COMMISSION IMPLEMENTING REGULATION (EU) 2017/1187

of 3 July 2017

imposing a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union ([1]) ('the basic Regulation'), and in particular Article 18 thereof,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) Following an anti-subsidy investigation ('the original investigation'), by Implementing Regulation (EU) No 452/2011 ([2]), the Council imposed a definitive countervailing duty on imports of certain coated fine paper originating in the People's Republic of China ('the PRC' or 'country concerned').

(2) Following an anti-dumping investigation, by Implementing Regulation (EU) No 451/2011 ([3]), the Council also imposed a definitive anti-dumping duty on imports of certain coated fine paper originating in the PRC.

(3) The countervailing measures took the form of an *ad valorem* duty rate ranging from 4 % to 12 % for imports from individually named exporters, with a residual duty rate of 12 %.

(4) On 8 August 2011, the Chinese producers Gold East Paper Co. Ltd and Gold Huasheng Paper Co. Ltd ('the APP Group'), lodged applications for annulment of both Implementing Regulation (EU) No 451/2011 and Implementing Regulation (EU) No 452/2011 insofar as they concern the applicants ([4]). On 11 September 2014, the Third Chamber of the General Court dismissed both actions.

1.2. Request for an expiry review

(5) Following the publication of a notice of impending expiry ([5]) of the countervailing measures in force on the imports of certain coated fine paper originating in the PRC, the Commission received a request for the initiation of an expiry review pursuant to Article 18 of the basic Regulation.

(6) The request was lodged by five Union producers (Arctic Paper Grycksbo AB, Burgo Group SpA, Fedrigoni SpA, Lecta Group and Sappi Europe SA), jointly referred to as the 'applicant', representing more than 25 % of the total Union production of coated fine paper.

(7) The request was based on the grounds that the expiry of the measures would be likely to result in continuation of subsidisation and recurrence of injury to the Union industry.

([1]) OJ L 176, 30.6.2016, p. 55.
([2]) Council Implementing Regulation (EU) No 452/2011 of 6 May 2011 imposing a definitive anti-subsidy duty on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 18).
([3]) Council Implementing Regulation (EU) No 451/2011 of 6 May 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of coated fine paper originating in the People's Republic of China (OJ L 128, 14.5.2011, p. 1).
([4]) Case T-443/11 and Case T-444/11.
([5]) OJ C 280, 25.8.2015, p. 8.

1.3. **Initiation of an expiry review**

(8) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 13 May 2016, by notice published in the *Official Journal of the European Union* ([1]) ('the Notice of Initiation') the initiation of an expiry review pursuant to Article 18 of the basic Regulation.

Parallel investigation

(9) By a notice published in the *Official Journal of the European Union* on 13 May 2016 ([2]), the Commission also announced the initiation of an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 ([3]) of the definitive anti-dumping measures in force with regard to imports into the Union of certain coated fine paper originating in the People's Republic of China.

(10) Prior to the initiation of the expiry review, and in accordance with Articles 10(7) and 33(a) of the basic Regulation, the Commission notified the Government of China ('GOC') that it had received a properly documented review request and invited the GOC for consultations with the aim of clarifying the situation as regards the content of the review request and arriving at a mutually agreed solution. The GOC accepted the offer for consultations and consultations were subsequently held on 11 May 2016. During the consultations, due note was taken of the comments submitted by the authorities of the PRC. However, no mutually agreed solution could be reached.

1.4. **Investigation**

Review investigation period and period considered

(11) The investigation of the likelihood of continuation or recurrence of subsidisation covered the period from 1 January 2015 to 31 December 2015 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2012 to the end of the review investigation period (the 'period considered').

Parties concerned

(12) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, other known Union producers, exporting producers, importers and users in the Union known to be concerned as well as the Chinese authorities of the initiation of the expiry review, and invited them to participate.

(13) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so, were granted a hearing with the Commission.

Sampling

(a) Sampling of exporting producers in the PRC

(14) In the Notice of Initiation, the Commission stated that it might sample interested parties, in accordance with Article 27 of the basic Regulation.

(15) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known 36 exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission requested the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

([1]) Notice of initiation of an expiry review of the countervailing measures applicable to imports of certain coated fine paper originating in the People's Republic of China (OJ C 172, 13.5.2016, p. 19).

([2]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of certain coated fine paper originating in the People's Republic of China (OJ C 172, 13.5.2016, p. 9).

([3]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51).

(16) Only one group of exporting producers in the PRC provided the information requested in Annex I to the Notice of Initiation for the purpose of sampling [1]. At a hearing on 8 June 2016 the same group of exporting producers informed the Commission that it did not intend to provide a reply to the questionnaire. This was explained by no exports sales to the Union market during the review investigation period and the complex group structure.

(17) All known exporting producers concerned, and the authorities of the PRC were informed about the consequences of non-cooperation and that in accordance with Article 28 of the basic Regulation, the Commission may make its findings on the basis of the best facts available.

(b) Sampling of Union producers

(18) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. In accordance with Article 27(1) of the basic Regulation, the Commission selected the sample on the basis of the largest representative volume of sales and production, taking also into account the geographical spread. The preliminary sample consisted of three groups of Union producers. The Commission invited interested parties to comment on the provisional sample. One of the provisionally sampled Union producers informed the Commission that it would not be in a position to reply to the questionnaire. The Commission also received a clarification that two other sampled parties were groups consisting of several producers. Accordingly, the Commission revised the sample by replacing the non-cooperating producer with the next largest producer in terms of the volume of sales and production, as well as by selecting the largest producers within the other two groups of provisionally sampled producers. Having received no comments on the revised sample within the deadline, the Commission confirmed the sample as revised. The final sample accounted for over 30 % of the total Union production during the review investigation period and was therefore considered representative of the Union industry.

(c) Sampling of unrelated importers

(19) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all known unrelated importers to provide the information specified in the Notice of Initiation.

(20) The Commission contacted five potential importers, but none replied to the sampling form.

Questionnaires

(a) Questionnaire — Government of China

(21) On 13 May 2016 the Commission sent a questionnaire to the Government of China ('the GOC') including specific questionnaires for the China Development Bank, Export Import Bank of China ('EXIM'), Agricultural Bank of China and China Export & Credit Insurance Corporation ('Sinosure') based on the fact that they had provided loans and financial services to the coated fine paper industry according to the information in the request and/or in the original investigation. In addition, the GOC was asked to forward a questionnaire for banks to any other financial institutions known by the GOC to have provided loans to the industry concerned.

(22) On 24 June 2016 the Commission received the reply to the questionnaire from the GOC. The Commission did not receive a reply from any of the listed above financial institutions.

(23) On 2 September 2016 the Commission sent a deficiency letter to the GOC. The GOC requested an extension of the deadline to reply to this deficiency letter. On 23 September 2016 the GOC informed the Commission that it decided not to submit its response to the deficiency letter and confirmed that it will no longer cooperate in the investigation.

(1) Sinar Mas group comprising: Gold East Paper Co., Ltd; Gold Huasheng Paper co., Ltd and Hainan Jinhai Pulp and Paper Co., Ltd

(24) By Note Verbale of 7 October 2016 the Commission informed the authorities of the PRC that following non-cooperation of the GOC, in accordance with Article 28 of the basic Regulation, the Commission intended to make its findings on the basis of the best facts available. It also noted that a finding based on facts available may be less favourable than if the GOC had cooperated.

(b) Questionnaire — Exporting producers

(25) No questionnaire was sent to the exporting producers which have not replied to the Commission's request in the Notice of Initiation. The Commission did not send a questionnaire to the Chinese exporting producer referred to in recital (16) above either, as it had indicated that it would not reply.

(c) Questionnaire — Union producers

(26) The Commission sent questionnaires to the three sampled Union producers and received questionnaire replies from all three of them.

Verification visits

(27) The Commission sought and verified all the information deemed necessary in the context of an expiry review for a determination of subsidisation, injury, and Union interest. Verification visits under Article 26 of the basic Regulation were carried out at the premises of the following Union companies:

— Burgo Group S.p.A., Altavilla Vicentina, Italy

— Condat (Lecta Group), Barcelona, Spain

— Sappi Europe SA, Brussels, Belgium for Sappi Austria Produktions GmbH&Co KG, Gratkorn, Austria

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(28) The product concerned is certain coated fine paper ('CFP') which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheet or rolls, and with a weight of 70 g/m2 or more but not exceeding 400 g/m2 and brightness of more than 84 (measured according to ISO 2470-1), and originating in the PRC ('the product under review'), currently falling within CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20).

(29) The product concerned does not include:

— Rolls suitable for use in web-fed presses. Rolls suitable for use in web-fed presses are defined as those rolls which, if tested according to the ISO test standard ISO 3783:2006 concerning the determination of resistance to picking — accelerated speed method using the IGT tester (electric model), give a result of less than 30 N/m when measuring in the cross-direction of the paper (CD) and a result of less than 50 N/m when measuring in the machine direction (MD).

— Multi-ply paper and multi-ply paperboard.

2.2. Like product

(30) The investigation showed that the following products have the same basic physical and technical characteristics, as well as the same basic uses:

— the product concerned

— the product produced and sold by the exporting producers on the domestic market of the PRC

— the product produced and sold in the Union by the Union industry

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

3. **LIKELIHOOD OF CONTINUATION OF SUBSIDISATION**

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

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

(33) As explained above, the GOC initially cooperated with the Commission and replied to the questionnaire. However, since this reply was highly deficient, a deficiency letter was sent on 2 September 2016. After receiving the deficiency letter, the GOC on 23 September 2016 informed the Commission about its decision to discontinue cooperation. The Commission therefore received only a limited amount of unverified information from the GOC.

(34) The Commission did not receive any replies to specific questionnaires intended for the China Development Bank, EXIM, Agricultural Bank of China, Sinosure or any other financial or insurance institution known by the GOC to have provided loans to the coated fine paper industry.

(35) The Commission made all interested parties aware of the consequences of non-cooperation and gave them the opportunity to comment. No comments in this regard were received. The Commission, in accordance with Article 28 of the basic Regulation, considered the use of best facts available necessary in order to examine the continuation of subsidy practices of the PRC in the paper industry.

(36) On the use of facts available, the Appellate Body has recalled that Article 12.7 of the SCM Agreement permits the use of facts on record solely for the purpose of replacing information that may be missing, in order to arrive at an accurate subsidization or injury determination. Accordingly, the Appellate Body has explained that 'there has to be a connection between the 'necessary information' that is missing and the particular 'facts available' on which a determination under Article 12.7 is based.' Therefore, 'an investigating authority must use those 'facts available' that 'reasonably replace the information that an interested party failed to provide', with a view to arriving at an accurate determination.' The Appellate Body has further explained that 'the facts available' refers to those facts that are in the possession of the investigating authority and on its written record. As determinations made under Article 12.7 are to be made on the basis of 'the facts available', 'they cannot be made on the basis of non-factual assumptions or speculation.' Furthermore, in reasoning and evaluating which facts available can reasonably replace the missing information, 'all substantiated facts on the record must be taken into account' by an investigating authority. The Appellate Body has explained that ascertaining the 'reasonable replacements for the missing 'necessary information' involves a process of reasoning and evaluation' on the part of the investigating authority. Where there are several facts available to an investigating authority that it needs to choose from, 'it would seem to follow naturally that the process of reasoning and evaluation would involve a degree of comparison' in order to arrive at an accurate determination. The evaluation of the 'facts available' that is required,

and the form it may take, depend on the particular circumstances of a given case, including the nature, quality, and amount of evidence on the record and the particular determinations to be made. The nature and extent of the explanation and analysis required will necessarily vary from determination to determination ([1]).

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

(a) the request for an expiry review under Article 18 of the basic Regulation concerning anti-subsidy duties on imports of Coated Fine Paper from China, of 11 February 2016;

(b) the response to the anti-subsidy questionnaire provided by the GOC on 24 June 2016. The information in this response due to the fact that the GOC stopped cooperation was neither verified, nor completed following the deficiency letter;

(c) the submission filed on behalf of the Ministry of Commerce of the People's Republic of China in the framework of this investigation;

(d) the information provided by the GOC and the sampled exporting producers as well as the findings of the original investigation; and

(e) previous anti-subsidy investigations carried out by the Commission against other encouraged industries in the PRC, such as crystalline silicon photovoltaic modules, both the original investigation ('the solar panels original investigation') ([2]) and the expiry review ('the solar panels expiry review') ([3]), filament glass fibre products ([4]), solar glass ([5]) and organic coated steel ([6]).

3.2. **Subsidies and subsidy programmes examined in the current investigation**

(38) In view of the lack of cooperation by the GOC and the exporting producers mentioned above, the Commission decided to examine whether there was continuation of subsidisation as follows. First, the Commission examined whether the subsidies countervailed in the original investigation continued to confer benefit to the coated fine paper industry. Subsequently, the Commission analysed whether the coated fine paper industry benefitted from new subsidies as alleged in the request (i.e. subsidies which were not countervailed in the original investigation). The Commission decided that, in view of the findings of existence of continued subsidisation with respect to most of the subsidies countervailed in the original investigation as well as new subsidies, there was no need to investigate all the other subsidies alleged to exist by the complainant. Indeed, pursuant to Article 18 of the basic Regulation, the Commission should examine whether there is evidence of continued subsidisation, regardless of its amount.

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

([2]) Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China (OJ L 325, 5.12.2013, p. 66).

([3]) Commission Implementing Regulation (EU) 2017/366 of 1 March 2017 imposing definitive countervailing duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 18(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 19(3) of Regulation (EU) 2016/1037 (OJ L 56, 3.3.2017, p. 1).

([4]) Commission Implementing Regulation (EU) No 1379/2014 of 16 December 2014 imposing a definitive countervailing duty on imports of certain filament glass fibre products originating in the People's Republic of China and amending Council Implementing Regulation (EU) No 248/2011 imposing a definitive anti-dumping duty on imports of certain continuous filament glass fibre products originating in the People's Republic of China (OJ L 367, 23.12.2014, p. 22).

([5]) Commission Implementing Regulation (EU) No 471/2014 of 13 May 2014 imposing definitive countervailing duties on imports of solar glass originating in the People's Republic of China (OJ L 142 14.5.2014, p. 23).

([6]) Council Implementing Regulation (EU) No 215/2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China (OJ L 73, 15.3.2013, p. 16).

3.3. **Subsidies countervailed in the original investigation**

I. *Preferential lending*

(39) In the original investigation the Commission established the ad valorem subsidy amount with regard to this measure was 5,37 % for the APP Group [1] and 1,26 % for the Chenming Group [2].

(a) Government intervention in favour of the coated fine paper industry

(40) The Commission first examined whether preferential lending forms part of the implementation of the GOC's central planning, which aims to encourage the development of the papermaking industry, as was the case in the original investigation.

(41) The coated fine paper industry that was subject to the Commission's investigation constitutes part of a wider category of the paper industry, also referred to as papermaking industry. The applicant alleged that the GOC continues to subsidise its paper industry and referred to a number of policy and planning documents as well as legislation which are the basis for continuation of the State support to this industry.

(42) In the original investigation the Commission established the existence of specific policy plans with respect to the paper industry. These plans stipulated that the government authorities closely monitor the performance of the paper industry and implement special policies (e.g. implementing decrees) for the fulfilment of the goals of the policy plans. Furthermore, the investigation also established that the specific policy plans provide for preferential lending to the paper making industry.

(43) The Commission in the current investigation established that the financial market in the PRC continues to be distorted by the interventions of the GOC. The findings of the original investigation based on government plans in force at that time are upheld in this expiry review investigation. Both the 12th Five-Year Plan [3] applicable during the RIP and the previous 11th Five-Year Plan continue to indicate the paper industry as an 'Encouraged industry'.

(44) The 13th Five-Year Plan (2016-2020) concerns the period following the review investigation period, but confirms the continuation of subsidisation also in the future. Indeed, the 13th Five-Year Plan singles out the paper industry as an 'Encouraged industry'.

(45) In the original investigation the Commission established with reference to the 'Decision No 40 of the State Council' [4] ('Decision No 40'), that this act is an order from the State Council, i.e. the highest administrative body in the PRC, and so legally binding on other public bodies and economic operators. It classified the industrial sectors into 'Encouraged, Restrictive and Eliminated Projects'. This Act represented a binding industrial policy document that shows how the GOC maintains a policy of supporting groups of enterprises or industries, such as the paper industry, classified by the Directory Catalogue as an 'Encouraged industry'. On the basis of the GOC's submission in this investigation, the Commission confirmed that Decision No 40 is still in force.

(46) With respect to the number of industries listed as 'Encouraged', there are in total 26, representing only a portion of the Chinese economy. Furthermore, only certain activities within these 26 sectors are given 'encouraged' status. Article 17 of Decision No 40 also stipulates that the 'Encouraged investment projects' shall benefit from specific privileges and incentives (financial support, import duty exemption, VAT exemption, tax exemption). With reference to the 'Restrictive and Eliminated Projects', Decision No 40 empowers the State authorities to intervene

---

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

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

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

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

directly to regulate the market. In fact, Articles 18 and 19 require the relevant authority to stop financial institutions from supplying loans; they also order the State price administrative department to raise the electricity price and instruct the electricity supply companies to stop supplying electricity to such 'Restrictive and Eliminated Projects'. It is obvious from the above that Decision No 40 provides binding rules and instructions to all the economic institutions and entities in the form of directives on the promotion and support of encouraged industries, one of which is the paper making industry.

(47) The Commission established in the current investigation that a number of policy documents indicate the paper industry explicitly as an 'Encouraged industry'. This concerns in particular the 12th Five-Year Plan for the Paper Industry. This plan is implemented by the 12th Five-Year Industrial Technology Innovation Program issued by the Ministry of Industry and Information Technology. The Program also refers to promotion of 'industrial restructuring and upgrading (…) of the paper industry and its related industries'. Similarly, the above mentioned Decision No 40 indicates support for the development and modernisation of the paper industry. Thus, rather than general statements of encouragement, these policy plans direct entities to comply with the public policy objective of supporting the development of the coated fine paper industry.

(48) In addition, the 2007 Development Policy for the Papermaking Industry ('the 2007 Papermaking Plan') provides specific conditions, orientations and targets for the papermaking industry. As found in the original investigation, the 2007 Papermaking Plan describes the state of the papermaking industry in China (e.g. number of enterprises, production, consumption and exports, statistics on the type of raw materials used). It sets out the policies and goals for the papermaking industry with respect to the industrial layout, the use of raw materials, the use of technology and equipment, the product structure and the organizational structure of the papermaking producers. The text also sets industry 'admission criteria', as it lays down specific assets/liability ratio requirements for the papermaking industry, sets specific credit ratings for the papermaking industry and specific targets for economies of scale, market share ratios, energy and water consumption to be achieved or attained by companies. It requests enterprises to formulate development plans based on the 2007 Papermaking Plan. It also instructs the local provinces and regions to participate in the implementation of the plan, while an entire chapter is devoted to 'Investment and Financing' of the papermaking industry. In this respect it is pertinent to note that the Plan clearly states that financial institutions shall not provide loans for any project which does not comply with its regulations. In sum, the 2007 Papermaking Plan is a specific state instrument aimed at regulating the papermaking industry in China and can only be considered as a compulsory industrial policy tool that has to be concretely implemented by relevant interested parties in China (state authorities, financial institutions and producers). Since the paper industry continues to be listed as an 'Encouraged' industry in the 12th and 13th Five-Year Plan and no document succeeding or revising the 2007 Papermaking Plan was made available or could be found, the Commission concluded that the 2007 Papermaking Plan is still in force.

(49) In addition, at general level Article 34 of the Commercial Banking Law [2015] No 34 states that 'Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State.' This indicates that loans received by the CFP producers from State-owned banks as well as other financial institutions are made pursuant to government directives and public objectives.

(50) Finally, the Commission recalled its findings in the original investigation concerning the role of the National Development and Reform Commission ('NDRC'). The NDRC is an agency of the State Council coordinating macroeconomic policy and managing the Government investments. The State Council, the highest governmental administrative body, issued, inter alia, the 2007 Papermaking Plan, which has to be followed by the NDRC. The original investigation also established that the NDRC collects, on a permanent basis, detailed information from companies. The existence of a systematic mechanism to collect company related data to be used in government plans and projects reveals that these plans and project are considered as an important element of State's industrial policy.

(51) It follows from the above that decisions taken by financial institutions with respect to the paper industry (and thus including coated fine paper industry as a part of it), continue to take into consideration the need to fulfil the stated goals of the relevant policy plans.

(52) In light of above, the Commission established that the link between the specific policy objectives as enshrined in those plans and documents and the support to the coated fine paper industry continue to exist during the RIP. The coated fine paper industry is regarded as a key/strategic industry, whose development is actively pursued by the State as a public policy objective, including through preferential lending.

(b) State-owned banks acting as public bodies

(53) The Commission concluded in the original investigation [1] that the financing market in China was distorted by government intervention and interest rates charged by non-government banks and other financial institutions were likely to be aligned with government rates. The investigation did not bring to light any element contradicting the above finding either; nor did the GOC provide evidence in the course of this current investigation that this situation had changed.

The request contained allegations that the GOC continued to subsidise the coated fine paper industry through preferential policy loans. The Commission recalls that, according to the WTO Appellate Body, the applicable test to establish that a State-owned undertaking is a public body is as follows: 'What matters is whether an entity is vested with authority to exercise governmental functions, rather than how that is achieved. There are many different ways in which government in the narrow sense could provide entities with authority. Accordingly, different types of evidence may be relevant to showing that such authority has been bestowed on a particular entity. Evidence that an entity is, in fact, exercising governmental functions may serve as evidence that it possesses or has been vested with governmental authority, particularly where such evidence points to a sustained and systematic practice. It follows, in our view, that evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions. We stress, however, that, apart from an express delegation of authority in a legal instrument, the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority. Thus, for example, the mere fact that a government is the majority shareholder of an entity does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority. In some instances, however, where the evidence shows that the formal indicia of government control are manifold, and there is also evidence that such control has been exercised in a meaningful way, then such evidence may permit an inference that the entity concerned is exercising governmental authority' [2]. In the present case, as explained below, the conclusion that the State-owned banks that provided preferential lending are vested with authority to exercise governmental functions is based on best facts available relating to State-ownership, formal indicia of government control as well as evidence showing that the GOC continues exercising meaningful control over the conduct of those banks.

(54) The Commission, on the basis of the available information, established that most of the major banks continued to be state-owned. The GOC provided information indicating that the GOC is the majority shareholder in the four largest banks in the PRC: the Industrial and Commercial Bank of China ('ICBC'), the Bank of China ('BOC'), the China Construction Bank ('CCB') and the Agricultural Bank of China ('ABC'). The GOC claimed that it held

[1] See recitals (82) to (89) of Implementing Regulation (EU) No 452/2011.

[2] WT/DS379/AB/R (US — Anti-Dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, paragraph 318. See also WT/DS436/AB/R (US — Carbon Steel (India)), Appellate Body Report of 8 December 2014, paragraphs 4.9 — 4.10, 4.17 — 4.20 and WT/DS437/AB/R (United States — Countervailing Duty Measures on Certain Products from China) Appellate Body Report of 18 December 2014, paragraph 4.92.

less than 50 % shares in the Bank of Communications. The Commission established in recent investigations such as the solar panels expiry review that the Bank of Communications is State controlled thanks to indirect shareholding ([1]).

(55) The Commission further concluded on the same basis that there was evidence of formal indicia of government control in the State-owned banks. For example, with respect to EXIM, its public policy mandate is established in the 'The Notice of Establishing Export-Import Bank of China' issued by the State Council and the Articles of Association of EXIM. The State, as 100 % shareholder of EXIM, controls EXIM by nominating the Members of its Board of Supervisors. Those Members represent the interest of the State, including policy considerations in the meetings of EXIM. There is no Board of Directors. The State directly nominates the management of EXIM ([2]). According to its website ([3]), EXIM is 'dedicated to supporting China's foreign trade, investment and international economic cooperation' and 'it is committed to reinforcing financial support to key sectors and weak links in the Chinese economy to ensure sustainable and healthy economic and social development'.

(56) Although the GOC claims that the state-owned banks are not public bodies and that the lending and deposit interest rate market has been liberalized, there is no evidence of a major reform on the banking sector in the PRC which would create a more market driven system for granting loans. In fact, in recent investigations the Commission concluded the opposite ([4]).

(57) Neither the GOC in its non-verified reply, nor the State-owned banks and other financial institutions that were intended to receive a questionnaire have supplied sufficient evidence demonstrating that companies are granted loans according to proper credit rating evaluations. Thus, the Commission has no information contradicting the previous finding that the State-owned banks are supporting encouraged industries and/or implementing national policies, as mentioned before in recitals (40) and (52).

(58) On the basis of the above, the Commission concluded that the specific public policy objectives as provided in the legal framework set out above is being implemented by State-owned banks in the exercise of governmental functions with respect to the paper industry, thereby acting as public bodies in the sense of Article 2(b) of the basic Regulation read in conjunction with Article 3(1)(a)(i) of the basic Regulation and in accordance with the relevant WTO case-law.

(59) In addition, even if the State-owned banks were not to be considered as public bodies, the Commission found that they would also be considered entrusted and directed by the GOC to carry out functions normally vested in the government, within the meaning of Article 3(1)(a)(iv) of the basic Regulation in view of the normative framework described before in recitals (40) and (52). Thus, their conduct would be attributed to the GOC in any event. For the same reasons, the loans granted by other financial institutions to companies in the paper sector would be attributed to the GOC.

(c) Benefit

(60) In the original investigation, the Commission established that the paper industry benefited from preferential loans. The Commission established the amount of benefit to be the difference between the amount that the company pays on the government loan and the amount that the company would pay for a comparable commercial loan obtainable on the market. This amount was then allocated over the total turnover of the cooperating exporting producers. The ad valorem subsidy amount established under this measure was 5,37 % for the APP Group and 1,26 % for the Chenming Group.

(61) In the current investigation, the Commission, on the basis of available information, found no indication that the preferential lending for producers of coated fine paper in the PRC ceased to continue.

([1]) See solar panels expiry review, recital (106).
([2]) See solar panels expiry review, recitals (112) to (136).
([3]) http://english.eximbank.gov.cn/tm/en-TCN/index_617.html, accessed on 31 May 2017.
([4]) See e.g. solar panels expiry review, recitals (458) and (459).

(62) The Commission notes that the applicant in its request and subsequent submissions provided examples of further loans received by the exporting producers including during the RIP, in particular:

— the APP Group received from the China Development Bank loans of USD 1,8 billion in October 2013 and of USD 1,5 billion in March 2015, and

— based on its Annual Reports, the Chenming Group had total open borrowings in the amounts of CNY 1,5 billion (the majority of which were from state-owned banks) at the end of 2014. Furthermore, in 2015 Chenming received large short-term loans (amounting to more than 6 billion RMB) and perpetual bonds (around 2,5 billion RMB) and that the company entered into 20 billion RMB strategic cooperation agreement with the Bank of China.

(63) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to establish that the loans identified by the applicant had been provided under normal market conditions. However, on the basis of the information available, the Commission found that the Chinese exporting producers continued benefiting from preferential loans. Indeed, the paper industry continues to be identified as 'encouraged industry'. In addition, in recent investigations the Commission established that the preferential loans for encouraged industries had been provided at interest rates well below the ones that would have been charged in the absence of distortions on the financial market, including the absence of valid credit ratings ([1]).

(64) Therefore, without the need to quantify the amount of subsidisation conferred through the preferential lending, the Commission concluded that the GOC continued to provide preferential loans at favourable interest rates in line with policy stipulated in specific plans and directives referring to the paper industry. The direct transfer of funds in the form of preferential loans continued to be available to companies in the paper industry during the RIP.

(d) Specificity

(65) As demonstrated in recitals (40) and (52) above, several legal documents which are specifically targeted at companies in the paper sector, direct the financial institutions. On the basis of these documents it is demonstrated that the financial institutions only provide preferential lending to a limited number of industries/companies which comply with the relevant policies of the GOC.

(66) The Commission therefore concluded that the subsidies in the form of preferential lending are not generally available but are specific in the meaning of Article 4(2)(a) of the basic Regulation. Moreover there was no evidence submitted by any of the interested parties suggesting that the preferential lending is based on objective criteria or conditions under Article 4(2)(b) of the basic Regulation.

(e) Conclusion

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

II. *Income tax Programmes*

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

(68) The Commission in the original investigation established the ad valorem subsidy amount with regard to this subsidy was 1,22 % for the APP Group and 0,58 % for the Chenming Group.

(69) This subsidy allows a company that applies successfully for the Certificate of High and New Technology Enterprise to benefit from a reduced income tax rate of 15 %, compared to the ordinary rate of 25 %.

([1]) See solar panels expiry review, recitals (87) and (245) to (260), filament glass fibres, recitals (67) to (76) and (140) to (143).

(a) Legal Basis

(70) The subsidy is provided as a preferential tax treatment by Article 28 of the Enterprise Income Tax Law of the PRC (n. 63 promulgated on 16 March 2007) along with Administrative Measures for the determination of High and New Tech Enterprises. The Notice of the State Administration of Taxation on the Issues concerning Enterprise Income Tax Payment of High & New Technology Enterprises (Guo Shui Han [2008] No 985) also relates to this scheme, providing further details on its implementation.

(b) Eligibility

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

(c) Practical implementation

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

(d) Findings of the current investigation

(73) As found in the original investigation, the reduced tax income rate should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this reduced tax income rate only to certain enterprises and industries classified as encouraged, such as those belonging to the coated fine paper industry.

(74) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from this reduced tax income rate. The Commission, on the basis of information provided by the applicant in the request, as well as recent investigations ([1]) and publically available information ([2]), established that the coated fine paper industry continued to benefit from preferential tax policies for companies that are recognised as high or new technology enterprises (and thus including the coated fine paper industry).

(75) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(e) Conclusion

(76) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

II.B. Preferential tax policies for Research & Development

(77) The Commission in the original investigation established the ad valorem subsidy amount with regard to this preferential tax treatment at 0,02 % for the APP Group and 0,05 % for the Chenming Group.

([1]) See filament glass fibres, recital (158) et seq.; solar glass, recitals (143) et seq.; solar panels original investigation, recital (321).
([2]) 2015 Annual Report of the Chenming Group, page 14.

(78) The GOC provides preferential tax treatment which benefits to all companies that are recognized as carrying out Research & Development ('R&D') projects. This qualification permits that the companies that incur R & D expenses for the purpose of developing new technologies, new products and new crafts can offset an additional 50 % of their R & D expenses against their income tax liability. Also expenses from intangible R & D assets entitle eligible companies to a 150 % deduction of the actual costs borne by these companies.

(a) Legal Basis

(79) The preferential tax treatment is provided by Article 30(1) of the Enterprise Income Tax Law of the PRC (n. 63 promulgated on 16 March 2007), Art. 95 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC, Decree n. 512 of the State Council of the PRC, promulgated in date on 6 December 2007 and the Guide to Key Fields (Notification n. 6, 2007).

(b) Eligibility

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

(c) Practical implementation

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

(d) Findings of the current investigation

(82) As found in the original investigation, the preferential tax treatment should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to certain enterprises and industries classified as encouraged, such as those belonging to the coated fine paper industry.

(83) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from this preferential tax treatment. The Commission, on the basis of information provided by the applicant in the request, established that the coated fine paper industry continues to benefit from preferential tax policies for R & D during the RIP. Indeed, the preferential tax treatment continues to provide a benefit to companies which are formally recognised as High and New Technology Enterprises.

(84) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(e) Conclusion

(85) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

II.C. Dividend exemption between qualified resident enterprises

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

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

(a) Legal Basis

(88) This dividend exemption is provided by Article 26 of the Enterprise Income Tax Law of the PRC and further explained in Article 83 of the Regulations on the Implementation of Enterprise Income Tax Law of the PRC, Decree n. 512 of the State Council of the PRC, promulgated in date on 6 December 2007.

(b) Eligibility

(89) This dividend exemption provides a benefit to all resident companies which are shareholders in other resident enterprises in China.

(c) Practical implementation

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

(d) Findings of the current investigation

(91) In the original investigation, the Commission found that this dividend exemption should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of the Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to resident enterprises in the PRC receiving dividend income from other resident enterprises in the PRC, as opposed to those enterprises which invest in foreign enterprises.

(92) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from this dividend exemption. The Commission, on the basis of information provided by the applicant in the request as well as recent investigations [1], established that the coated fine paper industry continues to benefit from the dividend exemption.

(93) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(e) Conclusion

(94) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

[1] See solar glass, recital (153) to (160); and organic coated steel, recitals (284) to (289).

III. *Indirect Tax and Import Tariff Programmes*

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

(95) The Commission in the original investigation established the ad valorem subsidy amount with regard to this measure at 1,17 % for the APP Group and 0,61 % for the Chenming Group.

(96) This measure provides benefits in the form of VAT exemption and duty free imports of capital goods to the Foreign Invested Enterprises ('FIEs') or domestic companies which are able to obtain the Certificate of State-Encouraged projects issued by the Chinese authorities in line with relevant investment, tax and customs-related legislation.

(a) Legal Basis

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

(b) Eligibility

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

(c) Practical implementation

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

(d) Findings of the current investigation

(100) In the original investigation, the Commission found that the VAT and tariff exemptions should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of the Article 4(2)(a) of the basic Regulation given that the legislation itself, pursuant to which the granting authority operates, limited the access to this scheme only to enterprises that invest under specific business categories defined exhaustively by law (i.e. catalogue for guidance of industries for foreign investment and catalogue of key industries, products and technologies which the state currently encourages development).

(101) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from these VAT and tariff exemptions. The Commission, on the basis of best facts available and in particular the Commission's conclusions about this subsidy in recent investigations ([1]), established that the coated fine paper industry continues to benefit from a VAT and tariff exemption on imported equipment.

(102) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(e) Conclusion

(103) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

III.B. VAT rebates on domestically produced equipment

(104) The Commission in the original investigation established the ad valorem subsidy amount with regard to this subsidy at 0,03 % for the APP Group and 0,05 % for the Chenming Group.

(105) This measure provides benefits in the form of VAT rebates paid for purchase of domestically produced equipment by FIEs.

(a) Legal Basis

(106) VAT rebates are based on a set of legal provisions:

— Provisional Measures for the Administration of Tax Refunds for Purchases of Domestically manufactured Equipment by FIEs,

— Trial Measures for Administration of Tax Rebate from the Purchase of Chinese-made Equipment for Foreign-invested Projects, and

— Notice of the Ministry of Finance and the State Administration of Taxation on the Cancellation of the Rebate Policy for Domestic Equipment Purchased by Foreign-invested Enterprises.

(b) Eligibility

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

(c) Practical implementation

(108) The programme is aimed to refund VAT paid for purchase of domestically produced equipment by FIE if the equipment does not fall into the Non-Exemptible Catalogue and if the value of the equipment does not exceed the total investment limit on an FIE according to the 'trial Administrative measures on Purchase of Domestically Produced Equipment'.

(109) In the original investigation, all cooperating producers benefited from this measure.

([1]) Solar panels original investigation, recital (336) to (342); organic coated steel, recital (293) to (298).

(d) Findings of the current investigation

(110) In the original investigation, the Commission found that the VAT rebates should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. This subsidy remains specific within the meaning of Article 4(4)(b) of the basic Regulation, given that the subsidy is contingent upon the use of domestic over imported goods.

(111) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from these VAT rebates and tariff exemptions. The Commission, on the basis of recent investigations [1], established that the coated fine paper industry continues to benefit from VAT rebates for the purchase of domestically-produced equipment.

(112) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(e) Conclusion

(113) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

IV. *Grant Programmes*

(a) Introduction

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

(b) Findings of the current investigation

(115) In the original investigation the Commission found that the coated fine paper producers have benefited as part of the GOC's plans to support the paper industry from several grants which should be considered a subsidy within the meaning of Article 3(1)(a)(i) and Article 3(2) of the basic Regulation in the form of provision of funds which confers a benefit upon the recipient companies.

(116) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from these grants. The Commission, on the basis of information provided by the applicant in the request as well as recent investigations [2], established that the coated fine paper industry continues to benefit from grants as an encouraged industry.

(117) For instance, the Commission, on the basis of their 2015 Annual Report could establish that the Chenming group received in 2015 government grants worth CNY 245 million shown in the Profit and Loss Statement. Another amount of CNY 150 million was reported as 'Special funds China Development Bank', a bank that is state-owned. No further breakdown concerning the nature of the grants received or the specific amounts was provided. These grants together amount to more than 1 % of turnover of the Chenming group in 2015. The applicant also provided evidence in the request that Chenming Group received subsidies for the payment of sewage services from the Financial Bureau of the Shouguang City in 2014.

[1] Solar panels expiry review, recital (384) to (392); organic coated steel (247) to (252).
[2] See organic coated steel, recitals (349) to (389); solar panels expiry review, recitals (460) to (488).

(118) On the basis of the above the Commission concluded that the GOC continues to provide various grants to the coated fine paper industry and that producers of coated fine paper in the PRC continue to benefit from these grants, without the need to quantify precisely the amount of benefits conferred. Those grants are deemed specific within the meaning of Article 4(2) of the basic Regulation and they also appear to have been granted on an *ad hoc* basis.

(c) Conclusion

(119) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

V. *Government Provision of Goods and Services for Less than Adequate Remuneration ('LTAR')*

— LTAR provision of land

(120) In the original investigation the Commission established, using the benchmark of prices of land in Taiwan, the ad valorem subsidy amount with regard to this measure at 2,81 % for APP group and 0,69 % for the Chenming group.

(121) In the original investigation the Commission established that the coated fine paper industry in the PRC benefited from provision of land and more specifically the land-use rights at LTAR.

(a) Legal Basis and Eligibility

(122) The applicant provided evidence in the request that the GOC continued providing land-use rights to the coated fine paper industry for less than adequate remuneration. The legal basis for this claim are the following documents, which were provided by the GOC:

— the Property Law,

— the Land Administration Law,

— the Law on Urban Real Estate Administration,

— the Interim Regulations Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas,

— the Regulation on the Implementation of the Land Administration Law, and

— the Provisions on the Assignment of State-Owned Construction Land-Use Right through Bid Invitation, Auction and Quotation, No 39, dated 28 September 2007.

(123) The GOC refused to provide any data with respect to actual land-use rights prices, the orderly competitive land market that they claim that has been established in China, as well as the methodology followed when the State expropriates land from former users.

(b) Practical implementation

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

(c) Findings of the investigation

(125) In the original investigation, the Commission found that the provision of land-use rights by the GOC should be considered a subsidy within the meaning of Article 3(1)(a)(iii) and Article 3(2) of the basic Regulation in the form of provision of goods which confers a benefit upon the recipient companies.

(126) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry stopped benefiting from the provision of land-use rights. The Commission, on the basis of the information provided by the applicant in the request, as well as recent investigations [1] and the unverified information provided by the GOC in its questionnaire reply, established that the coated fine paper industry continued to benefit from LTAR provision of land during the RIP. On the basis of available information the Commission concluded that the rates paid for land use continued to be subsidised because the system imposed by the GOC does not adhere to market principles. As the paper industry continued to be an 'Encouraged industry' under the 12th Five-Year Plan during the review investigation period and continues to be an 'Encouraged industry' under the 13th Five-Year Plan, the Commission, on the basis of the available information established that the preferential assignment of land continues. The provision of land-use rights by the GOC to the paper industry as one of the encouraged industries shows that the subsidy is specific within the meaning of Article 4(2) of the basic Regulation.

(127) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts.

(d) Conclusion

(128) Accordingly, the Commission concluded that this subsidy continues to be considered countervailable.

3.4. **New subsidies which were not countervailed in the original investigation**

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

(a) Legal Basis

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

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

— the Export Directory of Chinese High and New Technology Products of 2006,

— the so-called '840 plan' included in the Notice by the State Council of 27 May 2009,

— the so-called '421 plan' included in the Notice on the issues to implement special arrangements for financing of insurance on the export of large complete sets of equipment, issued jointly by the Ministry of Commerce and the Ministry of Finance on 22 June 2009;

(b) Sinosure is a public body

(130) On the basis of the information available to the Commission, and in the light of the GOC's and Sinosure's non-cooperation, the Commission concluded that Sinosure is a public body within the meaning of Article 2(b) of the basic Regulation. In particular, like in the context of preferential lending above, the conclusion that Sinosure is vested with authority to exercise governmental functions is based on best facts available relating to State-ownership, formal indicia of government control as well as evidence showing that the GOC continues exercising meaningful control over the conduct of Sinosure.

(1) See filament glass fibres, recitals (188) to (205); solar panels expiry review, recitals (417) to (444); solar glass, recitals (172) to (195); organic coated steel, recitals (107) to (126) and (432) to (437).

(131) As confirmed in the current investigation on the basis of the information available, the government exercises full ownership and financial control over Sinosure. Sinosure is a State sole proprietorship, owned 100 % by the State Council. The registered capital of RMB 4 billion comes from the venture fund of export credit insurance in line with the state finance budget. Furthermore, the State injected in 2011 RMB 20 billion through the China Investment Corporation, the sovereign wealth fund of China ([1]). The Articles of Association ('AoA') state that the business competent department of the company is the Ministry of Finance, and also requires Sinosure to submit financial and accounting reports and the fiscal budget report to the Ministry of Finance for examination and approval.

(132) With regard to government control, as a state sole proprietorship, Sinosure does not have a Board of Directors. As for the Board of Supervisors, all of the supervisors are appointed by the State Council and execute their duties according to the 'Interim Regulation on the Board of Supervisors of Important State-owned Financial Institution.' The senior management of Sinosure is also appointed by the government. Sinosure's website ([2]) shows that the Chairman of Sinosure is the Secretary of the Party Committee, and the majority of the Senior Management are also Members of the Party Committee.

(133) Sinosure did not publish its Annual Report for a number of years ([3]), including the Annual Report during the RIP. However, its 2011 Annual Report ('AR 2011') illustrates that Sinosure exercises government functions and policies so that it can be concluded that this entity is a direct expression of the government itself. Sinosure's Annual Report 2011 contains several statements in this respect, namely: Sinosure 'proactively carried out the policy function of an ECA … and achieved a good start in the first year of the 12th 'Five-Year Plan' period' (p. 4 AR 2011); 'the furtherance of corporate reform reinforced the policy function of Sinosure as an ECA. The CCCPC Conference on Economy has laid emphasis on such function and made clear requirements on credit insurance, which lined out our growth path' (p. 5 AR 2011); 'In the year of 2011, Sinosure implemented CPC Central Committee's and State Council's strategies, decisions and arrangements as well as state policies on diplomacy, foreign trade, industry and finance, gave full play to its policy function and achieved a fast growth' (p. 11 AR 2011); 'Sinosure fully executed the state policy of 'Special Arrangement for Export Financing Insurance for Large Complete-set Equipment' and fulfilled its obligations laid out by the State' (p. 11 AR 2011).

(134) In the solar panels expiry review, it was found that the 2014 Annual Report of Sinosure confirmed the situation described by the AR 2011, since 'Sinosure saved no effort in supporting China's national policies and sought to achieve this by exploring new ideas and concepts, improving working methods, perfecting products and services, as well as enhancing efficiency in performing its policy functions' or that it has a role as a 'policy-supportive organ' ([4]).

(135) The institutional framework and other documents issued by the GOC under which Sinosure operates further shows that Sinosure is vested with the authority to carry out governmental policies. The Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang Ji Fa [2004] No 368 of 26 July 2004) was issued jointly by MOFCOM and Sinosure in 2004 and still governs Sinosure's activities. Among the objectives of this Notice is the promotion of the export of high and new technology and of high value-added products through the further use of export credit insurance.

(136) As set out in recitals (40) to (52) above, the Commission established that the coated fine paper industry is regarded by the GOC as a key/strategic industry, whose development is actively pursued by the State as a public policy objective. It is recalled that the paper industry is one of the 26 industries which are classified as 'Encouraged', as stated in recital (46) above. The Commission noted that the activity of export credit insurance performed by Sinosure is integral part of the broader financial sector where it is established that the government intervention directly interferes and distorts the normal functioning of the financial market in the PRC (see recital (53) above).

([1]) Sources: http://uk.reuters.com/article/2011/05/26/china-cic-sinosure-idUKL3E7GQ10720110526 and http://en.wikipedia.org/wiki/China_Export_%26_Credit_Insurance_Corporation, both accessed on 31 May 2017.
([2]) http://www.sinosure.com.cn/sinosure/english/Top%20Management.htm, accessed on 31 May 2017.
([3]) http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/ECG(2015)3&doclanguage=en, accessed on 31 May 2017.
([4]) Solar Expiry review, recital (284).

(137) The Commission is aware of other documents proving that Sinosure directly carries out governmental policies benefiting, inter alia, the exporting producers. The so-called 840 plan is detailed in the Notice by the State Council of 27 May 2009 ([1]). This name refers to the use of USD 84 Billion as export insurance and it is one of the six measures launched by the State Council in year 2009 to stabilize export demand further to the global crisis and the consequent increased demand for export credit insurance. The six measures include notably an improved coverage of export credit insurance, the provision of short-term export credit insurance on a scale of USD 84 billion in 2009 and a reduction of the premium rate. As the only policy institution underwriting export credit insurance, Sinosure is indicated as the executor of the plan. As for the reduction of the insurance premium, Sinosure was required to ensure that the average rate of short-term export credit insurance would be reduced by 30 % on the basis of the overall average rate in 2008.

(138) The so-called 421 plan was included in the Notice on the issues to implement special arrangements for financing of insurance on the export of large complete sets of equipment issued jointly by the Ministry of Commerce and the Ministry of Finance on 22 June 2009. This was also an important policy supporting China's 'going out' policy in response to the 2009 global financial crisis and provided USD 42,1 billion of financing insurance to support the export of large complete sets of equipment. Sinosure and some other financial institutions would manage and provide the funding. Enterprises covered by this document could enjoy the preferential financial measures, including export-credit insurance. Due to the non-cooperation of the GOC, the Commission was unable to obtain additional details on the application of this notice. In the absence of evidence to the contrary, the Commission considered that paper industry is also covered by this document.

(139) On the basis of the above elements, the Commission concluded that Sinosure is a public body as it is vested with authority to exercise governmental functions. The same conclusions were reached in previous anti-subsidy investigations concerning encouraged industries in the PRC ([2]).

(140) As Sinosure is a public body vested with government authority and executes governmental laws and plans, the provision of export credit insurance to coated fine paper producers constitutes a financial contribution in the form of potential direct transfer of funds from the government within the meaning of Article 3(1)(a)(i) of the basic Regulation.

(c) Benefit

(141) In the absence of cooperation from the GOC and the Chinese exporting producers, the Commission had no company-specific information on the basis of which to calculate the amount of subsidy conferred during the RIP. However, in view of the ultimate findings reached in the context of the current expiry review investigation, the Commission did not consider it necessary to calculate such amounts. In any event, based on the information provided in the complaint as well as in recent investigations ([3]) the Commission concluded that a benefit within the meaning of Articles 3(2) and 6(c) of the basic Regulation exists since Sinosure provides export credit insurance on terms more favourable than the recipient could normally obtain on the market, or provides insurance cover that would otherwise not be available at all on the market.

(142) Indeed, Article 11 of the Articles of Association that was submitted in the GOC's questionnaire reply provides that the company shall operate at breakeven. In other words, by statute Sinosure does not aim to achieve a reasonable profit, but has to aim merely at breakeven according to its function as the sole official export credit insurer in the PRC. As explained above, the records on file have shown that the legal and policy environment in which Sinosure operates requires the state-owned company to execute the government policies and plans in fulfilment of its public policy mandate. Among the 'Encouraged Industries' specifically supported by the State, the producers of coated fine paper have had full access to export credit insurance provided by Sinosure at preferential rates. Therefore, Sinosure provides unlimited availability of insurance cover for the paper sector and the low insurance premiums it offers do not reflect the actual risks incurred in insuring the exports in this sector.

([1]) http://www.gov.cn/ldhd/2009-05/27/content_1326023.htm, accessed on 31 May 2017.
([2]) See solar panels expiry review, recital (284) and solar panels original investigation, recitals (225) — (235).
([3]) See solar panels expiry review, recitals (276)-(305).

(143) Furthermore, in the solar panels expiry review it was established that Sinosure incurred losses in 2015, i.e. during the review investigation period of the current investigation ([1]), and would have been loss-making in 2013 and 2014 if certain non-operational income had not been recorded ([2]). Based on all these elements on the record, it can already be concluded that the premium rates charged by Sinosure remain inadequate to cover its long-term operations.

(144) On the basis of the above, the Commission established the existence of a benefit which would not have been otherwise available to the coated fine paper industry.

(d) Specificity

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

(e) Conclusion

(146) The Commission, on the basis of available information, concluded that producers of coated fine paper in the PRC benefited from the export credit insurance provided by Sinosure in the RIP.

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

(a) Legal Basis

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

(b) Eligibility

(148) According to unverified information provided by the GOC, pursuant to the Notice referred to above, the VAT refund policies are applicable to sales of products, the production of which used the recycled, reusing or redundant materials or energy from other productions.

(c) Practical implementation

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

(d) Findings of the investigation

(150) The Commission found that the VAT rebates for products furnished with at least 70 % recycled fibre and agricultural residues by the GOC should be considered a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation in the form of foregone government revenue which confers a benefit upon the recipient companies. On the basis of the information available, the Commission further concluded that the subsidy was specific in accordance with Article 4(2) of the basic Regulation.

([1]) Solar panels expiry review, recital (289).
([2]) Solar panels expiry review, recital (291).

(151) Neither the GOC nor the exporting producers provided evidence suggesting the coated fine paper industry did not benefit from this VAT rebates, as alleged by the complaint. Indeed, the Notice referred to in recital (147) above specifically mentions paper as products utilizing resources such as bagasse, waste paper and crop straw, and stating that the producers have to comply with technical regulations specific to the pulp and paper industry. On the basis of the above the Commission concluded that the GOC provides subsidies in the form of VAT rebates for products furnished with at least 70 % recycled fibre and agricultural residues to the coated fine paper industry and that producers of coated fine paper in the PRC benefit from these rebates during the RIP.

(e) Conclusion

(152) The Commission, on the basis of available information, concluded that producers of coated fine paper in the PRC benefited from this subsidy in the RIP.

3.5. **Overall conclusion regarding the continuation of subsidisation**

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

3.6. **Development of imports should measures be repealed**

— Production capacity and spare capacity in the PRC

(154) Given the non-cooperation, 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, which included data from an independent industry intelligence information provider, in accordance with Article 28 of the basic Regulation.

(155) The production capacity of coated wood free paper in the PRC was 7 629 000 tonnes in the review investigation period ([1]), of which 40 % is the production of CFP ([2]). The total coated wood free production in the PRC had a capacity utilisation of 85 % ([3]) during the review investigation period resulting in a spare capacity of 1 167 000 tonnes, i.e. 32 % of total consumption of CFP in the Union. Under the assumption that only 40 % of this capacity would be used for CFP, the Chinese spare capacity of the product concerned was found to be around 13 % of total Union consumption.

(156) Furthermore, the Commission found that it is simple for producers to switch production of other coated wood free products into the product concerned ([4]). Should Chinese producers switch to CFP, this would result in an increase of 3 877 000 tonnes in production capacity, which is more than 100 % of total consumption in the Union (established at 3 589 694 tonnes).

(157) Even though the level of spare capacity of coated wood free paper is expected to decrease slightly by 4 %, Chinese domestic demand is expected to decrease by more than 10 % until 2021 ([5]).

(158) Based on the above, the Commission concluded that Chinese exporting producers have significant spare capacity which they could use to produce CFP to export to the Union market if measures were repealed. The Commission also found that this export potential could increase as a result of the expected decline in domestic demand in the PRC.

3.7. **Attractiveness of the Union market**

(159) The investigation has demonstrated that Union demand for CFP remained substantial. Although the Union consumption declined over the period considered, the Union market remains the largest market in the world, accounting for 25 % — 30 % of global demand.

([1]) Based on data of RISI (http://www.risiinfo.com) provided by the applicant.
([2]) Based on the request.
([3]) Based on data of RISI.
([4]) Based on the request.
([5]) Based on data of RISI.

(160) Based on the facts available, Chinese export prices to the third countries close to the Union were on average 7 % lower than the prices in the Union during the review investigation period. Such a difference of price is significant given the fact that the market for CFP is competitive and very price sensitive.

(161) Furthermore, the domestic demand in the PRC is forecast to decrease, suggesting a strong incentive to Chinese producers to find alternative markets to absorb the Chinese overcapacity. The USA market, another important market for CFP, remains unattractive for the PRC, because the USA has anti-dumping and anti-subsidy measures in place against the PRC regarding the product concerned.

(162) In this regard, the Government of the PRC claimed that the low level of imports from the PRC demonstrated that the Union market was not at all attractive to Chinese exporting producers. It further submitted that according to Chinese export statistics the PRC exported in 2015 more CFP to three other countries (India, Japan, Thailand) and to non-Union European countries, which would demonstrate that these countries, where there are no trade defence measures in place, were more attractive. The Government of the PRC also submitted that the PRC is currently party to 14 FTA's with different trading partners and that it is negotiating even more. This would lead to more exports of CFP to the partner countries concerned.

(163) As concerns the effect of the FTAs, the claim was made in respect of Chinese products in general and did not contain any evidence in respect of the product concerned. The claim was considered too broad and lacking corroborating evidence. In any case, as explained in recital (166) below, the information available to the Commission points in the opposite direction.

(164) In fact, the Chinese exports of CFP to the Union dropped close to zero after the imposition of the original measures in 2010, which suggests that it was these measures that made the Union market unattractive for Chinese exports. The removal of the measures would make the Union market attractive again. These claims are therefore rejected.

(165) The APP Group acknowledged that the European market is traditionally an important market for CFP, but claimed that its importance was decreasing due to the constant drop in demand, whereas, at the same time, demand in other countries has either remained stable or increased over the last few years. It also submitted that the unattractiveness of the Union market was demonstrated by the drop in imports from other countries since the imposition of measures and by the high level of exports of CFP produced by the Union industry.

(166) Despite the declining consumption of CFP in the Union, the Union market is still the largest CFP market in the world. The information on file suggests that the Union market will remain the largest world market for CFP at least in the near future ([1]). Based on the facts available on file, demand for CFP is forecast to decrease in the PRC and a potential increase, if any, in other markets would not suffice to reduce the attractiveness of the Union market because they are small in comparison to the Union market. During the investigation period of the original investigation the volume and market share of imports into the Union from countries other than the PRC was indeed larger than during the period considered of the current investigation. However, the imports from third countries of CFP during the investigation period of the original investigation were predominantly imports of CFP from Switzerland where one of the Union producers owned a company producing CFP. The current investigation established that this producer stopped the production of CFP in 2011, so consequently imports from Switzerland almost disappeared. The drop in imports from third countries has thus nothing to do with any alleged unattractiveness of the Union market and the claim is rejected.

(167) Furthermore, the relatively high level of exports of the Union industry does not undermine the conclusion that the Union market is attractive as for most of the period considered average prices achieved outside the Union, where the Union industry had to compete with subsidized exports of CFP from the PRC, were below the average prices achieved in the Union. The claim is therefore rejected.

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

([1]) Based on data of RISI provided by the applicant.

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

(169) The Commission, on the basis of best facts available, concluded that there was sufficient evidence that subsidisation of the coated fine paper industry in the PRC continued during the period considered and is likely to continue in the future.

(170) The subsidisation of the coated fine paper industry allowed the Chinese producers to maintain their production capacities at a level by far exceeding domestic demand, in spite of shrinking markets, in China and worldwide.

(171) Therefore, the Commission found that the repeal of the countervailing measures is likely to result in a return of significant volumes of subsidised imports of the product concerned into the Union market. Various subsidy programmes continued to be offered by the GOC to the coated fine paper industry and the Commission has sufficient evidence that the coated fine paper industry benefited from a number of them during the RIP.

4. LIKELIHOOD OF A RECURRENCE OF INJURY

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

(172) During the review investigation period, the like product was manufactured by 10 known producers, some of which are groups that own several paper mills. They constitute the 'Union industry' within the meaning of Article 9(1) of the basic Regulation.

(173) The total Union production was established at around 4 606 000 tonnes during the review investigation period. The companies that supported the review request represented more than 70 % of the total Union production in the review investigation period. As indicated in recital (18), the Union producers selected in the sample represented more than 30 % of the total Union production of the like product.

(174) The macroeconomic data provided by the applicant had been furnished by Euro-Graph [1] and they were duly verified.

4.2. **Union consumption**

(175) The Commission established the Union consumption by adding the volume of sales of the Union industry on the Union market and imports from third countries based on the Article 14(6) database.

(176) Union consumption developed as follows:

Table 1

Union consumption

	2012	2013	2014	RIP
Total Union consumption (tonnes)	3 972 818	3 643 010	3 626 277	3 589 694
Index (2012 = 100)	*100*	*92*	*91*	*90*

Source: Euro-Graph and Article 14(6) database.

(177) During the period considered Union consumption decreased by 10 %. It decreased by 8 % in 2013, compared to 2012, and continued to decrease at a slower pace. The estimated Union consumption during review investigation period was by 21 % lower than the one found during the investigation period in the original investigation (4 572 057 tonnes). The decline in consumption reflects decreasing graphic paper demand in general, which is mainly the result of the rapid growth in digital media, which is replacing traditional print media.

(1) The European Association of Graphic Paper Producers (Euro-Graph) was formed in 2012 through the merger of CEPIPRINT (Association of European Publication Paper Producers) and CEPIFINE (European Association of Fine Paper Producers) and its members include all coated fine paper producers in the Union.

4.3. **Imports from the country concerned**

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

(178) Imports into the Union from the PRC developed as follows:

Table 2

Import volume and market share

	2012	2013	2014	RIP
Volume of imports from the country concerned (tonnes)	701	905	452	389
Index (2012 = 100)	*100*	*129*	*64*	*55*
Market share (%)	0,02	0,02	0,01	0,01
Index (2012 = 100)	*100*	*141*	*71*	*61*

Source: Article 14(6) database.

(179) During the period considered the volume of imports into the Union from the PRC was negligible.

4.3.2. *Prices of imports from the country concerned and price undercutting*

(180) Due to the negligible volume of imports of CFP from the PRC to the Union, the fact that they represented less than 0,5 % of the total imports under the relevant CN codes both in Eurostat and in the official export statistics of the PRC, and the lack of reliability of the prices of these few sales, it was not possible to use Union import statistics to draw any conclusions concerning prices of imports from the PRC. The Commission concluded that data concerning sales of CFP from the PRC to other countries should be used instead as a proxy to establish what the undercutting would have been if Chinese companies had sold at these prices to the Union.

(181) The Commission determined the theoretical price undercutting level during the review investigation period by comparing the weighted average sales price of the Union industry charged to independent customers in the Union market, adjusted to an ex works level, and the weighted average Chinese export price to countries located close to the Union, adjusted to arrive at Union CIF value level and to take into account importation costs. In the absence of any cooperation from the Chinese exporting producers, the Chinese export prices to other countries were based on facts available in accordance with Article 28 of the basic Regulation. Different sources of information were consulted in order to establish the export price. The most appropriate basis was found to be the invoices from Chinese exporting producers to third countries located close to the Union, i.e. Egypt, Russia and Turkey, which were provided by the applicant, calculated on a weighted average basis. The price comparison showed that if during the review investigation period the Chinese exporters had sold at these prices to the Union, they would have undercut the Union industry's prices by 5,4 %.

4.4. **Imports from other third countries**

(182) The following table shows the development of imports to the Union from third countries other than the PRC during the period considered in terms of volume and market share as well as average price of these imports. The table is based on data from the Article 14(6) database.

Table 3

Imports from third countries

	2012	2013	2014	RIP
Volume (tonnes)	35 864	29 264	50 958	45 282
Index (2012 = 100)	*100*	*82*	*142*	*126*

	2012	2013	2014	RIP
Market share (%)	0,9	0,8	1,4	1,3
Average price (EUR/tonne)	952	964	827	889
Index (2012 = 100)	*100*	*101*	*87*	*93*

Source: Article 14(6) database.

(183) The total volume of imports into the Union from countries other than the PRC was small during the entire period considered and their total market share fluctuated around 1 %. The average prices of these imports were higher than the average prices of the Union industry. During the review investigation period, none of the third countries had individually a market share higher than 0,4 %.

4.5. **Economic situation of the Union industry**

4.5.1. *General remarks*

(184) In accordance with Article 8(4) of the basic Regulation, the Commission examined all economic indicators having a bearing on the state of the Union industry during the period considered. As mentioned in recital (18), sampling was used for the Union industry.

(185) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated macroeconomic indicators relating to the whole Union industry on the basis of information provided by the applicant in the review request. The Commission evaluated microeconomic indicators relating only to the sampled companies on the basis of the verified data contained in the questionnaire replies. Both sets of data were found to be representative of the economic situation of the Union industry.

(186) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the amount of subsidisation, and recovery from past subsidisation.

(187) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investment, and ability to raise capital.

4.5.2. *Macroeconomic indicators*

4.5.2.1. Production, production capacity and capacity utilisation

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

Table 4

Production, production capacity and capacity utilisation

	2012	2013	2014	RIP
Production volume (tonnes)	5 211 487	4 833 511	4 737 310	4 606 000
Index (2012 = 100)	*100*	*93*	*91*	*88*
Production capacity (tonnes)	5 889 216	5 636 892	5 380 258	4 988 000
Index (2012 = 100)	*100*	*96*	*91*	*85*
Capacity utilisation (%)	88,5	85,7	88	92,3
Index (2012 = 100)	*100*	*97*	*100*	*104*

Source: Euro-Graph.

(189) During the period considered, production decreased by 12 %. It decreased by 7 % in 2013, compared to 2012, and continued to decrease at a slower pace.

(190) Already before the period considered, Union producers had undertaken major restructuring efforts aimed at addressing structural overcapacity and these efforts continued during the period considered. As a result of both certain mill closures and the conversion of other mills to produce paper products other than CFP, the Union industry decreased its CFP production capacity by approximately 901 216 tonnes between 2012 and the review investigation period, i.e. by 15 %.

(191) The continuous reduction of the production capacity allowed the Union industry to keep capacity utilisation relatively stable during the period considered and even to reach 92,3 % in the review investigation period, almost four percentage points higher than in 2012.

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

4.5.2.2. Sales volume and market share

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

Table 5

Sales volume and market share

	2012	2013	2014	RIP
Total sales volume in the Union market (tonnes)	3 936 253	3 612 841	3 574 868	3 544 023
Index (2012 = 100)	*100*	*92*	*91*	*90*
Market share (%)	99,1	99,2	98,6	98,7
Index (2012 = 100)	*100*	*100*	*99*	*100*

Source: Euro-Graph.

(194) During the period considered the sales volume in the Union market decreased by 10 %. It decreased by 8 % in 2013, compared to 2012, and continued to decrease at a slower pace.

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

4.5.2.3. Growth

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

4.5.2.4. Employment and productivity

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

Table 6

Employment and productivity

	2012	2013	2014	RIP
Number of employees (full time equivalent — FTE)	9 808	8 896	7 782	7 418
Index (2012 = 100)	*100*	*91*	*79*	*76*

	2012	2013	2014	RIP
Productivity (tonne/employee)	531	543	609	621
Index (2012 = 100)	*100*	*102*	*115*	*117*

Source: Euro-Graph.

(198) During the period considered the number of employees decreased by 24 %, with decreases happening every year. It reflects part of the longer term restructuring efforts undertaken by the Union industry to address structural overcapacity problems, as explained in recital (190).

(199) These substantial reductions in workforce produced significant increases in productivity, measured as output (tonnes) per person employed per year, which increased by 17 % during the period considered.

4.5.2.5. Magnitude of the subsidy amount and recovery from past subsidisation

(200) During the period considered, there were almost no imports of CFP from the PRC, so it can be concluded that there was no impact of the magnitude of the subsidy amount on the Union industry, which was on track to recovery from past subsidisation.

4.5.3. *Microeconomic indicators*

4.5.3.1. Prices and factors affecting prices

(201) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 7

Sales prices in the Union and unit cost of production

	2012	2013	2014	RIP
Average unit sales price in the Union market (EUR/tonne)	723	709	688	680
Index (2012 = 100)	*100*	*98*	*95*	*94*
Unit cost of production (EUR/tonne)	672	664	609	631
Index (2012 = 100)	*100*	*99*	*91*	*94*

Source: verified questionnaire replies of the sampled Union producers.

(202) The unit sales price of the Union industry to unrelated customers in the Union decreased by 6 % during the period considered. With a small time lag, the trend in prices followed the trend in costs of production.

(203) The unit cost of production of the Union industry also decreased by 6 % during the period considered, with the most significant decrease observed in the period 2013-2014 (minus 8 %).

4.5.3.2. Labour costs

(204) The average labour costs developed over the period considered as follows:

Table 8

Average labour costs per employee

	2012	2013	2014	RIP
Average labour costs per employee (EUR/employee)	68 405	65 812	67 716	70 973
Index (2012 = 100)	*100*	*96*	*99*	*104*

Source: verified questionnaire replies of the sampled Union producers.

(205) In 2013 the average labour costs per employee decreased by 4 % as compared to 2012, then stabilised and during the review investigation period reached a level that was 4 % higher than in 2012.

4.5.3.3. Inventories

(206) Stock levels developed over the period considered as follows:

Table 9

Inventories

	2012	2013	2014	RIP
Closing stocks (tonnes)	112 957	122 545	119 642	122 264
Index (2012 = 100)	*100*	*108*	*106*	*108*
Closing stocks as a percentage of production (%)	7	8	8	8
Index (2012 = 100)	*100*	*114*	*115*	*114*

Source: verified questionnaire replies of the sampled Union producers.

(207) The closing stocks of the Union industry increased by 8 % in the period 2012-2013 and then remained relatively stable throughout the remainder of the period considered. The falling production volume resulted in an overall increase in the level of closing stocks as a percentage of production by 14 % during the period considered.

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

(208) Profitability, cash flow, investments and return on investment developed over the period considered as follows:

Table 10

Profitability, cash flow, investments and return on investments

	2012	2013	2014	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	0,7	− 0,4	5	2,3
Index (2012 = 100)	*100*	*− 58*	*693*	*319*

	2012	2013	2014	RIP
Cash flow (EUR)	58 381 268	51 220 769	102 223 699	75 644 423
Index (2012 = 100)	*100*	*88*	*175*	*130*
Investments (EUR)	20 414 097	23 120 553	18 603 022	17 369 221
Index (2012 = 100)	*100*	*113*	*91*	*85*
Return on investments (%)	1,8	− 6,7	9,6	9,1
Index (2012 = 100)	*100*	*− 380*	*546*	*518*

Source: verified questionnaire replies of the sampled Union producers.

(209) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of its sales of CFP to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered the Union industry increased its profitability from around 0,7 % to 2,3 %. It is noted that in the original investigation, the target profit for the industry was established at 8 % ([1]). 2014 was the best year, when the profitability of the Union industry reached 5 % mainly due to lower costs of raw materials, especially pulp, but also due to positive effects of the restructuring efforts and increase in efficiency. During the review investigation period, the profitability was negatively affected by the falling exchange rate of the British pound versus euro.

(210) The net cash flow is the ability of the Union industry to self-finance its activities. During the period considered cash flow was positive and to a large extent its trend reflected the evolution of profitability, with 2014 being the best year.

(211) In view of the falling demand for CFP both in the Union and abroad, during the period considered the Union industry did not invest in new capacity and overall the level of investments decreased by 15 %. The investments made were focused on maintenance, capital replacement, improving energy efficiency, and on measures aimed at complying with environmental protection standards.

(212) The return on investment consists of the profit expressed as a percentage of the net book value of the fixed assets. Its development during the period considered was influenced by both the decreasing net asset value and the evolution of profitability, which explains the negative results in 2013 and the much better results in 2014 and in the review investigation period.

(213) Given the cost of existing debt, relatively low profitability of the Union industry and continuously falling demand for CFP, the Union industry's ability to raise capital has improved compared to the original investigation, but remains restricted.

4.5.4. *Conclusion on the situation of the Union industry*

(214) During the period considered injury indicators showed a mixed picture. While financial performance indicators, such as profitability, cash flow and return on investment, improved, volume indicators, such as production and sales, continued to decline.

(215) The improvement of financial performance indicators was the result of both the drop in raw materials prices in 2014 and the Union producers' restructuring efforts aimed at cutting production capacity and improving efficiency. The negative trends in production and sales volumes were the result of the continuously falling demand for CFP both in the Union and abroad that required the Union industry to continue with restructuring, including closing certain paper mills and converting others for the production of other types of paper.

([1]) Recital (158) of Implementing Regulation (EU) No 451/2011.

(216) The foreseen further decrease in demand for CFP in the next 5-10 years supports the conclusion that the situation of the Union industry will remain challenging, and further decreases in production and production capacity will have to take place.

(217) The investigation confirmed that the measures imposed by the original investigation have had a positive impact on the Union industry, which regained its market share and was able to raise their CFP prices to above cost-covering level as well as to finance its restructuring activities.

(218) On the basis of the above, the Commission concludes that the Union industry did not suffer material injury within the meaning of Article 8(4) of the basic Regulation. Nevertheless, in view of the continuously declining demand for CFP and the related high restructuring costs, both of which had a significant bearing on its profitability, it is in a vulnerable situation.

4.6. **Likelihood of recurrence of injury**

(219) In recital (171) above, the Commission concluded that the repeal of the measures would result in the recurrence of subsidised exports of CFP from the PRC to the Union.

(220) In recital (181) the Commission found that during the review investigation period the prices of the Chinese exports of CFP to markets located close to the Union were lower than the ones charged by the Union industry in the Union. As a result, the Commission concluded that, should measures be allowed to lapse, the Chinese producing exporters would likely undercut the prices of the Union industry in the Union market.

(221) In addition, as mentioned in recital (166), the Union market is the largest CFP market in the world. Indeed, its overall size and the existence of large CFP buyers make it very attractive to Chinese CFP producers, because such large deliveries would allow them to utilize more of the (now spare) production capacity, which in turn would lower unit production costs. Accordingly, if measures were repealed, given the economic benefits of utilizing spare production capacity in the PRC (see recitals (154) to (158), it is likely that the Chinese exporting producers would offer CFP at subsidised prices in the Union market, putting pressure on Union industry prices and profitability.

(222) The investigation has shown (see recital (218)) that the situation of the Union industry is vulnerable.

(223) The investigation has also confirmed the findings of the original investigation that high capacity utilisation is an important factor in the long-term viability of paper producers because the production process is capital-intensive. The absence of subsidised imports during the period considered allowed the Union industry to raise CFP prices to above cost-covering levels, to finance restructuring and to raise the production capacity utilization rate. Any recurrence of subsidised imports and resulting price pressure would reverse these positive developments, as they would deprive the Union industry from the cash flow necessary to finance restructuring efforts to adapt to declining world demand for CFP. It would also undermine the positive effects of past restructuring efforts and lead to the deterioration of all injury indicators.

(224) Therefore, the Commission concludes that the repeal of the countervailing measures on imports of CFP from the PRC would in all likelihood result in a recurrence of injury.

5. **UNION INTEREST**

(225) In accordance with Article 31 of the basic Regulation, the Commission examined whether maintaining the existing measures against the PRC would be against the interest of the Union as a 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.

5.1. **Interest of the Union industry**

(226) The investigation found that the existing measures had allowed the Union industry to recover from past subsidisation, keep CFP prices above cost-covering levels and improve its financial performance. In turn, these positive trends had allowed the Union industry to cope with the challenges created by the continuously falling demand for CFP by carrying out long term restructuring plans, including the closure of some paper mills and the conversion of others for the production of other types of paper.

(227) Without the price pressure from subsidised imports from the PRC, the Union industry will be able to keep CFP prices above cost-covering levels, generate the necessary income to finance its restructuring efforts and adjust to the challenges created by the continuously falling demand for CFP.

(228) On this basis, the Commission concluded that the continuation of the countervailing measures in force would be in the interest of the Union industry.

5.2. **Interest of unrelated importers/traders**

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

5.3. **Interest of users**

(230) There was no cooperation from any individual users. The Commission received a written submission from an association of the printing industry (Intergraf), supported by three other associations (BPIF, Gratkom, and Bundesverband Druck und Medien).

(231) The submission explained that the Union's printing industry was suffering from the replacement of paper media with digital media, as well as from massive imports of printed products, in particular, from the PRC. The implication of the claim was that anti-dumping measures undermined the Union printers' competitiveness which requires duty-free access to paper. The only evidence submitted relating to the claim of massive imports was an estimate of total imports of printed products originating in the PRC, which include a large variety of print products that are not printed on CFP. Based on the information available, the Commission could not assess what part of the products imported from the PRC was printed on CFP and what was printed on other types of paper.

(232) The original investigation found that most products that are printed on CFP are 'time sensitive' products, such as magazines, brochures, direct mail and inserts that are less susceptible to being imported from the PRC because of the time needed for transportation. Information submitted by the applicant in this review confirmed that the findings of the original investigation were still valid.

(233) Accordingly, the Commission concluded that while it is likely that some print materials are printed on CFP outside the Union because of anti-dumping and countervailing duties, their impact on the economic situation of the Union's printing industry is limited.

5.4. **Conclusion on Union interest**

(234) On the basis of the above, the Commission concluded that there are no compelling reasons of Union interest against the extension of the current countervailing measures on imports from the PRC.

6. **CONCLUSION AND DISCLOSURE**

(235) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the countervailing measures in force. They were also granted a period of 11 days within which they could submit comments subsequent to this disclosure. Only the applicant sent comments supporting the Commission's findings and proposal to maintain the countervailing measures in force.

(236) It follows from the above considerations that under Article 18 of the basic Regulation, the countervailing measures applicable to imports of certain coated fine paper originating in the PRC, imposed by Implementing Regulation (EU) No 452/2011, should be maintained.

(237) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of the Regulation (EU) 2016/1036 of the European Parliament and of the Council [1],

---

[1] Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21).

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is hereby imposed on coated fine paper, which is paper or paperboard coated on one or both sides (excluding kraft paper or kraft paperboard), in either sheets or rolls, and with a weight of 70 g/m 2 or more but not exceeding 400 g/m 2 and brightness of more than 84 (measured according to ISO 2470-1), currently falling within CN codes ex 4810 13 00, ex 4810 14 00, ex 4810 19 00, ex 4810 22 00, ex 4810 29 30, ex 4810 29 80, ex 4810 99 10 and ex 4810 99 80 (TARIC codes 4810 13 00 20, 4810 14 00 20, 4810 19 00 20, 4810 22 00 20, 4810 29 30 20, 4810 29 80 20, 4810 99 10 20 and 4810 99 80 20) and originating in the People's Republic of China.

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

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

Company	Duty rate	TARIC additional code
Gold East Paper (Jiangsu) Co., Ltd, Zhenjiang City, Jiangsu Province, PRC; Gold Huasheng Paper (Suzhou Industrial Park) Co., Ltd, Suzhou City, Jiangsu Province, PRC	12 %	B001
Shangdong Chenming Paper Holdings Limited, Shouguang City, Shandong Province, PRC; Shouguang Chenming Art Paper Co., Ltd, Shouguang City, Shandong Province, PRC	4 %	B013
All other companies	12 %	B999

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

Article 2

This Regulation shall enter into force on the day following 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, 3 July 2017.

For the Commission

The President

Jean-Claude JUNCKER