAIRY-PRODUCTS-ST' | |

(19) in Part 1 of Annex XIX, the following entry is inserted after the entry for China:

| | | | | | | | |
|------------------------------|------|--------------|-----|--|--|--|--|
| 'GB United Kingdom | GB-0 | Eggs | E | | | | |
| | | Egg products | EP' | | | | |

(20) Annex XXI is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for the Cook Islands:

| | | | | | | | | | |
|-----------------------------|------|--------------------|--|--|--------------------------------|----|--|--|--|
| GB United Kingdom | GB-0 | All listed species | | | AQUA-ENTRY-ESTAB/RELEASE/OTHER | | | | |
| | | | | | FISH-CRUST-HC | A | | | |
| | | | | | MOL-HC | B | | | |
| GG Guernsey | GG-0 | All listed species | | | AQUA-ENTRY-ESTAB/RELEASE/OTHER | | | | |
| | | | | | FISH-CRUST-HC | A | | | |
| | | | | | MOL-HC | B' | | | |

(b) in Part 1, the following entries are inserted after the entry for Israel:

| | | | | | | | | | |
|--------------------------|------|----------------------------|--|--|--------------------------------|----|--|--|--|
| IM Isle of Man | IM-0 | All listed species of fish | | | AQUA-ENTRY-ESTAB/RELEASE/OTHER | | | | |
| | | | | | FISH-CRUST-HC | A | | | |
| JE Jersey | JE-0 | All listed species | | | AQUA-ENTRY-ESTAB/RELEASE/OTHER | | | | |
| | | | | | FISH-CRUST-HC | A | | | |
| | | | | | MOL-HC | B' | | | |

(c) in Part 3, specific condition 'B' is replaced by the following:

| | |
|--|---|
| B | <p>Aquatic animals and products of animal origin from aquatic animals other than live aquatic animals, to which Part II.2.4 of model official certificate MOL-HC applies, must originate from a country, territory, zone or compartment listed in this Annex, Part 1, column 2. In all cases, this applies without prejudice to Commission Implementing Regulation (EU) 2021/405 (*)</p> <p>This official certificate may only be used for the entry into the Union of consignments of live aquatic animals intended for human consumption that comply with Section VII, Chapter V, of Annex III to Regulation (EC) No 853/2004 of the European Parliament and of the Council (**) and the criteria laid down in Chapter I, points 1.17 and 1.25, of Annex I to Commission Regulation (EC) No 2073/2005 (***)</p> |
| <p>(*) Commission Implementing Regulation (EU) 2021/405 of 24 March 2021 laying down the lists of third countries or regions thereof authorised for the entry into the Union of certain animals and goods intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council (OJ L 114, 31.3.2021, p. 118).</p> <p>(**) Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ L 139, 30.4.2004, p. 55).</p> <p>(***) Commission Regulation (EC) No 2073/2005 of 15 November 2005 on microbiological criteria for foodstuffs (OJ L 338, 22.12.2005, p. 1).;</p> | |

(21) Annex XXII is amended as follows:

(a) in Part 1, the following entries are inserted after the entry for Belarus:

| | | | | | | | |
|-----------------------------|------|--|---|---|---|--|--|
| GB United Kingdom | GB-0 | | Animals and germinal products falling within the scope of Commission Delegated Regulation (EU) 2020/692 (*) | Model certificates for movements within the Union | From a Member State to other Member States through the United Kingdom or its Crown Dependencies | | |
| GG Guernsey | GG-0 | | Animals and germinal products falling within the scope of Delegated Regulation (EU) 2020/692 | Model certificates for movements within the Union | From a Member State to other Member States through the United Kingdom or its Crown Dependencies | | |
| IM Isle of Man | IM-0 | | Animals and germinal products falling within the scope of Delegated Regulation (EU) 2020/692 | Model certificates for movements within the Union | From a Member State to other Member States through the United Kingdom or its Crown Dependencies | | |
| JE Jersey | JE-0 | | Animals and germinal products falling within the scope of Delegated Regulation (EU) 2020/692 | Model certificates for movements within the Union | From a Member State to other Member States through the United Kingdom or its Crown Dependencies | | |

(*) Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).;

- (b) in Part 3, the following specific condition is inserted after the entry for 'From Russia to Russia':

| | |
|--|---|
| 'From a Member State to other Member States through the United Kingdom or its Crown Dependencies' | Consignments of animals and germinal products falling within the scope of Delegated Regulation (EU) 2020/692 originating in a Member State and entering the Union after transiting through the United Kingdom or its Crown Dependencies shall be permitted to enter the Union provided that they are accompanied by a certificate in accordance with the model certificates laid down in Commission Implementing Regulation (EU) 2020/2236 (*) and Implementing Regulation (EU) 2021/403 for movements of animals and germinal products within the Union. |
|--|---|

(*) Commission Implementing Regulation (EU) 2020/2236 of 16 December 2020 laying down rules for the application of Regulations (EU) 2016/429 and (EU) 2017/625 of the European Parliament and of the Council as regards model animal health certificates for the entry into the Union and movements within the Union of consignments of aquatic animals and of certain products of animal origin from aquatic animals, official certification regarding such certificates and repealing Regulation (EC) No 1251/2008 (OJ L 442, 30.12.2020, p. 410).'

COMMISSION IMPLEMENTING REGULATION (EU) 2021/635**of 16 April 2021****imposing a definitive anti-dumping duty on imports of certain welded pipes and tubes of iron or non-alloyed steel originating in Belarus, the People's Republic of China and Russia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

- (1) By Regulation (EC) No 1256/2008 ⁽²⁾, the Council imposed a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China ('PRC'), Russia, Thailand and Ukraine ('the original measures'). The measures took the form of an *ad valorem* duty ranging from 10,1 % to 90,6 %.
- (2) By Commission Implementing Regulation (EU) 2015/110 ⁽³⁾, the Commission re-imposed a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the PRC and Russia and terminated the proceeding for imports originating in Ukraine, following an expiry review (hereinafter 'the previous expiry review').
- (3) The anti-dumping duties currently in force are at rates of 10,1 % and 16,8 % on imports from the sampled exporting producers in Russia, 20,5 % on all other companies in Russia, 90,6 % on imports from all exporting producers in the PRC and 38,1 % on imports from all exporting producers in Belarus.

1.2. Request for an expiry review

- (4) Following the publication of a Notice of impending expiry ⁽⁴⁾, the European Commission ('the Commission') received a request for a review pursuant to Article 11(2) of the basic Regulation.
- (5) The request for review was lodged on 25 October 2019 by the Defence Committee of the welded steel tubes industry of the European Union ('the applicant') acting on behalf of producers representing more than 25 % of the total Union production of certain welded pipes and tubes of iron or non-alloy steel. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and injury to the Union industry.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1256/2008 of 16 December 2008 imposing a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China and Russia following a proceeding pursuant to Article 5 of Regulation (EC) No 384/96, originating in Thailand following an expiry review pursuant to Article 11(2) of the same Regulation, originating in Ukraine following an expiry review pursuant to Article 11(2) and an interim review pursuant to Article 11(3) of the same Regulation, and terminating the proceedings in respect of imports of the same product originating in Bosnia and Herzegovina and Turkey (OJ L 343, 19.12.2008, p. 1).

⁽³⁾ Commission Implementing Regulation (EU) 2015/110 of 26 January 2015 imposing a definitive anti-dumping duty on imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the People's Republic of China and Russia and terminating the proceeding for imports of certain welded tubes and pipes of iron or non-alloy steel originating in Ukraine following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 20, 27.1.2015, p. 6).

⁽⁴⁾ OJ C 166, 15.5.2019, p. 7.

1.3. Initiation of an expiry review

- (6) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 24 January 2020 the Commission initiated an expiry review with regard to imports of certain welded tubes and pipes of iron or non-alloy steel originating in Belarus, the PRC and Russia ('the countries concerned') on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ⁽³⁾ ('the Notice of Initiation').

1.4. Review investigation period and period considered

- (7) The investigation of continuation or recurrence of dumping covered the period from 1 January 2019 to 31 December 2019 ('review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2016 to the end of the review investigation period ('the period considered').

1.5. Interested parties

- (8) In the Notice of Initiation, interested parties were invited to contact the Commission in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, trade unions, the known producers in Belarus, the PRC and Russia and the authorities of those countries, known importers, users, traders, as well as associations known to be concerned about the initiation of the expiry and invited them to participate.
- (9) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (10) At initiation, the Commission informed interested parties that it would have to seek cooperation by at least one exporting producer in an appropriate representative country for Belarus, pursuant to Article 2(7) of the basic Regulation. The Commission also informed authorities in Mexico, Russia, South Africa, South Korea, Thailand, Turkey, Ukraine and USA of the initiation and invited their exporting producers to participate. Interested parties had an opportunity to comment and to provide submissions in this regard (see below Section 3.1.2).
- (11) After disclosure the authorities of Belarus argued that in the request for review the applicant did not properly demonstrate the likelihood of continuation or recurrence of injury.
- (12) The Commission considered that the request for review contained sufficient evidence for the initiation of the investigation, as explained in recital (6). Moreover, as explained in Section 3.1.2 and 5, the investigation demonstrated the likelihood of continuation or recurrence of dumping and injury as regards the imports from Belarus.
- (13) The argument was therefore dismissed.

1.5.1. Sampling

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

1.5.2. Sampling of Union producers

- (15) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and sales volumes of the product under review, ensuring a good geographical spread. This sample consisted of three Union producers. The sampled Union producers accounted for around 40 % of the estimated total Union production and 38 % of the estimated total Union sales volume of the product under review.

⁽³⁾ OJ C 24, 24.1.2020, p. 17.

- (16) The Commission invited interested parties to comment on the provisional sample. The Commission received no comments on the sample. The sample was thus considered representative of the Union industry.

1.5.3. *Sampling of importers*

- (17) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (18) No unrelated importers provided the requested information. Therefore, sampling was not necessary.

1.5.4. *Sampling of exporting producers in the countries concerned*

- (19) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all exporting producers in Belarus, the PRC and Russia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Republic of Belarus to the European Union, the Mission of the People's Republic of China to the European Union and the Mission of the Russian Federation to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (20) Three exporting producers from Belarus provided the requested information and agreed to be included in the sample. Given the low number of producers that came forward, the Commission considered that sampling was not necessary. The three exporting producers were therefore requested to complete the questionnaire intended for the exporting producers.
- (21) Two exporting producers from Russia came forward, expressing their willingness to participate in the investigation. Given the reduced number of producers that came forward, the Commission considered that sampling was not necessary. The two exporting producers were requested to complete the questionnaire intended for the exporting producers.
- (22) No producers from the PRC provided the requested information and agreed to be included in the sample. Therefore, there was no cooperation from the Chinese producers and the findings with regard to the imports from the PRC are made on the basis of the facts available pursuant to Article 18 of the basic Regulation.

1.6. **Replies to the questionnaire**

- (23) Copies of the questionnaires were made available on DG Trade's website when the case was initiated.
- (24) Questionnaire replies were received from the three sampled Union producers and one distributor in the Union.
- (25) Questionnaire replies were received also by the three cooperating producers in Belarus while only one of the two Russian exporting producers that came forward at initiation provided a questionnaire reply and cooperated with the proceeding.

1.7. **On spot verification and remote cross-checking**

- (26) The Commission sought and checked all the information deemed necessary for the investigation.
- (27) Prior to the entry into force of COVID-19 restrictions, the Commission made a verification visit to the premises of Arcelor Mittal Tubular Products in Poland. During this visit, the production process, raw-materials used and the by-products obtained were verified.

- (28) For the verification of all other information and data required, in accordance with the Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations ⁽⁹⁾, remote crosschecking by videoconference was carried out with the following companies:

Union producers

- Arcelor Mittal Tubular Products, Krakow, Poland and the related company Arcelor Mittal Tubular Products, Karvina, Czech Republic
- Celsa Atlantic, S.L., Vitoria-Gasteiz, Spain
- Arvedi Tubi Acciaio S.p.A., Cremona, Italy

Exporting producers in Russia

- PAO Severstal, Cherepovets, Russian Federation

1.8. Subsequent procedure

- (29) On 2 February 2021, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force regarding imports from the countries concerned. All parties were granted a period within which they could make comments on the disclosure.
- (30) The comments made by four interested parties were considered by the Commission and taken into account, where appropriate. No requests for a hearing were received.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (31) The product under review is the same as in the original investigation and the previous expiry review, namely welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil or gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling under CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 (TARIC codes 7306 30 41 20, 7306 30 49 20, 7306 30 72 80 and 7306 30 77 80) originating in Belarus, the People's Republic of China and Russia ('the product under review' or 'WPT').
- (32) WPT is mainly used for the transportation of gases and liquids in plumbing, heating, ventilation systems, etc.

2.2. Like product

- (33) As established in the original investigation as well as in the previous expiry review, this expiry review investigation confirmed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review,
 - the product produced and sold on the domestic market of the countries concerned, and
 - the product produced and sold in the Union by the Union industry.
- (34) These products are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

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

⁽⁹⁾ OJ C 86, 16.3.2020, p. 6.

3.1. Belarus

3.1.1. *Continuation of dumping of imports during the review investigation period*

- (36) As mentioned in recital (25), three producers in Belarus cooperated with the investigation and provided a reply to the questionnaire. However, none of the three producers reported a significant amount of export sales to the EU. In fact, during the review investigation period, imports of the product under review from Belarus virtually disappeared as compared to the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext statistics (Eurostat), imports of WPT from Belarus accounted for less than 4 tonnes in the review investigation period, compared to more than 29 000 tonnes during the original investigation. A similarly low level of imports was noted during the previous expiry review.
- (37) In view of the virtual absence of imports of the product under review from Belarus, no conclusions could be drawn on the continuation of dumping to the EU during the review investigation period. Therefore, the Commission also investigated the likelihood of recurrence of dumping.

3.1.2. *Likelihood of recurrence of dumping should the measures be repealed*

- (38) The Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of recurrence of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in Belarus, relationship between prices in the Union and Belarus; relationship between export prices to third countries and prices in Belarus; relation between export prices to third countries and the price level in the Union and the attractiveness of the Union market.

(a) **Normal value**

- (39) In accordance with Article 2(7) of the basic Regulation, since Belarus is not a member of the WTO and is listed in Annex I to Regulation (EU) 2015/755 of the European Parliament and of the Council ⁽⁷⁾, normal value shall be determined on the basis of the price or constructed value in an appropriate representative country.
- (40) After initiation, the Commission sought cooperation by at least one exporting producer located in a potential representative country. To this end, the Commission contacted the authorities in eight known steel producing countries, namely Mexico, Russia, South Africa, South Korea, Thailand, Turkey, Ukraine and USA.
- (41) The Commission did not receive any cooperation from the above-mentioned countries; however, it did receive one full questionnaire reply, from a producer located in Russia, which was subject to the same investigation. Therefore, the Commission initially considered Russia to be an appropriate choice of representative country for Belarus.
- (42) In accordance with Article 2(7) of the basic Regulation, all known producers concerned, and the authorities of the countries concerned, were consulted on the selection of the representative country. No comments were received from interested parties.
- (43) However, following the remote cross-checking, the cooperation from the producer in Russia was considered to be insufficient (see Section 3.3.1 below). Pursuant to Article 2(7), 2nd subparagraph, of the basic Regulation, when selecting an appropriate representative country, due account shall be taken of '*any reliable information made available at the time of selection, and in particular of cooperation by at least one exporter and producer in that country*'. In the absence of sufficient cooperation and reliable information from any of the Russian producers of WPT, the Commission thus decided to disregard Russia as an appropriate representative country.

⁽⁷⁾ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33).

- (44) As a consequence, in the absence of cooperation from any other producer in a potential representative country, the normal value was determined based on the prices actually paid in the Union for the like product, per basic product type on an ex-works basis, as stipulated in Article 2(7), 1st subparagraph, of the basic Regulation. Separate normal values were established for black and galvanized (*) products.
- (45) After disclosure, the authorities of Belarus argued that the Commission failed to demonstrate that options other than the prices actually paid in the Union for the like product were not possible for the determination on the normal value. In their view, the Commission did not actively search for cooperation from the authorities of potential representative countries. Moreover, the Belarusian authorities argued that, instead of the Union prices, the Commission should have used the normal value determined for Russia or, as an alternative, the available data of Thailand used to construct the normal value for China, as described below in recital (150).
- (46) As regards the first point the Commission confirms that, as explained in recitals (40) and (41) above, it actively searched for cooperation in eight potential representative countries but did not receive any. The letters sent by the Commission in this regard are available in the file open for consultation from interested parties.
- (47) With regard to the second point, as explained in recital (43), Russia was provisionally selected as a representative country for Belarus. However, due to the absence of sufficient cooperation and reliable information from at least one exporting producer, the Commission had no choice but to disregard Russia as a representative country. As for Thailand it must be noted that the selection of an appropriate representative country for Belarus, in accordance with Article 2(7) of the basic Regulation, requires the cooperation by at least one exporter and producer in that country. By contrast, this is not a requirement for the construction of the normal value for China pursuant to Article 2(6a)(a) of the basic Regulation. Consequently, Thailand was not an appropriate representative country under Article 2(7) of the basic Regulation for Belarus.
- (48) The claim was therefore dismissed.

(b) Export price

- (49) During the review investigation period, none of the cooperating producers in Belarus exported the product under review to other third country markets in significant quantities.
- (50) Nevertheless, since it appeared from Belarusian trade statistics on imports and exports that the product under review was actually exported from Belarus to other third countries in significant quantities during the review investigation period, it was concluded that no producers actually exporting the product under review came forward and cooperated with the investigation.
- (51) Therefore, the Commission informed the authorities of Belarus that due to the absence of significant cooperation from producers actually exporting the product under review, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to Belarus.
- (52) In their comments to the intended application of Article 18, the Belarusian authorities argued that it was more appropriate to use the data provided by the three cooperating producers rather than the import and export statistics. Moreover, they claimed, and reiterated the claim after disclosure, that the Harmonised system (HS) codes used to assess the exports of the product under review were not appropriate. Finally, they argued that the Commission failed to take into account re-exports as, in their view, the exports of the product under review to third countries (i.e. Russia) amounted to 2 400 tonnes and included exports made by a company that purchases the product under review in Russia, performs the galvanisation service and re-exports it back.

(*) Galvanized pipes/tubes are black pipes/tubes that have subsequently undergone a galvanizing process, in which the pipe/tube is coated with a layer of zinc.

- (53) As regards the first claim, the Commission clarified that it did neither contest nor disregard the data of the three cooperating Belarusian producers. The three companies simply did not export significant quantities of the product under review that could be used by the Commission to assess the likelihood of continuation or recurrence of dumping.
- (54) As regards the second claim, the Commission noted that almost the totality of Belarusian exports of the product under review are made to Russia. The Commission cross-checked the statistics on exports from Belarus to Russia (at 8-digit level) with the imports into Russia (at 10-digit level) based on Global Trade Atlas ('GTA') ⁽⁹⁾ statistics. The Commission confirmed that the product under review falls into the description for the codes at 8-digit level used for Belarusian exports as well as under the codes at 10-digit level used for the Russian imports. In the end, the Commission used the Russian import figures at 10-digit level, since they provided more detailed information on the different types of WPT.
- (55) As regards the third claim, the Commission noted three points: first, from the information collected, the exports of the product under review from Belarus to Russia during the review investigation period amounted to more than 4 800 tonnes. Second, the export quantities of galvanized product amounted to less than 1 000 tonnes, according to the same sources. Finally, the fact that no cooperation was received by the re-exporting producer invoked by the Belarusian authorities justified the Commission's assessment on the basis of Article 18 of the basic Regulation given the absence of cooperation from producers in Belarus that would export significant quantities of the product under consideration.
- (56) These claims were therefore rejected.
- (57) Consequently, in accordance with Article 18 of the basic Regulation, the likely export price was established on the basis of facts available. As a result, sales prices to third countries were determined based on imports statistics into Russia in the Global Trade Atlas ('GTA'), reports of the World Bank ⁽¹⁰⁾ and OECD ⁽¹¹⁾.
- (58) More specifically, the Commission identified the biggest importer of WPT from Belarus during the review investigation period, i.e. Russia, which absorbs 92 % of the Belarusian exports of the product under review. The quantities exported to other third countries than Russia were negligible and therefore considered not to be representative.
- (59) The import value in Russia was reported at CIF level. Therefore, the Commission adjusted the reported prices to calculate the export price at ex-works level by deducting the domestic transport cost in Belarus ⁽¹²⁾. Separate likely export prices were established for black and galvanized products.

(c) **Comparison**

- (60) The Commission compared the normal value and the likely export prices to Russia on an ex-works basis. Given that the exports of galvanized products were made in limited quantities and showed an incoherent price trend, and taking into account the comments of the Belarusian authorities on re-exports (detailed above in recital (52)), the comparison was made only for the black products.
- (61) The above comparison showed a likely countrywide dumping margin for the Belarusian exports to Russia expressed as a percentage of the CIF value of 8,0 %.
- (62) After disclosure the authorities of Belarus and two producers from Belarus argued that the Commission should amend the level of the measures for Belarus given that the dumping margin established in the current proceeding is significantly lower than the ones established in the previous expiry review and in the original investigation.

⁽⁹⁾ <http://www.gtis.com/gta/secure/default.cfm>

⁽¹⁰⁾ <https://www.doingbusiness.org/>

⁽¹¹⁾ <https://stats.oecd.org/>

⁽¹²⁾ On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC), Belarus – Russia. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

- (63) Pursuant to the provision of Article 11(2) of the basic Regulation, in an expiry review measures can either be repealed or maintained at the level established in the original investigation. The Commission is therefore not able to revise the level of the duties in an expiry review.
- (64) This claim was therefore dismissed.
- (65) In addition, the Belarusian authorities asked for the disclosure of the dumping calculation and additional time to provide comments on it.
- (66) The methodology of the dumping calculation for Belarus is detailed above in recitals (39) to (61). After disclosure, following the request of the authorities of Belarus, the Commission made available in the file open for consultation the statistics regarding Russia used to determine the likely export price from Belarus. Interested parties were given three days to provide comments.
- (67) Comments were received from the Authorities of Belarus as regards (i) the origin of the product under review in the statistics; (ii) the currency conversion; and (iii) the particularity of statistical records between Belarus and Russia.
- (68) As regard the first point, the authorities of Belarus argued that one of the codes used to establish the imports from Belarus into Russia, as explained in recital (54), contained products originating not only in Belarus but also from other countries.
- (69) The Commission clarified that the information collected during the investigation confirmed that the products imported under that code are reported in the statistics as originating in Belarus. Moreover no evidence was provided that the products indicated as originating in Belarus were actually originating in any other countries. The claim was therefore dismissed.
- (70) As regards the second point, the Belarusian authorities argued that the Commission used the import statistics of Russia in euro, while the Federal Customs Service of Russia provide statistics in US dollars. Therefore, in their opinion, the Commission should have used the exchange rate of the day of the sale, as required by Article 2(10)(j) of the basic regulation.
- (71) First, the provisions of Article 2(10)(j) applies to the comparison between export prices and normal value in the presence of actual sales transactions. In the present case, as explained in recital (57) above, the average export price was determined based on import statistics from GTA and not on actual sales transactions. Second, the conversion rate used in GTA is the monthly average calculated from the daily averages in the month. Therefore, in the Commission's view, it allowed an accurate comparison between the export price and the normal value. Therefore, this claim was dismissed.
- (72) As regards the third point, the Belarusian authorities argued that the Republic of Belarus and the Russian Federation are both members of the Eurasian Economic Union (EAEU). This entailed that free movements of goods between EAEU members is carried out without customs controls and therefore, in their view, the compliance of the declared customs code with the goods actually exported is not ensured.
- (73) The Commission disagreed with this statement. The absence of customs controls do not lift the reporting requirements for import and export transactions. The description of the customs codes used is consistent with the definition of the product under review and no evidence of the contrary was provided. Therefore that claim was dismissed.

3.1.2.1. Production capacity and spare capacity in Belarus

- (74) The production capacity and spare capacity in Belarus were established on the basis of the information provided by the applicant and the data provided by the three cooperating Belarusian producers.
- (75) According to the data provided in the request, the spare production capacity of the product under review in Belarus amounts to around 50 000 tonnes. The investigation established that the three cooperating producers have a spare production capacity of the product under review of at least 30 000 tonnes.

- (76) In addition, as established also in the previous expiry review, the production lines of the product under review can be utilized both for the production of welded tubes and pipes and for the production of hollow sections (only a minor production step separates the production of the two products). In addition, also welded pipes with a diameter exceeding 168,3 mm ('large pipes'), which are not concerned by this proceeding, could be produced on the same production lines.
- (77) Therefore, taking into account the possibility to change the product mix, the spare capacity in Belarus is estimated to be around 50 000 tonnes for the cooperating producers, or more than 9 % of Union consumption. In addition, since the cooperating producers only account for 40 % of total production in Belarus, and assuming the same ratio of spare capacity for the non-cooperating producers, the country-wide spare capacity can be estimated at around 125 000 tonnes.
- (78) Based on the above, the Commission concluded that the Belarusian exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if measures were allowed to lapse.
- (79) After disclosure one Belarusian producer and the authorities of Belarus contested the Commission's calculation of the spare capacity in Belarus as, in their view, it is significantly overestimated and did not take into account the other products produced on the same production line.
- (80) The Commission clarifies that the estimation of the spare production capacity was based on the actual data provided by the three cooperating producers in their questionnaire replies. Moreover, as explained in recital (77), the Commission took into account the other products produced on the same production line. In addition, given the attractiveness of the Union market it was concluded that it is likely that Belarusian producers will change their product mix, and increase their production capacity of the product under review, should the measures lapse.
- (81) Therefore the claim was dismissed.

3.1.2.2. Attractiveness of the Union market

- (82) According to the GTA data, the Belarusian exporting producers exported to their main third market, Russia, at prices, on average, at least 5 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially more attractive for the Belarusian exporters than exporting to almost all other countries. In addition, during the RIP, exports to Russia amounted to around 4 800 tonnes, less than 10 % of the estimated spare capacity of the cooperating producers in Belarus, and less than 4 % of the estimated country-wide spare capacity.
- (83) The Union market is also attractive to the Belarusian producers in view of its geographical proximity and its size, with a total consumption of 541 000 tonnes.

3.1.2.3. Conclusion on the likelihood of continuation or recurrence of dumping

- (84) The Commission established that dumping practices continued with regard to the Belarusian exports to their main third country market (Russia).
- (85) Furthermore, the Commission found other evidence that dumping will likely recur should the measures lapse.
- (86) The attractiveness of the Union market in terms of size and prices, and the significant spare capacity still available in Belarus, indicated that it is likely that Belarusian exports and spare capacity would be (re)directed towards the Union, should the measures be allowed to lapse.
- (87) Consequently, the Commission concluded that there was a likelihood of recurrence of dumping, if measures would not be extended.

3.2. The People's Republic of China

3.2.1. Preliminary remarks

- (88) During the review investigation period, imports of the product under review from the PRC continued, albeit at much lower levels than in the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext (Eurostat) statistics, imports of WPT from the PRC accounted for about 0,1 % of the Union market in the review investigation period, compared to a market share of 13,8 % during the original investigation. A similarly low level of market share (0,03 %) was noted during the previous expiry review. In absolute terms, imports from the PRC dropped drastically from almost 184 887 tonnes during the original investigation to 118 tonnes in the previous expiry review and 559 tonnes in the current expiry review.
- (89) As mentioned in recital (22), none of the exporters/producers from the PRC cooperated in the investigation. Thus, the exporting producers failed to submit questionnaire replies, including any data on export prices and costs, domestic prices and costs, consumption of inputs in the production process, manufacturing overheads, capacity, production, investments, etc. Likewise, the GOC and the exporting producers failed to address the evidence on the case file, including the 'Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defense Investigations' ⁽¹³⁾ ('the Report').
- (90) Therefore, the Commission informed the authorities of the PRC that due to the absence of cooperation, the Commission might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments.
- (91) Consequently, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping with regard to the PRC were based on facts available, in particular the information contained in the request for the expiry review and in the submissions by the interested parties, combined with other sources of information, such as trade statistics on imports and exports (Eurostat and GTA), statistical data from the Chinese tax and custom administration websites ⁽¹⁴⁾, reports of the World Bank and OECD, and independent providers of pricing intelligence, news, data, analysis and conferences for the iron and steel industry such as Deloitte ⁽¹⁵⁾, Transcustoms ⁽¹⁶⁾, Global Trade Alert ⁽¹⁷⁾ and Huajing Industry Research Institute ⁽¹⁸⁾.

3.2.2. Continuation of dumping of imports during the review investigation period

3.2.2.1. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation

- (92) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation with regard to this country on the basis of Article 2(6a) of the basic Regulation.
- (93) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the Government of China ('GOC'). In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation,

⁽¹³⁾ Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2.

⁽¹⁴⁾ http://www.gov.cn/zhengce/content/2017-12/01/content_5243734.htm
<http://www.chinatax.gov.cn/n810341/n810755/c3377945/content.html>
http://www.gov.cn:8080/gongbao/content/2019/content_5416183.htm

⁽¹⁵⁾ <https://www2.deloitte.com/content/dam/Deloitte/cn/Documents/tax/deloitte-cn-tax-changes-to-vat-regulations-zh-171205.pdf>

⁽¹⁶⁾ <http://www.transcustoms.cn/index.asp>

⁽¹⁷⁾ <https://www.globaltradealert.org/>

⁽¹⁸⁾ <https://m.huaon.com/detail/407989.html>
<https://m.huaon.com/detail/617918.html>

within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline.

- (94) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, it had provisionally selected Mexico as an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in 2(6a)(a) first indent of the basic Regulation.
- (95) On 11 May 2020, the Commission informed interested parties by a note ('the First Note') of the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy that might be used in the production of the product under review. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified possible representative countries (namely Brazil, Malaysia, Mexico, Thailand and Turkey). The Commission received no comments on the First Note.
- (96) On 4 June 2020, the Commission informed the interested parties by a second note ('the Second Note') of the relevant sources it intended to use for the determination of the normal value, with Thailand as the representative country ⁽¹⁹⁾. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profit based on available information from producers in the representative country – Pacific Pipe Co., Ltd. and Asia Metal Co., Ltd.. No comments on the Second Note were received.

3.2.2.2. Normal value

- (97) According to Article 2(1) of the basic Regulation, *'the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country'*.
- (98) However, according to Article 2(6a)(a) of the basic Regulation, *'in case it is determined [...] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks'*, and *'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits'* ('administrative, selling and general costs' is referred hereinafter as 'SG&A').
- (99) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

(a) **Existence of significant distortions**

(1) Introduction

- (100) Article 2(6a)(b) of the basic Regulation defines *'significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:*
- *the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country,*
 - *state presence in firms allowing the state to interfere with respect to prices or costs,*

⁽¹⁹⁾ As established in recitals (144) to (152).

- *public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces,*
- *the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws,*
- *wage costs being distorted,*
- *access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state’.*

(101) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product under review. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

(102) Article 2(6a)(c) of the basic Regulation provides that ‘[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector’.

(103) Pursuant to this provision, the Commission has issued a country report ⁽²⁰⁾, concerning the PRC, showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals). Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The Report was placed in the investigation file at the initiation stage.

(104) The request also provided additional evidence on the existence of significant distortions in the meaning of Article 2(6a)(b) referred to above, complementing the Report.

(105) In particular, the applicant referred to practices affecting the costs and prices in the WPT sector and steel sector (hot rolled steel coils are the main input in the production of the WPT):

- from five Chinese largest steel producers, four are State-owned enterprises (‘SOE’) and as such those companies operate under the ownership, control, and policy supervision of the GOC;
- the costs of raw-materials and energy in the PRC are not the result of free market forces as they are affected by substantial government interventions, as was confirmed also in recent anti-subsidy investigation concerning hot-rolled flat products; ⁽²¹⁾
- the hot-rolled steel producers benefit from preferential lending constituting subsidies, which was also confirmed by the above mentioned anti-subsidy procedure.

⁽²⁰⁾ Referred to in recital (82) above.

⁽²¹⁾ See Implementing Regulation (EU) 2017/969.

- (106) As specified in recital (93), the GOC did not provide any reply to the questionnaire it received. As mentioned in recitals (22) and (89), there was no cooperation from exporting producers and neither did the exporting producers provide evidence supporting or rebutting the existing evidence on the case file, including the Report, and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.
- (107) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review.
- (2) Significant distortions affecting the domestic prices and costs in the PRC
- (108) The Chinese economic system is based on the concept of a '*socialist market economy*'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the '*socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people*'. The State-owned economy is the '*leading force of the national economy*' and the State has the mandate '*to ensure its consolidation and growth*' ⁽²²⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽²³⁾.
- (109) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing first sentence of the provision: '*[t]he socialist system is the basic system of the People's Republic of China*' a new second sentence was inserted which reads: '*[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.*' ⁽²⁴⁾ This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within which the boundaries of free market forces are at play.
- (110) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ⁽²⁵⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.
- (111) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans cover a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets while this was a regular feature in previous planning

⁽²²⁾ Report – Chapter 2, p. 6-7.

⁽²³⁾ Report – Chapter 2, p. 10.

⁽²⁴⁾ Available at http://www.fdi.gov.cn/1800000121_39_4866_0_7.html (last viewed 15 July 2019).

⁽²⁵⁾ Report – Chapter 2, p. 20-21.

cycles. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also Section 3.2.2.2(a)(5) below) ⁽²⁶⁾.

(112) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also Section 3.2.2.2(a)(8) below) ⁽²⁷⁾. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector other than the banking sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ⁽²⁸⁾.

(113) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ⁽²⁹⁾. Similarly, in the area of investment, the GOC maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ⁽³⁰⁾.

(114) In sum, the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ⁽³¹⁾.

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

(115) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.

(116) The GOC and the CCP maintain structures that ensure their continued influence over enterprises, and in particular State-owned enterprises (SOEs). The State (and in many aspects also the CCP) not only actively formulates and oversees the implementation of general economic policies by individual SOEs, but it also claims its rights to participate in operational decision making in SOEs. This is typically done through rotation of cadres between government authorities and SOEs, through presence of party members on SOEs executive bodies and of party cells in companies (see also Section 3.2.2.2(a)(4)), as well as through shaping the corporate structure of the SOE

⁽²⁶⁾ Report – Chapter 3, p. 41, 73-74.

⁽²⁷⁾ Report – Chapter 6, p. 120-121.

⁽²⁸⁾ Report – Chapter 6, p. 122-135.

⁽²⁹⁾ Report – Chapter 7, p. 167-168.

⁽³⁰⁾ Report – Chapter 8, p. 169-170, 200-201.

⁽³¹⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

sector⁽³²⁾. In exchange, SOEs enjoy a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finance⁽³³⁾. The elements that point to the existence of government control over enterprises in the WPT sector is further developed in Section 3.2.2.2(a)(4) below.

(117) Specifically in the steel sector, which is the main raw material to produce WPT, a substantial degree of ownership by the GOC persists. While the nominal split between the number of SOEs and privately owned companies is estimated to be almost even, from the five Chinese steel producers ranked in the top 10 of the world's largest steel producers four are SOEs⁽³⁴⁾. At the same time, while the top ten producers only took up some 36 % of total industry output in 2016, the GOC set the target in the same year to consolidate 60 % to 70 % of steel production to around ten large-scale enterprises by 2025⁽³⁵⁾. This intention has been repeated by the GOC in April 2019, announcing a release of guidelines on steel industry consolidation⁽³⁶⁾. Such consolidation may entail forced mergers of profitable private companies with underperforming SOEs⁽³⁷⁾.

(118) As explained above, there is a high share of SOE in the steel sector, which is the main provider of the raw material for the production of WPT. Since there was no cooperation from Chinese exporters of WPT, the exact ratio of the private and state owned WPT producers could not be determined. However, the investigation revealed that both public and privately owned enterprises in the WPT sector are subject to policy supervision and guidance as set out in Section 3.2.2.2(a)(5) below.

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

(119) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights⁽³⁸⁾, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution⁽³⁹⁾) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline⁽⁴⁰⁾. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies⁽⁴¹⁾. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of WPT and the suppliers of their inputs.

⁽³²⁾ Report – Chapter 3, p. 22-24 and Chapter 5, p. 97-108.

⁽³³⁾ Report – Chapter 5, p. 104-9.

⁽³⁴⁾ Report – Chapter 14, p. 358: 51 % private and 49 % SOEs in terms of production and 44 % SOEs and 56 % private companies in terms of capacity.

⁽³⁵⁾ Available at: www.gov.cn/zhengce/content/2016-02/04/content_5039353.htm (last viewed 2 March 2020); https://polycn.com/policy_ticker/higher-expectations-for-large-scale-steel-enterprise/?iframe=1&secret=c8uthafuthefra4e (last viewed 2 March 2020), and www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 2 March 2020).

⁽³⁶⁾ Available at http://www.xinhuanet.com/english/2019-04/23/c_138001574.htm (last viewed 2 March 2020) and http://www.jjckb.cn/2019-04/23/c_137999653.htm (last viewed 2 March 2020).

⁽³⁷⁾ As was the case of the merger between the private company Rizhao and the SOE Shandong Iron and Steel in 2009. See Beijing steel report, p. 58, and the acquired majority stake of China Baowu Steel Group in Magang Steel in June 2019, see <https://www.ft.com/content/a7c93fae-85bc-11e9-a028-86cea8523dc2> (last viewed 2 March 2020).

⁽³⁸⁾ Report – Chapter 5, p. 100-1.

⁽³⁹⁾ Report – Chapter 2, p. 26.

⁽⁴⁰⁾ Report – Chapter 2, p. 31-2.

⁽⁴¹⁾ Available at <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU> (last viewed 15 July 2019).

- (120) Many WPT producers explicitly emphasise party building activities on their websites, have party members in the company management and underline their affiliation to the CCP. The investigation revealed party building activities in a number of WPT producers, including Jinghua Steel Pipe Group, Kingland Group and Jiangsu Guoqiang Zinc-plating Industrial Co. Ltd. Evidence for one producer of the product under review revealed that such activities consisted in, inter alia, participation of CCPs members to discuss the situation, business model and development strategy of a company, facilitation of recruitment of party members; lectures, symposiums and other educational activities on the subject of the CCP, communist philosophy, etc.; formal events related to the activities of the CCP; etc. Furthermore, the Commission established during the investigation personal connections between WPT producers and the CCP, such as CCP members among the senior management or members of the board of directors in a number of companies manufacturing WPT, including Jinghua Steel Pipe Group, Kingland Group, Fubo Group, Weifang East Steel Pipe Co. Ltd and Huludao City Steel Pipe Industrial Co. Ltd.
- (121) In the steel sector, which is the major raw material for the production of WPT, many of the largest producers are owned by the State. Some are specifically referred to in the 'Steel Industry Adjustment and Upgrading plan for 2016-2020' ⁽⁴²⁾. For instance, the Chinese State-owned Shanxi Taiyuan Iron & Steel Co. Ltd. ('TISCO') mentions on its website that it is '*a super iron and steel giant*', which '*developed into an extraordinary large-scale iron and steel complex, which is integrated with business of iron mining, iron and steel production, processing, delivery and trading*' ⁽⁴³⁾. Baosteel is another major Chinese State-owned enterprise that engages in steel manufacturing and is part of the recently consolidated China Baowu Steel Group Co. Ltd. (formerly Baosteel Group and Wuhan Iron & Steel) ⁽⁴⁴⁾.
- (122) The State's presence and intervention in the financial markets (see also Section 3.2.2.2(a)(7) below) as well as in the provision of raw materials and inputs have an additional distorting effect on the market ⁽⁴⁵⁾. Thus, the State presence in firms, including SOEs, in the steel and other sectors (such as the financial and input sectors) allow the GOC to interfere with respect to prices and costs.
- (5) Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces
- (123) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being allocated to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽⁴⁶⁾.
- (124) Even though WPT is a specialised industry and no specific policy documents guiding specifically the development of the WPT industry could be identified during the investigation, the WPT industry is benefitting from governmental guidance and intervention into the main raw material to manufacture WPT, namely steel. The distortive effects of the governmental intervention on the WPT industry are illustrated by the problem of major overcapacity. The report on the state of the steel welded pipes industry in 2018 confirms the existence of serious overcapacity (see the full quote in recital (209)) ⁽⁴⁷⁾

⁽⁴²⁾ The full text of the plan is available on the MIIT website:

<http://www.miit.gov.cn/n1146295/n1652858/n1652930/n3757016/c5353943/content.html> (last viewed 2 March 2020).

⁽⁴³⁾ TISCO, 'Company profile', <http://en.tisco.com.cn/CompanyProfile/20151027095855836705.html> (last viewed 2 March 2020).

⁽⁴⁴⁾ Baowu, 'Company profile', <http://www.baowugroup.com/en/contents/5273/102759.html> (last viewed 2 March 2020).

⁽⁴⁵⁾ Report – Chapters 14.1 to 14.3.

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

⁽⁴⁷⁾ Analysis of the 2018 steel welded pipes industry in China, Huajing Information Network, published on 5.3.2019 <https://m.huaon.com/detail/407989.html>

- (125) Furthermore, the steel industry is regarded as a key industry by the GOC ⁽⁴⁸⁾. This is confirmed in the numerous plans, directives and other documents focused on steel, which are issued at national, regional and municipal level such as the ‘Steel Industry Adjustment and Upgrading plan for 2016-2020’. This Plan states that the steel industry is ‘an important, fundamental sector of the Chinese economy, a national cornerstone’ ⁽⁴⁹⁾. The main tasks and objectives set out in this Plan cover all aspects of the development of the industry ⁽⁵⁰⁾.
- (126) The 13th Five-Year Plan on Economic and Social Development ⁽⁵¹⁾ envisages support to enterprises producing high-end steel product types ⁽⁵²⁾. It also focuses on achieving product quality, durability and reliability by supporting companies using technologies related to clean steel production, precision rolling and quality improvement ⁽⁵³⁾.
- (127) The ‘Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment)’ ⁽⁵⁴⁾ (‘the Catalogue’) lists steel as encouraged industry.
- (128) The GOC further guides the development of the sector in accordance with a broad range of policy tools and directives related to, inter alia: market composition and restructuring, raw materials, investment, capacity elimination, product range, relocation, upgrading, etc. Through these and other means, the GOC directs and controls virtually every aspect in the development and functioning of the sector ⁽⁵⁵⁾. The current problem of overcapacity is arguably the clearest illustration of the implications of the GOC’s policies and the resulting distortions.
- (129) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of steel as the main raw material used in the manufacturing of the product under review. Such measures impede market forces from operating freely.
- (6) Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws
- (130) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country’s economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁵⁶⁾.
- (131) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC. ⁽⁵⁷⁾ All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding

⁽⁴⁸⁾ Report, Part III, Chapter 14, p. 346 ff.

⁽⁴⁹⁾ Introduction to The Plan for Adjusting and Upgrading the Steel Industry.

⁽⁵⁰⁾ Report, Chapter 14, p. 347.

⁽⁵¹⁾ The 13th Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016-2020), available at https://en.ndrc.gov.cn/newsrelease_8232/201612/P020191101481868235378.pdf (last viewed 2 March 2020).

⁽⁵²⁾ Report – Chapter 14, p. 349.

⁽⁵³⁾ Report – Chapter 14, p. 352.

⁽⁵⁴⁾ Catalogue for Guiding Industry Restructuring (2011 Version) (2013 Amendment) issued by Order No 9 of the National Development and Reform Commission on 27 March 2011, and amended in accordance with the Decision of the National Development and Reform Commission on Amending the Relevant Clauses of the Catalogue for Guiding Industry Restructuring (2011 Version) issued by Order No 21 of the National Development and Reform Commission on 16 February 2013.

⁽⁵⁵⁾ Report – Chapter 14, pp. 375 – 376.

⁽⁵⁶⁾ Report – Chapter 6, p. 138-149.

⁽⁵⁷⁾ Report – Chapter 9, p. 216.

procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁵⁸⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁵⁹⁾.

(132) Much like other sectors in the Chinese economy, the producers of WPT are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies are also subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. The present investigation revealed nothing that would call those findings into question. As such, the Commission preliminarily concluded that the Chinese bankruptcy and property laws do not work properly, thus generating distortions by maintaining insolvent firms afloat and by allocating land use rights in the PRC. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the WPT sector.

(133) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the WPT sector, including with respect to the product under review.

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

(134) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining ⁽⁶⁰⁾. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ⁽⁶¹⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ⁽⁶²⁾. Those findings lead to the distortion of wage costs in the PRC.

(135) No evidence was submitted to the effect that the WPT sector is not subject to the Chinese labour law system as described above. WPT sector is thus affected by the distortions of wage costs both directly (when making the product under review or the main raw material for its production) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

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

(136) Access to capital for corporate actors in the PRC is subject to various distortions.

(137) First, the Chinese financial system is characterised by the strong position of State-owned banks ⁽⁶³⁾, which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP) ⁽⁶⁴⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ⁽⁶⁵⁾.

⁽⁵⁸⁾ Report – Chapter 9, p. 213-215.

⁽⁵⁹⁾ Report – Chapter 9, p. 209-211.

⁽⁶⁰⁾ Report – Chapter 13, p. 332-337.

⁽⁶¹⁾ Report – Chapter 13, p. 336.

⁽⁶²⁾ Report – Chapter 13, p. 337-341.

⁽⁶³⁾ Report – Chapter 6, p. 114-117.

⁽⁶⁴⁾ Report – Chapter 6, p. 119.

⁽⁶⁵⁾ Report – Chapter 6, p. 120.

- (138) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.
- (139) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ⁽⁶⁶⁾.
- (140) These issues are compounded by additional rules which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁶⁷⁾. This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (141) Second, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (142) Third, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (143) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Faced with a situation of increasing debt-at-risk, the GOC has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (144) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC continues to be affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets.
- (145) No evidence was submitted to the effect that the WPT sector is exempted from government intervention in the financial system described above. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

(9) Systemic nature of the distortions described

- (146) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.2.2(a) (1)- 3.2.2.2(a)(5) as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.2.2.2(a)(6)-3.2.2.2(a)(8) above and in Part B of the Report.

⁽⁶⁶⁾ See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparusso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jiangyan, October 2016, WP/16/203.

⁽⁶⁷⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

- (147) The Commission recalls that in order to produce WPT, a broad range of inputs is needed. When the producers of WPT purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (148) As a consequence, not only the domestic sales prices of WPT are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts A and B of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

(10) Conclusion

- (149) The analysis set out in Sections 3.2.2.2(a)(2) to 3.2.2.2(a)(9), which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the WPT sector (including the product under review) showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC and the exporting producers in the PRC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (150) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section. The Commission recalled that no claim was presented that some domestic costs would be undistorted under the third indent of Article 2(6a)(a) of the basic Regulation.

(b) **Representative country**

(1) General remarks

- (151) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:
- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ⁽⁶⁸⁾,
 - Production of the product under review in that country ⁽⁶⁹⁾,
 - Availability of relevant public data in the representative country,
 - Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

⁽⁶⁸⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>

⁽⁶⁹⁾ If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.

(152) As explained in recitals (95) and (96), the Commission issued on 11 May and 4 June 2020 two notes to the file on the sources for the determination of the normal value and production factors (the 'First Note' and the 'Second Note'). In the Second Note, the Commission informed interested parties of its conclusion that Thailand was an appropriate representative country in the present case.

(2) A level of economic development similar to the PRC

(153) In the First Note, the Commission identified Brazil, Malaysia, Mexico, Thailand and Turkey as countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis.

(154) No comments were received concerning the level of economic development following that note.

(3) Production of the product under review in the representative country

(155) In the First Note, the Commission indicated that production of the product under review was identified in Brazil, Malaysia, Mexico, Thailand and Turkey. However, Malaysia was excluded as a potential representative country, since only one producer of the product under review was identified, with no publicly available financial statements for the RIP.

(156) No comments were received concerning the production of the product under review in possible representative countries following the First Note.

(4) Availability of relevant public data in the representative country

(157) For the countries considered and mentioned above, the Commission further verified the availability of the public data, and in particular public financial data from the producers of the product under review.

(158) The Commission looked for WPT producers with publicly available financial data that could be used to establish undistorted and reasonable amounts for SG&A expenses and profit. The Commission restricted the search to companies with publicly available profit and loss statements for the RIP and that were profitable in this period. Moreover, preference was given to WPT producers having their financial statements publicly available at a company level rather than at a consolidated level for the respective entire group. Therefore, the Second Note included only two companies in Thailand and one in Turkey.

(159) Based on the quality and detail of the publicly available financial data available in Thailand and Turkey, and also considering the availability and representativeness of the benchmarks for factors of production ⁽⁷⁰⁾, the Commission considered that Thailand was an appropriate representative country

(160) The Commission carefully analysed all relevant data available in the file for the factors of production in Thailand and noted the following:

- The Commission analysed the import statistics of all factors of production listed in the First Note, as updated by the Second Note, and concluded that there were imports of all the factors of production necessary for the production of the product under review in the RIP,
- Energy statistics (prices for electricity and natural gas) for the RIP were readily available in the form of data provided respectively by the Metropolitan Electricity Authority and Ministry of Energy,
- Statistics for labour cost were available on the website of the National Statistical Office.

⁽⁷⁰⁾ In Turkey, during the RIP, there were no import data for an important factor of production – the main by-product (non-alloy steel scrap). Furthermore, there were export restrictions with regard to sulphuric acid. In Thailand, import data were available for all the raw materials and by-products, and no export/import restrictions were identified concerning any of the factors of production.

- (161) According to Article 2(6a)(a) of the basic Regulation, the constructed normal value shall include an undistorted and reasonable amount for SG&A and for profits. As stated in recital (96), the Commission held that Thai producers Pacific Pipe Co., Ltd. and Asia Metal Co., Ltd. had publicly available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for SG&A and profits.

(5) Level of social and environmental protection

- (162) Having established that Thailand was an appropriate representative country on the basis of these elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

(6) Conclusion on representative country

- (163) In view of the above analysis, Thailand met all the criteria laid down in Article 2(6a)(a), first indent, of the basic Regulation, in order to be considered as an appropriate representative country. In particular, Thailand had a substantial production of the product under review and a complete set of data available for all factors of production, SG&A and profit.

(c) **Sources used to establish undistorted costs**

- (164) In the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production in the representative country.
- (165) The Commission further stated that the statistics of the ILO and national statistics would be used to establish the undistorted costs of labour in the representative country; while national statistics, as referred to in recital (160), would be used to establish undistorted energy costs.
- (166) The Commission included in the calculation a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount, it made use of the financial data of one of Union producers that cooperated in the framework of the dumping investigation and that provided specific information for that purpose ⁽⁷¹⁾, Arcelor Mittal Tubular Products, Poland ('AMTP'). The methodology is duly explained in Section 3.2.2.2(e).
- (167) Finally, as stated in the Second Note, the Commission used the financial data from the selected Thai companies, listed in recital (161) to establish SG&A costs and profits.

(d) **Undistorted costs and benchmarks**

- (168) Through the two notes on production factors, the Commission sought to establish a list of factors of production and sources intended to be used for all factors of production such as materials, energy and labour used in the production of the product under review by the producers in the PRC. The Commission did not receive any comments concerning the list of factors of production shared with interested parties in those notes.
- (169) In the absence of cooperation by Chinese exporting producers in the review procedure, the Commission had to rely on the European producer AMTP in order to establish the factors of production used in the production of WPT. Based on data collected from the Chinese companies during the original investigation and information available on the websites of Chinese WPT producers, their production process and the materials used appear to be similar to the ones provided by AMTP.
- (170) In the absence of cooperation, the Commission did not have more detailed tariff codes for each factor of production than the 6-digit HS codes. The HS codes used matched fully with the Thai tariff codes.

⁽⁷¹⁾ Figures provided for the manufacturing overheads were remotely crosschecked and reconciled with the company accounts.

- (171) Considering all the information submitted by AMTP and the absence of comments on the two notes on the sources for the determination of the normal value concerning the factors of production, the following factors of production and tariff codes, where applicable, have been identified:

Table 1

Factors of production of WPT

| Factor of Production | HS Code | Source of data | Unit undistorted value |
|--|---------|----------------------------|-------------------------|
| Raw Material | | | |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600 mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of $\geq 4,75$ mm but < 10 mm, not pickled, without patterns in relief | 7208 37 | GTA | 4,34 CNY/kg |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600 mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of ≥ 3 mm but $< 4,75$, not pickled, without patterns in relief | 7208 38 | GTA | 3,96 CNY/kg |
| Flat-rolled products of iron or non-alloy steel, of the width of ≥ 600 mm, in coils, simply hot-rolled, not clad, plated or coated, of a thickness of < 3 mm, not pickled, without patterns in relief | 7208 39 | GTA | 4,05 CNY/kg |
| Zinc | 7901 11 | GTA | 20,69 CNY/kg |
| Sulphuric Acid | 2807 00 | GTA | 0,56 CNY/kg |
| Labour | | | |
| Labour wages in manufacturing sector | [N/A] | See Section 3.2.2.2.(d)(2) | 19,91 CNY/hour |
| Energy | | | |
| Electricity | [N/A] | See Section 3.2.2.2.(d)(3) | 0,88 CNY/kWh |
| Natural Gas | [N/A] | See Section 3.2.2.2.(d)(4) | 2,73 CNY/m ³ |
| By-products | | | |
| Non-alloy steel scrap | 7204 41 | GTA | 3,12 CNY/kg |
| Non-alloy steel scrap chips | 7204 41 | GTA | 3,12 CNY/kg |
| Non-alloy steel scale scrap | 7204 49 | GTA | 2,11 CNY/kg |
| Zinc Ash | 2620 19 | GTA | 8,11 CNY/kg |
| Hard Zinc | 2620 11 | GTA | 14,74 CNY/kg |

(1) Raw materials and by-products

- (172) In order to establish undistorted prices of materials as delivered at the gate of the producer's factory as provided by Article 2(6a)(a), first indent and considering that there were no cooperating producers in the PRC, the Commission used the import prices into the representative country for each material used in the production of WPT by AMTP. The Commission verified the reported raw materials used, the by-products generated, and the relevant consumption ratios in the manufacturing of the product under review.
- (173) For all raw materials and by-products, the Commission relied on import prices in the representative country. The import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC. The Commission decided to exclude imports from the PRC into the representative country as it concluded in recital (149) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. Only in case of sulphuric acid, were the excluded imports volumes from China noticeable accounting for 4,7 % of the total imports of the representative country. For all other raw materials and the by-products, the relevant shares of imports ranged from none to 0,3 %.
- (174) Normally, import volumes in the representative country from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 would also be excluded. Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value. However, in this case no imports of raw materials and by-products from these countries were recorded in Thailand in the RIP.
- (175) In order to establish the undistorted price of raw materials, delivered at the gate of the exporting producer's factory as provided by Article 2(6a)(a), first indent of the basic Regulation, the Commission applied the import duty of the representative country, at the respective levels, depending on the country of origin of the imported volumes. Furthermore, the Commission added domestic transport costs calculated per kg on the basis of quotation for Laem Chabang port – Bangkok, deliveries as provided by the World Bank report ⁽⁷²⁾.

(2) Labour

- (176) To establish the benchmark for labour costs, the Commission used the ILO statistics together with publicly available Thai national statistics and the information of KPMG on taxes and levies in Thailand ⁽⁷³⁾.
- (177) The ILO statistics provided data on the mean weekly hours actually worked per employed person in the manufacturing sector in Thailand during the RIP ⁽⁷⁴⁾.
- (178) Although data on monthly earnings of employees in the manufacturing sector were also provided in the ILO statistics, the Commission decided to refer to statistics from the Thai National Statistical Office, which provided more detailed information on wages and non-wage benefits in different economic sectors by quarter ⁽⁷⁵⁾.
- (179) Finally, the Commission used information provided by KPMG to establish the social security tax paid by the employer.
- (180) Using that data, the Commission calculated an hourly salary in manufacturing, to which additional labour related costs borne by the employer were added.

⁽⁷²⁾ <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/thailand/THA.pdf> p. 48.

⁽⁷³⁾ <https://home.kpmg/xx/en/home/insights/2011/12/thailand-other-taxes-levies.html>

⁽⁷⁴⁾ https://www.ilo.org/shinyapps/bulkexplorer17/?lang=en&segment=indicator&id=HOW_TEMP_SEX_ECO_NB_A

⁽⁷⁵⁾ <http://www.nso.go.th/sites/2014en/Pages/Statistical%20Themes/Population-Society/Labour/Labour-Force.aspx> (Quarter 1 to 4, Excel file – Folder 1-19 Wk, Table 15).

(3) Electricity

- (181) To establish the benchmark for electricity, the Commission used the quotation of the electricity price for business, industrial and state enterprises available on the website of the Metropolitan Electricity Authority ⁽⁷⁶⁾.
- (182) Taking into account the absence of cooperation by the Chinese producers, all the remaining parameters required to calculate the average undistorted benchmark price of electricity, such as voltage range, on-peak/off peak hours and on-peak demand, were based on the data provided by AMTP.

(4) Natural gas

- (183) To establish the benchmark for natural gas, the Commission used the statistical report of the Energy Policy and Planning Office (Ministry of Energy) ⁽⁷⁷⁾. This report covered the entire RIP, however it provided total figures for consumption quantity and value of natural gas regardless of the type of user (households, industry, transport) and in all forms. However, the Commission was not able to identify any source which would allow these figures to be narrowed down to the manufacturing sector only. In a more detailed annual report of the Department of Alternative Energy Development and Efficiency (Ministry of Energy) ⁽⁷⁸⁾, consumption data is only provided in terms of volume and thus it is not possible to calculate the natural gas price on this basis. Based on the latter report, the manufacturing sector accounted for 44 % of the total consumption of natural gas in Thailand during the RIP.

(e) **Manufacturing overhead costs, SG&A and profits**

- (184) Further to the factors of production summarised under recital (171) above, manufacturing overhead costs were calculated. In view of the lack of cooperation from Chinese producers, the calculation of these manufacturing overhead costs was based on the ratio of manufacturing overhead divided by the cost of manufacturing reported by AMTP. This percentage was applied to the undistorted costs of manufacturing.
- (185) For SG&A and profit, the Commission used the financial data of the Thai producers Pacific Pipe Co., Ltd. ⁽⁷⁹⁾ and Asia Metal Co., Ltd. ⁽⁸⁰⁾. The Commission calculated first for each of the two companies their respective percentages of SG&A and profit over the cost of goods sold ('COGS'). Then, an average SG&A and profit in the representative country (weighted by the companies' turnovers) was established. Publicly available audited accounts of these companies were made available to the interested parties as an attachment to the Second Note.

(f) **Calculation of normal value**

- (186) On the basis of the above, the Commission constructed the normal value per basic product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.
- (187) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the AMTP on the consumption of each factor of production (raw materials, labour and energy) for the production of the product under review. These consumption volumes were multiplied by the undistorted costs per unit established in Thailand, as described in Section (d) above.
- (188) The calculation was done separately for two basic types of WPT, i.e. for black pipes/tubes and galvanized pipes/tubes. Galvanized pipes/tubes are black pipes/tubes that have subsequently undergone a galvanizing process, in which the pipe/tube is coated with a layer of zinc. Therefore, the manufacturing of the galvanized product requires the additional consumption of energy and labour and the additional use of zinc and sulphuric acid, which are not consumed at all in the manufacturing of black pipes/tubes.

⁽⁷⁶⁾ <http://www.mea.or.th/en/profile/109/114> – industrial TOU tariff was used.

⁽⁷⁷⁾ <http://www.eppo.go.th/index.php/en/en-energystatistics/energy-economy-static> Table 7.2.4.

⁽⁷⁸⁾ https://www.dede.go.th/ewt_news.php?nid=42079

⁽⁷⁹⁾ https://www.pacificpipe.co.th/EN/investor.html#financial_information

⁽⁸⁰⁾ https://asiametal.co.th/Investor/index.php?page=fin_data&lang=0

- (189) Second, to arrive at the undistorted costs of production, the Commission added the percentage of the manufacturing overheads determined as described in recital (184) to the undistorted costs of manufacturing.
- (190) Finally, in addition to the cost of production established as described in recital (189), the Commission applied the SG&A and profit in the representative country established as explained in recital (185). The SG&A and profit expressed as a percentage of COGS and applied to the undistorted costs of production amounted to 4,3 % and 3,0 % respectively.
- (191) The normal values for the two types of products, calculated as described in recitals (187) to (190), were reduced by the undistorted values of the by-products, based on the list of by-products provided by AMTP. Undistorted values of the by-products were established by multiplying the quantities sold in the RIP, as reported by AMTP, by their undistorted costs per unit established in Thailand, as described in section d) above. The adjustment for certain by-products (zinc ash, hard zinc) was done only with regard to the normal value established for galvanized products as those by-products are obtained in the galvanization process.
- (192) On that basis, the Commission constructed the normal value on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation. Due to the fact that no exporting producers cooperated, the normal value was established on a countrywide basis.

3.2.2.3. Export price

- (193) In the absence of cooperation by the Chinese exporting producers, the export price was determined based on CIF Eurostat data corrected to ex-works level. Thus, the CIF export price was reduced by the sea freight and insurance costs ⁽⁸¹⁾ and domestic transport cost in China ⁽⁸²⁾. A separate export price was established for black and galvanized products.

3.2.2.4. Comparison and dumping margin

- (194) The Commission compared, per product type, the constructed normal value established in accordance with Article 2(6a)(a) of the basic Regulation with the export price as established above.
- (195) For certain products, the PRC applies a policy of reimbursing VAT only partially upon export. To ensure that the normal value is expressed at the same level of taxation as the export price, the normal value is normally adjusted upward by that part of VAT charged on exports of the product under review that was not refunded to the Chinese exporting producers. However, statistics data from the Chinese tax and custom administration website and data of Transcustoms ⁽⁸³⁾ indicated that in the RIP, the VAT charged on exports of WPT was fully refunded. Therefore, no VAT adjustment was applied.
- (196) On that basis, the weighted average dumping margin, expressed as a percentage of the CIF Union frontier price, duty unpaid, was found to be negative.

3.2.2.5. Conclusion

- (197) The Commission concluded that exports of the product under review from China were not dumped during the RIP. However, the volume of imports in question was very limited, accounting to 0,2 % of the EU imports in total and 0,1 % of the share in the Union market, and thus the prices were considered unrepresentative. Therefore, the Commission investigated also the likelihood of recurrence of dumping.

⁽⁸¹⁾ On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – China-the Netherlands. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

⁽⁸²⁾ On the basis of quotation for Tianjin port – Beijing deliveries as provided by World Bank <https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf> p. 88.

⁽⁸³⁾ <http://www.transcustoms.cn/index.asp>

3.2.3. *Likelihood of recurrence of dumping should the measures be repealed.*

- (198) Further to the finding of absence of dumping during the RIP, the Commission investigated the likelihood of recurrence of dumping should the measures be repealed, in accordance with Article 11(2) of the basic Regulation. The following additional elements were analysed: the existence of dumped export to third countries, the production capacity and spare capacity in the PRC, availability of other markets and the attractiveness of the Union market.

3.2.3.1. Exports to third countries

- (199) Based on GTA imports statistics, the Commission identified the five biggest importers of WPT from the PRC during the review investigation period: the Philippines, Hong Kong, Peru, Indonesia and Singapore ⁽⁸⁴⁾. The Commission decided to exclude Hong Kong from its analysis as big discrepancies were identified in the reported trade volumes between the PRC and Hong Kong when comparing the respective GTA import and export reports and because Hong Kong does not seem to be the final destination of the Chinese exports of the product under review. With regard to Chinese exports of WPT to the remaining four main markets, dumping calculations were made following the methodology described below.

(a) **Normal value**

- (200) To assess dumping from the PRC to third countries, the Commission used the same normal value as in dumping calculation concerning the Union market, constructed as described in recitals (168) to (192).

(b) **Export price**

- (201) As there was no cooperation from Chinese producers, the likely export price to the Union was estimated by analysing the current Chinese export prices to third countries, based on the relevant country specific GTA import statistics.
- (202) All the four countries concerned reported their import value at CIF level. Therefore, the Commission adjusted the reported prices to calculate the export price at ex-works level by deducting the sea freight and insurance costs ⁽⁸⁵⁾ and domestic transport cost in China ⁽⁸⁶⁾.
- (203) In case of Peru, the sea freight and insurance costs for deliveries from the PRC were not provided in the above source. Therefore, the Commission decided to use a quotation for PRC-Chile deliveries that was available from the same source.

(c) **Comparison and dumping margins**

- (204) The Commission compared the constructed normal value and the export prices to third countries on an ex-works basis. Where possible ⁽⁸⁷⁾, the comparison was done per product type (black/galvanized) and a weighted average dumping amount was established.
- (205) The above comparison showed a countrywide dumping margin for the Chinese exports to the four countries, expressed as a percentage of their respective CIF values as follows:

⁽⁸⁴⁾ Countries are listed according to the volumes of imports from the PRC.

⁽⁸⁵⁾ On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – China-country in question. https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC

⁽⁸⁶⁾ On the basis of quotation for Tianjin port – Beijing deliveries as provided by World Bank <https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf> p. 88.

⁽⁸⁷⁾ In case of Peru, the country custom codes do not allow to distinguish between the black and galvanized products. Therefore, all the pipes/tubes under review were treated as one product type in the calculation.

| Country | % of total 'world' imports of the PUI from the PRC | Dumping margin (%) |
|-----------------|--|--------------------|
| The Philippines | 19,3 | 71,7 |
| Peru | 5,3 | 25,6 |
| Indonesia | 4,4 | 21,4 |
| Singapore | 4,2 | 18,9 |

3.2.3.2. Production capacity and spare capacity in the PRC

- (206) Given the non-cooperation of the GOC and Chinese producers, the production capacity and spare capacity in the PRC were established on the basis of facts available and in particular the information provided by the applicant and Huajing Industry Research Institute ⁽⁸⁸⁾ ('HIRI'), in accordance with Article 18 of the basic Regulation.
- (207) According to both these sources, the production capacity in the PRC substantially exceeds the current production volumes and internal demand on the Chinese market. The figures provided in recitals (208) and (209) below relate to the total production of iron and steel welded pipes and tubes. The applicant estimated that roughly 80 % of this production is 'small pipes and tubes' with an outer diameter equal or lower than 406,4 mm, which corresponds to the product under review. This estimate is confirmed by the report of HIRI. Although no exact figures are provided, the report indicates that *'most of the welded pipes produced by the welded pipe industry in China are small-diameter and thick-walled products'*. Therefore, the Commission considered the discrepancy between the production capacity and the actual production and demand on the Chinese market as shown below to be representative for the product under review.
- (208) According to the data provided in the request, and subsequently updated during the investigation, the production of welded pipes and tubes within the PRC amounted to 60 million tonnes in the RIP. A slightly lower figure of 56 million tonnes is provided in the report of HIRI. Furthermore, the latter report indicates that this production volume, even without taking into account spare capacity, already exceeds internal demand in the PRC, which is estimated at 52,4 million tonnes.
- (209) According to the applicant, the spare production capacity of the product under review in the PRC amounts to around 10 million tonnes. The report by HIRI does not provide any actual capacity data. It underlines however clearly the existence of overproduction of welded pipes in the PRC and the existence of serious overcapacity. The report states among others that *'... with the rapid development of China's industry, although China's demand for welded pipes has increased significantly, the growth rate of its demand is still relatively low, which is lower than the output rate of welded pipes. This has caused the current situation of overcapacity of welded pipes. It is not conducive to the development of the welded pipe industry. In addition, one of the reasons for the overcapacity is that some domestic industries have higher requirements for welded pipes, including quality requirements, diameters and pipe wall requirements. China's welded pipes cannot meet the needs of these industries and need to be purchased from foreign countries. This results in the current situation of reduced demand which has exacerbated domestic overcapacity'* ⁽⁸⁹⁾.
- (210) Based on the above, the Commission concluded that the Chinese exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if the measures were allowed to lapse.

⁽⁸⁸⁾ <https://m.huaon.com/detail/407989.html>; <https://m.huaon.com/detail/617918.html>

⁽⁸⁹⁾ Analysis of the 2018 steel welded pipes industry in China, Huajing Information Network, published on 5.3.2019 <https://m.huaon.com/detail/407989.html>

3.2.3.3. Availability of other markets

- (211) There is a wide range of trade defence measures and other import restrictions in force against exports of WPT originating in the PRC. According to Global Trade Alert ⁽⁹⁰⁾, such measures are applied in Australia (anti-dumping and countervailing duties), Canada (anti-dumping and countervailing duties), Colombia (anti-dumping measures), Mexico (anti-dumping measures), Pakistan (import ban), Thailand (anti-dumping measures), Turkey (safeguard) and the USA (anti-dumping measures and section 232 measures). Those measures not only limit the access of Chinese producers to the above listed markets but also confirm the continued unfair trade practices of the Chinese WPT producers.
- (212) Therefore, the Commission concluded that, should the current measures be repealed, it is likely that the Chinese exporting producers would redirect exports towards the Union at dumped prices.

3.2.3.4. Attractiveness of the Union market

- (213) According to the GTA data, the Chinese exporting producers exported to their main third markets at prices from 8 % to 21 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially much more attractive for the Chinese exporters than exporting to almost all other countries.
- (214) The Union market is also attractive to the Chinese producers in view of its size, with a total consumption of over 540 000 tonnes.

3.2.3.5. Conclusion on the likelihood of recurrence of dumping

- (215) In view of the above, the Commission concluded that, regardless of whether there was dumping during the review investigation period, it is likely that there would be recurrence of Chinese dumping towards the EU should the measures lapse.

3.2.4. Overall conclusion on the likelihood of continuation or recurrence of dumping

- (216) Although the investigation did not show that Chinese imports continued to enter the Union market at dumped prices during the RIP, this does not allow for the conclusion that the unfair pricing practices of the Chinese producers of WPT would not recur if measures would lapse.
- (217) Indeed, Chinese exports to the main third countries targeted by the Chinese WPT producers involved ongoing dumping practices. Taking into account substantial export volumes to these countries (from 20 000 to 93 000 tonnes as compared with a mere 559 tonnes exported to the Union), the prices of those exports are considered more representative to establish potential dumping practices. Continuous unfair pricing practices are also confirmed by the several trade defence measures in force against the Chinese exports of the WPT in other countries.
- (218) Furthermore, the Commission found other indicators that dumping will likely recur should the measures lapse.
- (219) The spare capacity in the PRC is very significant and exceeds more than ten times the total Union consumption during the review investigation period. What is more, the HIRI report indicated that only over the years 2018-2019 Chinese capacity of the welded pipes and tubes production increased by 10 million tonnes and a further increase is to be expected.
- (220) Finally, the attractiveness of the Union market in terms of size and prices, and the fact that other markets remain closed due to protective measures, indicates that it is likely that Chinese exports and spare capacity would be (re) directed towards the Union, should the measures be allowed to lapse.

⁽⁹⁰⁾ <https://www.globaltradealert.org/>
https://www.globaltradealert.org/data_extraction
<https://www.globaltradealert.org/latest/state-acts>

- (221) Consequently, the Commission concluded that there was a likelihood of recurrence of dumping, if the measures would not be extended.

3.3. Russia

3.3.1. Preliminary remarks

- (222) During the review investigation period, imports of the product under review from Russia continued albeit at significantly lower levels than in the investigation period of the original investigation (i.e. from July 2006 to June 2007). According to Comext (Eurostat) statistics, imports of WPT from Russia accounted for less than 2 000 tonnes in the review investigation period, compared to more than 36 000 tonnes during the original investigation period (July 2006 to June 2007). A similarly low level of imports was noted during the previous expiry review. Imports of WPT from Russia accounted for about 0,4 % of the Union market in the review investigation period compared to 2,7 % market share during the original investigation period and 0,7 % during the review investigation period of the previous expiry review.
- (223) Two Russian exporting producers, PAO Severstal and TMK, came forward at initiation and expressed their willingness to cooperate. However, TMK Group later informed the Commission that they did not intend to reply to the exporting producer's questionnaire.
- (224) Moreover, during the remote cross-check of the information provided by PAO Severstal, which took place from 11 to 13 November 2020, the Commission identified substantial and serious deficiencies in the reporting of the domestic sales of the product under review. These deficiencies significantly impeded the normal process of the investigation for that section of the questionnaire reply. In particular, PAO Severstal had provided incorrect information as regards the number of transactions reported, the total sales quantity, the total sales value and the allowances reported for the domestic sales of the product under review to unrelated customers.
- (225) In the late afternoon of the 13 November, the company provided an updated version of domestic sales. However, due to insufficient time, it was not possible for the Commission to cross-check this revised version and reconcile it with the other information provided.
- (226) Moreover, the profit reported was allocated to the product under review and to the various sales flows of the product under review proportionally based on the turnover. This was not acceptable, as the profit is directly influenced by the cost of manufacturing that differs between products and product types. Moreover, given that the errors mentioned above in recital (224) affected also the reported turnover of the product under review, also the profit figures should have been reviewed based on the outcome of the domestic sales analysis.
- (227) The Commission considered that these substantial and serious deficiencies significantly impeded the normal process of the investigation, for this section of the questionnaire. Therefore, the Commission informed PAO Severstal about its intention to apply facts available in accordance with Article 18(1) of the basic Regulation as far as the domestic sales and the calculation of the normal value was concerned.
- (228) Since no other producer of the product under review in Russia cooperated and provided a reply to the questionnaire, the Commission informed the authorities of the Russian Federation about its intention to apply facts available in accordance with Article 18 of the basic Regulation as far as the calculation of the normal value is concerned and base its findings on dumping and likelihood of continuation and/or recurrence of dumping in respect of all exporting producers in Russia on facts available.
- (229) The Commission did not receive any comments or requests for an intervention of the Hearing Officer in this regard.
- (230) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular the normal value was constructed using the information provided by PAO Severstal that were cross checked and found correctly reported.

3.3.2. Continuation of dumping of imports during the review investigation period

3.3.2.1. Normal value

- (231) As mentioned in recital (230) above, the non-cooperation from exporting producers in Russia forced the Commission to use facts available in establishing the normal value. To this end, the information submitted by the partially cooperating Russian producer was used.
- (232) In accordance with Article 2(3) of the basic Regulation, normal value was constructed by adding the following to the weighted average cost of production per PCN of the like product of the partially cooperating exporting producer during the review investigation period:
- the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period, and
 - the weighted average profit realised by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the review investigation period.
- (233) In the absence of any other reliable and verified profit the Commission used the profit declared by the company even if it was found to be incorrectly allocated, as explained above in recital (226). The profit margin used corresponds to the total profit of the company (for all products) as reported in the audited accounts, and it was therefore considered the most reliable benchmark. Moreover, the correct profit would necessarily have been higher than the one declared by the company. In the case at hand, given that the dumping margin, as explained in recital (238) below, was already as high as to confirm the existence of dumping during the review investigation period, an increase of the dumping margin as a result of this adjustment is therefore not relevant to the outcome of this review.
- (234) The cost of production was adjusted, wherever found necessary.

3.3.2.2. Export price

- (235) Due to the non-cooperation from the exporting producers in Russia, the Commission had to use facts available in establishing the export price. Information from the sole partially cooperating Russian producer could not be used as this producer did not export the product under review to the EU during the review investigation period.
- (236) Therefore, the export price was determined based on CIF Eurostat data corrected to ex-works level. Thus, the CIF export price was reduced by the freight and insurance costs ⁽⁹¹⁾ and domestic transport cost in Russia ⁽⁹²⁾.

3.3.2.3. Comparison

- (237) The Commission compared the normal value and the export price of the product under review on an ex-works basis.
- (238) The above comparison showed a countrywide dumping margin for the Russian exports to the EU, expressed as a percentage of the CIF value of 12,4 %. It was therefore concluded that dumping continued during the review investigation period.

3.3.2.4. Conclusion

- (239) The Commission therefore concluded that dumping from Russia continued during the review investigation period. However, as the volume of imports in question was very limited, accounting for 0,7 % of total EU imports and 0,4 % of the share of the Union market, the Commission also investigated the likelihood of recurrence of dumping.

⁽⁹¹⁾ On the basis of the OECD Dataset: International Transport and Insurance Costs of Merchandise Trade (ITIC) – Russia-Latvia: https://stats.oecd.org/Index.aspx?DataSetCode=CIF_FOB_ITIC#.

⁽⁹²⁾ On the basis of quotation for Moscow – St Petersburg deliveries as provided by World Bank: <https://www.doingbusiness.org/content/dam/doingBusiness/country/r/russia/RUS.pdf> p. 85.

- (240) After disclosure it was argued by the authorities of the Russian Federation that the likelihood of continuation of dumping as regards Russian exporters, cannot be positively established since the determination of dumping made in the previous expiry review and in the original investigation were both inconsistent with WTO rules.
- (241) In their comments the Russian authorities claimed that the adjustment of the cost of natural gas, applied by the Commission in the previous expiry review and in the original investigation is incompatible with Articles 2.2.1.1, 2.2.1 and 2.2 ADA and with the findings made in the following WTO cases: EU – Biodiesel (Argentina), Ukraine – Ammonium Nitrate and EU – Cost Adjustment Methodologies. The Russian authorities specifically refer to findings in the latter report issued on 24 July 2020 ⁽⁹³⁾ ('DS494 Report'), namely that the alleged Russian government intervention/market distortion did not constitute an adequate basis to conclude that the records of the exporting producers did not reasonably reflect the costs associated with the production and sale of the product concerned.
- (242) This comment had to be rejected for the following reasons. First, the findings of the DS494 Report are subject to appellate proceedings and therefore the panel's findings are yet not final. Second, as set out in recital (232), in the current investigation the Commission established the normal value using the cost of production of the like product as reported by the partially cooperating Russian exporting producer during the review investigation period, without applying any cost adjustment.

3.3.3. *Likelihood of recurrence of dumping should measures be repealed*

- (243) The Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of recurrence of dumping, should the measures be repealed. The following additional elements were analysed: the existence of dumped export to third countries, the production capacity and spare capacity in Russia and the attractiveness of the Union market.

3.3.3.1. Exports to third countries

(a) **Normal value**

- (244) Normal value was constructed as explained above in recital (232).

(b) **Export price**

- (245) The export price was established on the basis of sales prices of the partially cooperating Russian producer to other third countries.

(c) **Comparison and dumping margin**

- (246) The Commission compared the constructed normal value and the average export prices to third countries on an ex-works basis. The comparison was done per product type and a weighted average dumping amount was established.
- (247) The above comparison showed a countrywide dumping margin for the Russian exports to third countries, expressed as a percentage of the CIF value, of 4,3 %.

3.3.3.2. Production capacity and spare capacity in Russia

- (248) Given the limited cooperation by the Russian exporting producers, the production capacity and spare capacity in Russia were established on the basis of facts available and in particular the information provided by the applicant and by the sole partially cooperating Russian producer.

⁽⁹³⁾ European Union —Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia, Panel Report of 24 July 2020, WT/DS494/R.

- (249) According to the information published in Metal Expert provided by the applicant, the total production capacity of the product under review in Russia exceeds 8 million tonnes. The applicant estimated that the Russian producers have a spare capacity of around 1 million tonnes that cannot be absorbed by the domestic market. Moreover, there are at least 11 producers of the product under review in Russia and the sole cooperating one has, alone, a nominal production capacity that exceeds the total Union consumption.
- (250) Based on the above, the Commission concluded that the Russian exporting producers have significant spare capacities, which they could use to produce WPT to export to the Union if measures were allowed to lapse.

3.3.3.3. Attractiveness of the Union market

- (251) The investigation revealed that the Russian exporting producer exported to its main third markets at prices around 29 % lower as compared to the average sales prices of the Union producers on the Union market. Taking into account this price level, exporting to the Union is potentially much more attractive for the Russian exporters than exporting to all other countries.
- (252) The Union market is also attractive in view of its geographical proximity and size, with a total consumption of 541 000 tonnes.
- (253) After disclosure the Russian authorities contested the Commission's view as regards the attractiveness of the Union market for the Russian exporters. In their view Russian producers focus more on the growing internal market and on their main export markets, the CIS countries ⁽⁹⁴⁾, which are attractive due to the absence of import duties.
- (254) The Commission disagreed with this view. First, as explained in recitals (238) and (251), sales prices on the Union market are far more attractive for the Russian producers than the domestic and export prices to other third countries. Second, as agreed by the Russian authorities themselves, the absence of duties increases the attractiveness of an export market, therefore the Russian producers will have a strong incentive to redirect their export to the Union market in case the measure were repealed.

3.3.3.4. Conclusion on the likelihood of continuation or recurrence of dumping

- (255) The investigation showed that Russian imports continued to enter the Union market at dumped prices during the review investigation period.
- (256) Furthermore, the investigation proved that dumping practices existed also with regard to the Russian exports to their main third country markets.
- (257) Moreover, the Commission found other evidence that dumping will likely recur should the measures lapse.
- (258) The spare capacity in Russia is very significant and exceeds the total Union consumption during the review investigation period. In addition, according to the information provided by the applicant, the Russian capacity of WPT production increased by almost 1 million tonnes between 2018 and 2019.
- (259) The Russian authorities contested the estimation of the spare capacity in Russia as provided by the applicant as, in their opinion it did not take into account the facts that some plants are capable, and used, to produce products other than the product concerned, reducing significantly the spare capacity.
- (260) In this regard the Commission took into account the other products that can be produced on the same production line. However, it is confirmed that the total nominal capacity of the product concerned, in Russia, is at the levels as estimated above in recital (258). Therefore, the Commission concluded that, given the attractiveness of the Union market, it is likely that the Russian producers will change the product mix, increasing their production capacity of the product under review, should the measures be allowed to lapse.

⁽⁹⁴⁾ Azerbaijan, Armenia, Belarus, Kazakhstan, Kyrgyz Republic, Moldova, Tajikistan, Turkmenistan, Uzbekistan and Ukraine.

- (261) Finally, the attractiveness of the Union market in terms of size and prices as demonstrated above, points to the likelihood that Russian exports and spare capacity would be (re)directed towards the Union, should the measures be allowed to lapse.
- (262) Consequently, the Commission concluded that there was a likelihood of recurrence of dumping, if measures would not be extended.

4. INJURY

4.1. Definition of the Union industry and Union production

- (263) The like product was manufactured by 12 producers in the Union during the period considered and 11 producers in the Union during the review investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (264) The total Union production during the review investigation period was established at around 291 704 tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as data provided by the applicant ⁽⁹⁵⁾. As indicated in recital (15), three Union producers were selected in the sample representing around 40 % of the total Union production of the like product.

4.2. Union consumption

- (265) The Commission established the Union consumption on the basis of the sales volumes of the Union industry's own production destined for the Union market and the import volumes data on the Union market obtained from Eurostat statistics.
- (266) Union consumption developed as follows:

Table 2

Union consumption (tonnes) ⁽⁹⁶⁾

| | 2016 | 2017 | 2018 | Review Investigation period |
|-------------------------|---------|---------|---------|-----------------------------|
| Total Union consumption | 499 998 | 505 443 | 577 397 | 541 409 |
| <i>Index</i> | 100 | 101 | 115 | 108 |

Source: Eurostat.

- (267) Throughout the period considered, the Union consumption increased. It increased with 15 percentage points in 2018 before decreasing with 7 percentage points in the review investigation period compared to 2018. Overall, the Union consumption increased by 8 % between 2016 and the review investigation period.

4.3. Imports from the countries concerned

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

- (268) The Commission established the volume of imports from the countries concerned on the basis of Eurostat statistics. The market share of the imports was established based on of the Union consumption as set out in recital (266).
- (269) Imports from the countries concerned and their market share developed as follows:

⁽⁹⁵⁾ The production volume is based on EU-27 data as the United Kingdom ceased to be part of the European Union as from 1 February 2020 and the transition period for the United Kingdom's withdrawal ended on 31 December 2020.

⁽⁹⁶⁾ The consumption is based on EU-27 data, excluding data related to the United Kingdom.

Table 3

Import volume (tonnes) and market share ⁽⁹⁷⁾

| | 2016 | 2017 | 2018 | Review Investigation period |
|--|-------|-------|-------|-----------------------------|
| Volume of imports from Russia | 1 235 | 883 | 1 732 | 1 912 |
| <i>Index</i> | 100 | 72 | 140 | 155 |
| Market share of imports from Russia (%) | 0,25 | 0,17 | 0,30 | 0,35 |
| <i>Index</i> | 100 | 71 | 121 | 143 |
| Volume of imports from Belarus | 18 | 0 | 0 | 4 |
| <i>Index</i> | 100 | 0 | 0 | 19 |
| Market share of imports from Belarus (%) | 0 | 0 | 0 | 0 |
| <i>Index</i> | 100 | 0 | 0 | 18 |
| Volume of imports from the PRC | 478 | 589 | 424 | 559 |
| <i>Index</i> | 100 | 123 | 89 | 117 |
| Market share of imports from the PRC (%) | 0,10 | 0,12 | 0,07 | 0,10 |
| <i>Index</i> | 100 | 122 | 77 | 108 |
| Volume of imports from the countries concerned | 1 731 | 1 472 | 2 156 | 2 475 |
| <i>Index</i> | 100 | 85 | 125 | 143 |
| Market share of imports from the countries concerned (%) | 0,35 | 0,29 | 0,37 | 0,45 |
| <i>Index</i> | 100 | 84 | 108 | 132 |

Source: Eurostat.

- (270) Imports of the product under review from the countries concerned remained low during the period considered and the review investigation period. Although imports from Russia and the PRC increased between 2016 and the review investigation period, the market share of these two countries remained very low (below 1 %), while the market share of imports from Belarus was below 0,0033 % during the period considered.

4.3.2. Prices of the imports from the countries concerned and price undercutting

4.3.2.1. Prices

- (271) The Commission established the average prices of imports on the basis of Eurostat statistics.

- (272) The weighted average price of imports from the countries concerned developed as follows:

⁽⁹⁷⁾ The import volume is based on EU-27 data, excluding data related to the United Kingdom.

Table 4

Import prices (EUR/tonne) ⁽⁹⁸⁾

| | 2016 | 2017 | 2018 | Review Investigation period |
|----------------------------|----------|----------|----------|-----------------------------|
| Price imports from Russia | 410,52 | 499,74 | 475,80 | 540,37 |
| <i>Index</i> | 100 | 122 | 116 | 132 |
| Price imports from Belarus | 101,65 | 0 | 0 | 531,43 |
| <i>Index</i> | 100 | 0 | 0 | 523 |
| Price imports from the PRC | 1 429,16 | 2 562,52 | 1 954,28 | 1 515,58 |
| <i>Index</i> | 100 | 179 | 137 | 106 |

Source: Eurostat.

(273) Regarding imports from Russia, an increase of the average unit price was observed between 2016 and the review investigation period. This price evolution is consistent with the overall price evolution of the product under review (see also Tables 5 and 9 below).

(274) In view of the very low import volumes from the PRC and Belarus, prices of these imports could not be analysed meaningfully.

4.3.2.2. Price undercutting

(275) Since there was no cooperation from exporting producers in the PRC, and in view of the very low quantities imported in the Union from the PRC, no reliable import prices could be established during the review investigation period. Under these circumstances, the Commission determined the price undercutting by imports from the PRC during the review investigation period by comparing:

- (1) the weighted average sales prices per product type (black WPT or galvanized WPT) of the sampled Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level; and
- (2) the corresponding weighted average prices per product type of the product under review produced in the PRC and sold to the rest of the world established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value ⁽⁹⁹⁾.

(276) As far as imports from Russia are concerned, the imports volume in the review investigation period was considered sufficient to give a fair indication of future price behaviour should the measures be allowed to lapse. Considering the non-cooperation from exporting producers in Russia as explained in recital (235), the Commission used CIF Eurostat data to determine the import price. The partially cooperating exporting producer in Russia produced only black WPT and the exports to the Union in Eurostat are composed almost exclusively of black WPT. Therefore, the comparison was done only for the black WPT. The Commission determined the price undercutting by imports from Russia during the review investigation period by comparing:

- (1) the weighted average sales prices of the sampled Union producers for black WPT charged to unrelated customers on the Union market, adjusted to an ex-works level; and

⁽⁹⁸⁾ The import prices are based on EU-27 data, excluding data related to the United Kingdom.

⁽⁹⁹⁾ See Commission Implementing Regulation (EU) 2019/566 of 9 April 2019 imposing a definitive anti-dumping duty on imports of certain tube and pipe fittings originating in the Russian Federation, the Republic of Korea and Malaysia following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the investigation concerning the imports of the same product originating in the Republic of Turkey (OJ L 99, 10.4.2019, p. 9), recital 128.

- (2) the corresponding weighted average import prices of black WPT from Russia, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value.
- (277) Regarding imports from Belarus, in view of the very low import quantities to the Union, no reliable import prices to the Union could be established during the review investigation period. Therefore, the Commission used prices of the products under review produced in Belarus and sold to third markets, in particular to Russia, which is the main export market. As explained in recital (60), the exports of galvanized WPT were in limited quantities and showed an incoherent price trend. Therefore, the comparison was made only for non-galvanized WPT, which include black WPT and other WPT. The Commission determined the price undercutting during the review investigation period by comparing:
- (1) the weighted average sales prices of the sampled Union producers for non-galvanized WPT charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - (2) the corresponding weighted average prices of non-galvanized WPT produced in Belarus and sold to Russia, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs. In the absence of any other information, these costs were estimated at 1 % of the CIF value.
- (278) The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period. It showed a weighted average undercutting margin for the countries concerned of between 6,2 % and 23,5 %.

4.4. Imports from third countries other than Russia, Belarus and the PRC

- (279) The imports of the product under review from third countries other than Russia, Belarus and the PRC were mainly from Turkey, India and the Republic of North Macedonia.
- (280) The (aggregated) volume of imports as well as the market share and price trends for imports of the product under review from other third countries developed as follows:

Table 5

Imports from third countries ⁽¹⁰⁰⁾

| Country | | 2016 | 2017 | 2018 | Review Investigation period |
|---------|---------------------------|--------|---------|---------|-----------------------------|
| Turkey | Volume (tonnes) | 76 782 | 105 062 | 147 155 | 151 189 |
| | Index | 100 | 137 | 192 | 197 |
| | Market share (%) | 15 | 21 | 25 | 28 |
| | Average price (EUR/tonne) | 547 | 643 | 702 | 626 |
| | Index | 100 | 117 | 128 | 114 |
| India | Volume (tonnes) | 59 483 | 51 718 | 53 545 | 48 903 |
| | Index | 100 | 87 | 90 | 82 |

⁽¹⁰⁰⁾ Imports from third countries are based on EU-27 data, excluding data related to the United Kingdom as a Member State but including data related to the United Kingdom as a third country.

| | | | | | |
|---|---------------------------|---------|---------|---------|---------|
| | Market share (%) | 12 | 10 | 9 | 9 |
| | Average price (EUR/tonne) | 540 | 683 | 758 | 740 |
| Republic of North Macedonia | <i>Index</i> | 100 | 126 | 140 | 137 |
| | Volume (tonnes) | 22 239 | 24 472 | 29 702 | 21 040 |
| | <i>Index</i> | 100 | 110 | 134 | 95 |
| | Market share (%) | 4 | 5 | 5 | 4 |
| | Average price (EUR/tonne) | 494 | 607 | 626 | 574 |
| | <i>Index</i> | 100 | 123 | 127 | 116 |
| Other third countries | Volume (tonne) | 51 179 | 49 700 | 64 076 | 51 956 |
| | <i>Index</i> | 100 | 97 | 125 | 102 |
| | Market share (%) | 10 | 10 | 11 | 10 |
| | Average price (EUR/tonne) | 794 | 884 | 907 | 917 |
| | <i>Index</i> | 100 | 111 | 114 | 115 |
| Total of all third countries except the countries concerned | Volume (tonne) | 209 683 | 230 951 | 294 478 | 273 088 |
| | <i>Index</i> | 100 | 110 | 140 | 130 |
| | Market share (%) | 42 | 46 | 51 | 50 |
| | Average price (EUR/tonne) | 600 | 700 | 749 | 698 |
| | <i>Index</i> | 100 | 117 | 125 | 116 |

Source: Eurostat.

(281) Imports of the product under review from Turkey increased substantially during the period considered. The market share of these imports increased with 13 percentage points or around 100 % between 2016 and the review investigation period. Imports from India decreased during the period considered; however, their market share remained important, i.e. 9 %, during the review investigation period. Imports from the Republic of North Macedonia remained constant and represented 4 % market share. The total imports from third countries except the countries concerned increased by 30 % between 2016 and the review investigation period to reach 50 % market share in the review investigation period compared to 42 % in 2016.

(282) The average sales prices of imports from third countries other than the countries concerned increased during the period considered. This trend is consistent with the trend observed for imports from the countries concerned in Table 4 above and the price trend observed for sales of Union industry on the Union market in Table 9 below.

4.5. Economic situation of the Union industry

4.5.1. General remarks

- (283) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (284) As mentioned in recital (15), sampling was used for the assessment of the economic situation of the Union industry.
- (285) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data related to all Union producers provided by the applicant. The Commission evaluated the microeconomic indicators on the basis of data related to the sampled Union producers contained in the questionnaire replies. Both sets of data were found to be representative of the economic situation of the Union industry.
- (286) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (287) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators ⁽¹⁰¹⁾

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

| | 2016 | 2017 | 2018 | Review Investigation period |
|------------------------------|---------|---------|---------|-----------------------------|
| Production volume (tonnes) | 319 525 | 286 386 | 305 907 | 291 704 |
| <i>Index</i> | 100 | 90 | 96 | 91 |
| Production capacity (tonnes) | 804 342 | 803 896 | 799 426 | 791 354 |
| <i>Index</i> | 100 | 100 | 99 | 98 |
| Capacity utilisation (%) | 40 | 36 | 38 | 37 |
| <i>Index</i> | 100 | 90 | 96 | 93 |

Source: Information provided by the applicant, information provided by the sampled Union producers.

- (289) Although the Union consumption increased by 8 percentage points during the period considered as mentioned in recital (267), the production volume of the like product decreased during the same period from 319 525 tonnes in 2016 to 291 704 tonnes in the review investigation period, which represents a decrease by 9 percentage points. Therefore, the increase of the Union consumption has not benefitted to the Union industry.

⁽¹⁰¹⁾ The macroeconomic indicators are based on EU-27 data, excluding data related to the United Kingdom.

- (290) The decrease of the production volume is mainly due to the increasing competition that the Union industry faces from imports of the product under review originating in third countries other than the countries concerned. As explained in recitals (281) and (282), import volumes from third countries, in particular from Turkey, have significantly increased during the period considered. The market share of imports from third countries other than the countries concerned has increased by 8 percentage points between 2016 and the review investigation period. The total import volume from these countries in the review investigation period was 273 088 tonnes representing a market share of 50 %, while the total imports volume from the countries concerned in the same period was only 2 475 tonnes representing a market share of below 0,5 %.
- (291) Although the production capacity remained stable during the period considered, the capacity utilisation decreased from 40 % to 37 % following the same trend as the production volume.

4.5.2.2. Sales volume and market share

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

Table 7

Sales volume and market share

| | 2016 | 2017 | 2018 | Review Investigation period |
|--|---------|---------|---------|-----------------------------|
| Total sales volume on the Union market to unrelated customers (tonnes) | 288 584 | 273 020 | 280 763 | 265 846 |
| <i>Index</i> | 100 | 95 | 97 | 92 |
| Market share (%) | 58 | 54 | 49 | 49 |
| <i>Index</i> | 100 | 94 | 84 | 85 |

Source: Information provided by the applicant, information provided by the sampled Union producers.

- (293) Sales volumes of the Union industry of its own production to unrelated customers in the Union followed the same trend as the production volume and decreased in a similar way by 8 percentage points between 2016 and the review investigation period. The market share of the Union industry also decreased from 58 % in 2016 to 49 % in the review investigation period, which corresponds to the increase of market share of imports from third countries other than the countries concerned, which was by 8 percentage points.
- (294) Therefore, the decrease in the sales volume of the Union industry and its market share was caused by the increase of imports from third countries other than the countries concerned.

4.5.2.3. Growth

- (295) Although between 2016 and the review investigation period the Union consumption increased by 8 %, the volume of sales to unrelated customers in the Union decreased also by 8 %, which resulted in 9 percentage points market share loss for the Union industry over the period considered. Consequently, there was no growth for the Union industry during the period considered.

4.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

| | 2016 | 2017 | 2018 | Review Investigation period |
|-------------------------------|------|------|------|-----------------------------|
| Number of employees | 628 | 630 | 624 | 608 |
| <i>Index</i> | 100 | 100 | 99 | 97 |
| Productivity (tonne/employee) | 508 | 455 | 491 | 480 |
| <i>Index</i> | 100 | 89 | 96 | 94 |

Source: Information provided by the applicant, information provided by the sampled Union producers.

(297) The number of employees of the Union industry engaged in the production of the product under review decreased between 2016 and the review investigation period by 3 %. The productivity of the Union industry's workforce, measured as output (tonnes) per employee, followed the same trend with a decrease of 6 % over the period considered.

(298) The decrease of the number of employees is due to the decrease of production volume, which is also linked with the decrease of sales and demand for Union industry's products. The decrease of the productivity is explained by the higher decrease of the production volume compared to the decrease of the number of employees.

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

(299) The Commission concluded in recital (239) that dumping from Russia continued during the review investigation period. The Commission also concluded that there was a likelihood of recurrence of dumping from Belarus and the PRC, if measures would not be extended.

(300) At the same time, the level of imports from the countries concerned during the review investigation period was very limited, representing only 0,45 % of the Union consumption. Therefore, the impact of the magnitude of the actual margins of dumping on the Union industry was rather limited.

(301) The macroeconomic indicators examined above show that, notwithstanding the anti-dumping measures in force since 2008, the economic situation of the Union industry has remained substantially fragile and injurious. Thus, no recovery from the past dumping could be established and the Union industry remains highly vulnerable to the injurious effects of any dumped imports in the Union market.

4.5.3. Microeconomic indicators ⁽¹⁰²⁾

4.5.3.1. Prices and factors affecting prices

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

⁽¹⁰²⁾ Microeconomic indicators are based on EU-28 data, including the United Kingdom. Based on the low volume of sales of the sampled Union producers in the United Kingdom (approx. 3 % of the average EU sales of those producers in the RIP), the impact of transactions concerning the United Kingdom would appear to be minimal on the injury findings, and the conclusions on material injury would therefore not have been altered when using EU-27 data.

Table 9

Sales prices in the Union

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|------|------|------|-----------------------------|
| Average unit sales price in the Union on the total market (EUR/tonne) | 662 | 763 | 825 | 778 |
| <i>Index</i> | 100 | 115 | 125 | 118 |
| Unit cost of production (EUR/tonne) | 731 | 875 | 913 | 912 |
| <i>Index</i> | 100 | 120 | 125 | 125 |

Source: questionnaire replies of the sampled Union producers.

- (303) The average unit sales prices of the Union industry increased during the period considered. Between 2016 and the review investigation period the prices increased by 18 %. The product under review is a commodity and the sales price is influenced by the price of the main raw material – hot rolled coils – which represents more than 50 % of the cost of production. The increase of the sales prices followed to a certain extent the evolution of the cost of production, which increased by 25 % between 2016 and the review investigation period. However, the average sales price did not increase at the same rate as the unit cost of production, which in addition consistently remained above the average sales price during the period considered. This trend is due to the increase of the price of raw materials and the increased competition from imports which put pressure on the Union industry's sales prices.

4.5.3.2. Labour costs

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

Table 10

Average labour costs per employee

| | 2016 | 2017 | 2018 | Review Investigation period |
|---|--------|--------|--------|-----------------------------|
| Average labour costs per employee (EUR) | 40 005 | 36 579 | 39 466 | 43 066 |
| <i>Index</i> | 100 | 91 | 99 | 108 |

Source: questionnaire replies of the sampled Union producers.

- (305) The average labour costs per employee first declined from 2016 to 2017 before progressively increasing in 2018 and the review investigation period. Between 2016 and the review investigation period the average labour cost per employee increased by 8 %.

4.5.3.3. Inventories

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

Table 11

Inventories

| | 2016 | 2017 | 2018 | Review Investigation period |
|-------------------------|--------|--------|--------|-----------------------------|
| Closing stocks (tonnes) | 20 722 | 12 356 | 14 952 | 17 600 |
| <i>Index</i> | 100 | 60 | 72 | 85 |

Source: questionnaire replies of the sampled Union producers.

- (307) The inventories of the Union industry decreased between 2016 and the review investigation period. Initially they decreased by 40 % from 2016 to 2017 before progressively increasing in 2018 and the review investigation period but remaining at level lower than 2016. Overall, inventories decreased by 15 % between 2016 and the review investigation period.

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

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

Table 12

Profitability, cash flow, investments and return on investments

| | 2016 | 2017 | 2018 | Review Investigation period |
|--|-------------|-----------|-------------|-----------------------------|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | -6 | -5 | -4 | -11 |
| <i>Index</i> | -100 | -76 | -70 | -177 |
| Cash flow (EUR) | - 4 874 323 | 2 363 932 | - 3 670 718 | - 8 123 363 |
| <i>Index</i> | -100 | 48 | -75 | -167 |
| Investments (EUR) | 2 457 649 | 1 647 452 | 1 301 235 | 2 095 539 |
| <i>Index</i> | 100 | 67 | 53 | 85 |
| Return on investments (%) | -18 | -17 | -17 | -41 |
| <i>Index</i> | -100 | -96 | -96 | -228 |

Source: questionnaire replies of the sampled Union producers.

(a) **Profitability**

- (309) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales.
- (310) In 2016, the Union industry had a negative profit margin of -6 %, which further decreased to -11 % during the review investigation period. The negative profit margin of the Union industry throughout the period considered is due to the fact that the unit cost of production was always higher than the average sales price of the product under review. As can be seen in Table 9 above, the gap between the unit cost of production and the average sales price further increased in the review investigation period. This situation is explained by the fact that since the product

under review is a commodity, the sales price is dependent on the price of the main raw material (hot rolled coils) and the competition on the market. It is observed that due to increased competition from imports from third countries in terms of volumes and low prices, the Union industry could not set sales prices at a level which would allow it to at least cover the cost of production.

(b) **Cash flow**

- (311) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow initially improved in 2017 before declining again in 2018 and the review investigation period when it reached -8 million EUR. This decrease is mainly explained by the decrease in profitability, as described in recital (310).

(c) **Investments and return on investments**

- (312) Investments decreased by 15 % between 2016 and the review investigation period, which further demonstrates the difficult financial situation of the Union industry. The return on investments, which is expressed as the profit in percentage of the net book value of investments dropped from -18 % to -41 % during the period considered and therefore followed the same trend as the profitability.

4.6. Conclusion on injury

- (313) The evolution of the micro and macro indicators during the period considered showed that the financial situation for the Union industry deteriorated. Overall, the trends of all economic indicators worsened over the period considered.
- (314) Production and sales volumes decreased, which had a negative effect on employment and productivity as well as on profitability. The increased competition and price pressure from third country imports caused the profitability situation of the Union industry to further deteriorate. This led to a negative profit margin of -11 % for the Union industry during the review investigation period. The cash flow, investments and return on investments also deteriorated, which made it difficult for the Union industry to raise capital and invest.
- (315) On the basis of the above, the Commission concluded that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.
- (316) The Commission assessed whether there is a causal link between imports from the countries concerned and the injury suffered by Union industry.
- (317) The volume of imports from the countries concerned was very low during the period considered, and the combined market share of imports from these countries was only 0,43 % during the review investigation period.
- (318) At the same time, a surge of low priced imports from third countries other than the countries concerned, such as Turkey, India and the Republic of North Macedonia, put strong price and volume pressure on the Union industry sales. As an illustration, the average sales price of the Union industry to unrelated customers during the review investigation period was 778 EUR/tonne while the average sales price of products imported from Turkey was 626 EUR/tonne and 574 EUR/tonne for products imported from the Republic of North Macedonia. In addition, the market share of imports from countries other than the countries concerned increased from 42 % to 50 % between 2016 and 2019.
- (319) Considering the above, the Commission concluded that the material injury suffered by the Union industry could not have been caused by the imports from the countries concerned due to their very limited volume.
- (320) Therefore, the Commission further examined the likelihood of recurrence of injury originally caused by dumped imports from the countries concerned if the measures were repealed.

5. LIKELIHOOD OF RECURRENCE OF INJURY ORIGINALLY CAUSED BY DUMPED IMPORTS FROM THE COUNTRIES CONCERNED IF THE MEASURES WERE REPEALED

- (321) The Commission concluded in recital (315) that the Union industry suffered material injury during the review investigation period. In recital (319), the Commission also determined that the material injury suffered by the Union industry could not have been caused by imports from the countries concerned. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from the countries concerned if the measures were allowed to lapse.
- (322) In order to establish whether there is likelihood of recurrence of injury originally caused by the dumped imports from the countries concerned, the Commission considered the following elements: (1) spare capacity in the countries concerned and the attractiveness of the Union market; and (2) the impact of potential imports and price levels of such imports from these countries on the Union industry's situation should the measures be allowed to lapse.

5.1. Spare capacity in the countries concerned and the attractiveness of the Union market

- (323) As already described in recitals (78), (210) and (250), the exporting producers in Belarus, the PRC and Russia have significant spare capacities, which together exceed substantially the current production volumes and internal demand in these countries ⁽¹⁰³⁾ and this spare capacity could be used to produce the product under review for export to the Union if measures were allowed to lapse.
- (324) As described in recitals (205) and (213), the Chinese exporting producers exported to their main third markets at dumped prices, which are on average from 8 % to 21 % lower as compared to the average sales prices of the Union producers on the Union market. As concluded in recital (251), the Russian export prices to third countries were found to be around 29 % lower than the Union producers' prices on the Union market. Finally, it was established in recital (82) that the Belarusian exporting producers exported to their main third market, Russia, at prices around 5 % lower as compared to the average sales prices of the Union producers on the Union market. Therefore, taking into account the price level of exports from Belarus, the PRC and Russia to other third markets, exporting to the Union is potentially much more attractive for the Belarusian, Chinese and Russian exporters. Consequently, it can be reasonably expected that, should the measures be repealed, Belarusian, Chinese and Russian exporting producers would start again to export high volumes of the product under review to the Union. This expectation is further reinforced by the availability of substantial spare capacity in these countries.

5.2. Impact of potential imports from the countries concerned on the Union industry's situation should the measures lapse

- (325) As explained in Section 4.3.2.2, the Commission performed an undercutting analysis without anti-dumping measures to establish how the imports from the countries concerned would affect Union industry should the measures be terminated.
- (326) The Commission observed in recital (278) that the undercutting calculation showed a weighted average undercutting margin for the countries concerned of between 6,2 % and 23,5 %.
- (327) In addition, the Commission performed a simulation in order to better assess the likely impact of imports from the countries concerned on the financial situation of the Union industry. In this respect, the Commission assumed that exporting producers from the countries concerned would export to the Union the same quantities as before the imposition of the measures (i.e. a combined 250 559 tonnes), and that the Union consumption would remain the same as during the review investigation period (i.e. 541 409 tonnes). The Commission also assumed that 50 % of the total imports from these countries would affect the Union industry and the remaining 50 % would affect

⁽¹⁰³⁾ The spare capacity in the PRC exceeds more than ten times the total Union consumption during the review investigation period, while the sole cooperating Russian exporting producer has a nominal production capacity that exceeds the total Union consumption. The spare capacity in Belarus represents 9 % of the Union consumption.

imports from other third countries since market shares are at the similar level of magnitude. Finally, the Commission assumed that the Union industry would keep the same sales prices as during the review investigation period since it is already loss making.

- (328) The result of this simulation shows that the Union industry is likely to lose sales volume and market share on the Union market. This would have an impact on the industry's overall profitability, which would decrease from -11 % to -25 %.
- (329) This is a conservative analysis taking into consideration that the average sales prices of imports from other third countries are below the average sales price of the Union industry. This means that dumped imports of the product under review from the countries concerned would most likely first gain market share at the expense of the Union industry, before taking over the market share of the exports from other third countries to the Union. This would lead to even further deterioration of the profitability of the Union industry.
- (330) Following disclosure, the Belarusian Government argued that considering that according to Article 3(4) of the basic Regulation, *'where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the effects of such imports shall be cumulatively assessed only if it is determined that (...) the volume of imports from each country is not negligible'* and that the imports from Belarus, the PRC and Russia were negligible in 2019, the simulation exercise conclusions should be removed from this Regulation.
- (331) The Commission noted that Article 3(4) of the basic Regulation relates to the assessment of the effects of actual imports on the Union industry to determine injury in the framework of an anti-dumping investigation, while the simulation carried out by the Commission in recitals (327) to (329) relates to the determination of the likelihood of recurrence of injury originally caused by imports from the countries concerned in case the measures are allowed to lapse. In order to estimate the potential effects of such imports on the Union industry, the simulation consists of a hypothetical where it is assumed that the countries concerned would export the same quantities as before the imposition of the measures. These quantities were not negligible⁽¹⁰⁴⁾. Therefore, considering that Article 3(4) of the basic Regulation does not apply to the simulation carried out as well as that the potential import volumes from each country considered in the simulation are not negligible, the claim was rejected.
- (332) In view of the above, the Commission concluded that the repeal of the measures would in all likelihood result in a significant increase of dumped imports from the countries concerned at prices undercutting the Union industry prices, and therefore further aggravate the injury suffered by the Union industry. As a consequence, the viability of the Union industry would be at serious risk.
- (333) Following disclosure, the Government of Russia claimed that there is a lack of a causal link between imports from Russia and the situation of the Union industry. In this respect, the Commission pointed out that Article 11(2) of the basic Regulation does not require the Commission to perform a causality analysis between imports from the countries concerned and the injury suffered by the Union industry in expiry reviews. The findings that the expiry of the measures would be likely to lead to the continuation or recurrence of injury are sufficient to justify the continuation of the measures. The Commission concluded in recital (332) that the repeal of the measures would in all likelihood result in a significant increase of dumped imports from the countries concerned at prices undercutting the Union industry prices, and therefore further aggravate the injury suffered by the Union industry and thus demonstrated the likelihood of recurrence of injury originally caused by dumped imports from the countries concerned, including Russia, if the measures were repealed. Consequently, the claim was rejected.

⁽¹⁰⁴⁾ 184 887 tons from the PRC, 36 057 tons from Russia and 29 615 tons from Belarus.

6. UNION INTEREST

- (334) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, distributors and users.
- (335) All interested parties were given the opportunity to make their view known pursuant to Article 21(2) of the basic Regulation.

6.1. Interest of the Union industry

- (336) Although the anti-dumping measures in force prevented dumped imports from the countries concerned to enter the Union market to a large extent, the Union industry suffered material injury during the review investigation period and its situation is fragile, as confirmed by the negative trends of the injury indicators.
- (337) Despite the very low volume of imports of the product under review from the countries concerned, the Commission established that there is a strong likelihood of recurrence of injury originally caused by imports from these countries should the measures expire. The influx of substantial volumes of dumped imports from the countries concerned would cause further injury to the Union industry. This would worsen the already very fragile economic situation of Union industry and threaten its viability.
- (338) The Commission thus concluded that the maintenance of the anti-dumping measures against the countries concerned is in the interest of the Union industry.

6.2. Interest of unrelated importers, traders and users

- (339) The Commission contacted all known unrelated importers, traders and users. Only one distributor provided only filled-in tables without a reply to the narrative part of the questionnaire.
- (340) In the previous expiry review and in the original investigation, the analysis of the Union interest did not indicate a negative effect of the measures on unrelated importers, traders and users either.
- (341) On this basis, there were no indications that the maintenance of the measures would have a significant negative impact on the unrelated importers, traders and users, outweighing the positive impact of the measures on the Union industry.
- (342) Following disclosure, the Government of Russia argued that the continuation of the measures would have a negative impact of the EU downstream industries. In this respect, the Commission pointed out that the EU downstream industries had the opportunity to participate in the investigation and to comment on the disclosure. The Commission received no comments from unrelated importers, traders and users. Therefore, this claim was rejected.

6.3. Conclusion on Union interest

- (343) On the basis of the above, the Commission concluded that there were no compelling reasons of the Union interest against the maintenance of the existing measures on imports of the product under review originating in the countries concerned.

7. ANTI-DUMPING MEASURES

- (344) On the basis of the conclusions reached by the Commission concerning the continuation of dumping from Russia, the recurrence of dumping from Belarus and the PRC, the recurrence of injury originally caused by dumped imports from the countries concerned, and the Union interest, the Commission finds that the anti-dumping measures on imports of certain welded tubes and pipes, of iron or non-alloy steel from Belarus, the PRC and Russia should be maintained.

- (345) The individual company anti-dumping duty rates specified in this Regulation are exclusively applicable to imports of the product under review originating in Russia and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.
- (346) A company may request the application of these individual anti-dumping duty rates if it subsequently changes the name of its entity. The request must be addressed to the Commission ⁽¹⁰⁵⁾. The request must contain all the relevant information enabling it to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a notice announcing the change of name will be published in the *Official Journal of the European Union*.
- (347) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures on imports of the product under review from Belarus, the PRC and Russia be maintained. They were also granted a period to make representations subsequent to this disclosure. All comments received have been considered by the Commission.
- (348) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 ⁽¹⁰⁶⁾, 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.
- (349) 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 imposed on imports of certain welded tubes and pipes, of iron or non-alloy steel, of circular cross-section and of an external diameter not exceeding 168,3 mm, excluding line pipe of a kind used for oil or gas pipelines, casing and tubing of a kind used in drilling for oil or gas, precision tubes and tubes and pipes with attached fittings suitable for conducting gases or liquids for use in civil aircraft, currently falling under CN codes ex 7306 30 41, ex 7306 30 49, ex 7306 30 72 and ex 7306 30 77 (TARIC codes 7306 30 41 20, 7306 30 49 20, 7306 30 72 80 and 7306 30 77 80) and originating in Belarus, the People's Republic of China and Russia.
2. The rates of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below shall be as follows:

| Country | Company | Anti-dumping duty | TARIC additional code |
|--------------------------------|---------------|-------------------|-----------------------|
| The People's Republic of China | All companies | 90,6 % | |

⁽¹⁰⁵⁾ European Commission, Directorate-General for Trade, Directorate H, Rue de la Loi 170, 1040 Brussels, Belgium.

⁽¹⁰⁶⁾ 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).

| | | | |
|---------|---|--------|------|
| Russia | TMK Group (Seversky Pipe Plant Open Joint Stock Company and Joint Stock Company Taganrog Metallurgical Works) | 16,8 % | A892 |
| | OMK Group (Open Joint Stock Company Vyksa Steel Works and Joint Stock Company Almetjvesk Pipe Plant) | 10,1 % | A893 |
| | All other companies | 20,5 % | A999 |
| Belarus | All companies | 38,1 % | |

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

Article 2

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

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

Done at Brussels, 16 April 2021.

For the Commission
The President
Ursula VON DER LEYEN

DECISIONS

COUNCIL IMPLEMENTING DECISION (CFSP) 2021/636

of 16 April 2021

implementing Decision 2013/798/CFSP concerning restrictive measures against the Central African Republic

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 31(2) thereof,

Having regard to Council Decision 2013/798/CFSP of 23 December 2013 concerning restrictive measures against the Central African Republic ⁽¹⁾, and in particular Article 2c thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 23 December 2013, the Council adopted Decision 2013/798/CFSP.
- (2) On 22 February 2021, the United Nations Security Council (UNSC) Committee established pursuant to UNSC Resolution 2127 (2013) updated the information relating to one person subject to restrictive measures.
- (3) The Annex to Decision 2013/798/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

Article 1

The Annex to Decision 2013/798/CFSP is hereby amended as set out in the Annex to this Decision.

Article 2

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

Done at Brussels, 16 April 2021.

For the Council
The President
A. P. ZACARIAS

⁽¹⁾ OJ L 352, 24.12.2013, p. 51.

ANNEX

In the list set out in Part A (Persons) of the Annex to Decision 2013/798/CFSP, entry 14 is replaced by the following entry:

‘14. Bi Sidi SOULEMAN (alias: a) Sidiki b) “General” Sidiki c) Sidiki Abbas d) Souleymane Bi Sidi e) Bi Sidi Soulemane)

Designation: President and self-proclaimed “general” of the Retour, Réclamation et Réhabilitation (3R)

Date of Birth: 20 July 1962

Place of Birth: Bocaranga, Central African Republic

Nationality: Central African Republic

Passport No: Laissez-passer No N°235/MISPAT/DIRCAB/DGPC/DGAEI/SI/SP, issued on 15 March 2019 (issued by the Minister of Interior of the Central African Republic)

Address: Kouï, Ouham-Pendé prefecture, Central African Republic

Date of UN designation: 5 August 2020

Other information:

Bi Sidi Souleman leads the Central African Republic (CAR)-based militia group Retour, Réclamation, Réhabilitation (3R) which has killed, tortured, raped, and displaced civilians and engaged in arms trafficking, illegal taxation activities, and warfare with other militias since its creation in 2015. Bi Sidi Souleman himself has also participated in torture. On 6 February 2019, 3R signed the Political Agreement for Peace and Reconciliation in the CAR but has engaged in acts violating the Agreement and remains a threat to the peace, stability and security of the CAR. For instance, on 21 May 2019, 3R killed 34 unarmed civilians in three villages, summarily executing adult males. Bi Sidi Souleman openly confirmed to a UN Entity that he had ordered 3R elements to the villages on the date of the attacks, but did not admit to giving the orders for 3R to kill. In December 2020, after having joined a coalition of armed groups established to disrupt the electoral process, Bi Sidi Souleman was reportedly killed during fighting.

Information from the narrative summary of reasons for listing provided by the Sanctions Committee:

Bi Sidi Souleman was listed on 5 August 2020 pursuant to paragraph 20 and paragraph 21 (b) of resolution 2399 (2018), extended by paragraph 5 of resolution 2507 (2020), for engaging in or providing support for acts that undermine the peace, stability or security of the Central African Republic, including acts that threaten or impede the stabilization and reconciliation process or that fuel violence; and being involved in planning, directing, or committing acts in the Central African Republic that violate international human rights law or international humanitarian law, as applicable, or that constitute human rights abuses or violations, including those involving targeting of civilians, ethnic- or religious-based attacks, attacks on civilian objects, including administrative centres, courthouses, schools and hospitals, and abduction and forced displacement.

Additional information

President and self-proclaimed “general” of the Retour, Réclamation et Réhabilitation (3R) armed group, Bi Sidi Souleman has engaged in acts threatening the peace, stability and security of the CAR and, in particular, threatening the implementation of the Political Agreement for Peace and Reconciliation in CAR signed on 6 February 2019 in Bangui.

He and fighters under his command have committed acts that constitute serious violations of international human rights law or international humanitarian law. On 21 May 2019, 3R killed 34 unarmed civilians in three villages (Koundjili, Lemouna and Bohong), summarily executing adult males.

Under his leadership, 3R elements committed acts involving sexual and gender-based violence. In September 2017, during an attack against Bocaranga, 3R elements raped several women and girls. Between March and April 2020, 3R elements were involved in seven cases of sexual violence in three villages in the Ouham-Pendé prefecture.

Under his leadership, 3R continued to impede the restoration of state authority in its areas of operation by maintaining illegal taxation systems, especially on transhumance activities and on travellers, and has been involved in the illegal exploitation of gold in the Mambéré-Kadéï and Nana-Mambéré prefectures.

In 2019, under his leadership, 3R committed its first violations of the Peace Agreement. Bi Sidi Souleman initially refused to start the disarmament and the demobilization of the 3R fighters supposed to participate in the first special mixed security unit in the west of the CAR and 3R also continued to expand its control over territories forcing MINUSCA into launching an operation in the Ouham-Pendé, Nana-Mambéré, and Mambéré-Kadéï prefectures in September 2019, as well as in arms trafficking in order to build up its military capabilities and in the recruitment of fighters from abroad.

In 2020, under his leadership, 3R continued and to commit violations of the Peace agreement and to expand its control over territories in the West. In May 2020, 3R elements occupied the gendarmerie of Besson in the Nana-Mambéré prefecture and former 3R elements deserted the Bouar USMS. On 5 June 2020, Bi Sidi Souleman announced the suspension of the participation of 3R in the Agreement's follow-up mechanisms until further notice. On 9 June 2020, presumed 3R elements attacked the training camp of the Bouar USMS as well as a joint MINUSCA and national forces checkpoint in Pougol. On 21 June 2020, 3R elements attacked a joint MINUSCA and national forces patrol near Besson resulting in the death of three Central African soldiers.'

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