COMMISSION IMPLEMENTING REGULATION (EU) 2023/1159

of 13 June 2023

imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Previous investigations and measures in force

(1) By Regulation (EC) No 1942/2004 ([2]), the Council imposed anti-dumping duties on imports of okoumé plywood originating in the People's Republic of China ('the PRC' or 'China' or 'country concerned') ('the original measures'). The investigation that led to the imposition of the original measures will hereinafter be referred to as 'the original investigation'.

(2) By Regulation (EU) No 82/2011 ([3]), the Council prolonged the original measures following an expiry review (the 'first expiry review') for five years. By Regulation (EU) 2017/648 ([4]), the European Commission ('the Commission') prolonged the original measures for another five years following a second expiry review (the 'second expiry review').

(3) The anti-dumping duties currently in force are at rates ranging between 6,5 % and 23,5 % on imports from four exporting producers and at a rate of 66,7 % on imports from all other companies.

1.2. Request for an expiry review

(4) Following the publication of a notice of impending expiry ([5]), the Commission received a request for a review pursuant to Article 11(2) of the basic Regulation.

(5) The request for review was submitted on 16 December 2021 by the European Panel Federation ('the applicant') on behalf of the Union industry of okoumé plywood in the sense of Article 5(4) of the basic Regulation. The request for review was based on the grounds that the expiry of the measures would be likely to result in continuation and/or recurrence of dumping and recurrence of injury to the Union industry.

([1]) OJ L 176, 30.6.2016, p. 21.

([2]) Council Regulation (EC) No 1942/2004 of 2 November 2004 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of okoumé plywood originating in the People's Republic of China (OJ L 336, 12.11.2004, p. 4).

([3]) Council Implementing Regulation (EU) No 82/2011 of 31 January 2011 imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 and terminating a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ L 28, 2.2.2011, p. 1).

([4]) Commission Implementing Regulation (EU) 2017/648 of 5 April 2017 imposing a definitive anti-dumping duty on imports of okoumé plywood originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 92, 6.4.2017, p. 48).

([5]) Notice of impending expiry of certain anti-dumping measures (OJ C 277, 12.7.2021, p. 2).

1.3. **Initiation of an expiry review**

(6) Having determined, after consulting the Committee established by Article 15(1) of the basic Regulation, that sufficient evidence existed for the initiation of an expiry review, on 5 April 2022 the Commission initiated an expiry review of the anti-dumping measures applicable to imports into the Union of okoumé plywood originating in the PRC on the basis of Article 11(2) of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([6]) ('the Notice of Initiation').

1.4. **Review investigation period and period considered**

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

1.5. **Interested parties**

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

(9) Interested parties had an opportunity to comment on the initiation of the expiry review and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. None of the interested parties requested a hearing.

1.6. **Sampling**

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

Sampling of Union producers

(11) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of the largest representative volume of production and sales, taking also into account geographical spread. This sample consisted of three Union producers. The sampled Union producers accounted for 40 % of the estimated total Union production and 41 % of the total Union industry sales volume. In accordance with Article 17(2) of the basic Regulation, the Commission invited interested parties to comment on the provisional sample. No comments were received. The sample was considered representative of the Union industry.

Sampling of importers

(12) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation. No unrelated importers submitted the requested information. Consequently, the Commission decided that sampling was not necessary.

Sampling of producers in the PRC

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

([6]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of okoumé plywood originating in the People's Republic of China (OJ C 150, 5.4.2022, p. 16).

(14) No producers/exporting producers from the PRC provided the requested information within the deadline and/or agreed to be included in the sample. Therefore, there was no cooperation from the Chinese producers and the findings with regard to the imports from the PRC were made on the basis of the facts available pursuant to Article 18 of the basic Regulation. The sources used are detailed in recital (28).

1.7. **Replies to the questionnaire**

(15) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').

(16) The Commission sent questionnaires to the sampled Union producers. The same questionnaires, as well as questionnaires for unrelated importers, users and Chinese exporters had also been made available online ([7]) on the day of initiation. In the course of the investigation, the Commission sent a questionnaire to the applicant requesting macroeconomic data of the Union industry.

(17) Questionnaire replies were received from the three sampled Union producers and the applicant.

1.8. **Verification**

(18) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and of the Union interest.

(19) Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

— Allin SA, Le Vanneau, France

— F.A. Mourikis SA, Kalamaki, Greece

— Joubert Saint Jean d'Angely SAS, Saint-Jean d'Angely, France

— European Panel Federation (the applicant), Brussels, Belgium.

1.9. **Subsequent procedure**

(20) On 5 April 2023, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure. No parties made any comments.

2. **PRODUCT UNDER REVIEW, PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product under review**

(21) The product under review is the same as in the original investigation and previous expiry reviews, namely okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, currently falling under CN code ex 4412 31 10 (TARIC code 4412 31 10 10) ('the product under review').

([7]) https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2588

(22) There are two main types of okoumé plywood, plywood made solely with okoumé ('full okoumé') and plywood with at least one of the outer faces made of okoumé, the rest being made of other wood ('faced okoumé') (the latter can also be referred to as 'combi' or 'twin'). Both main types of okoumé plywood have the same external appearance. Despite differences in mechanical properties, they all share the same basic physical and technical characteristics, and are used for the same basic purposes.

(23) Okoumé plywood is used in a wide range of applications, for example in the building industry in exterior joinery and carpentry applications for boarding, shutter boards, exterior basements and balustrades and riverside panelling. It is also used for more decorative purposes in, inter alia, road transports (e.g. cars, coaches, caravans, camping cars), maritime transport (yachts), furniture industry and doors.

2.2. **Product concerned**

(24) The product concerned by this investigation is the product under review originating in the People's Republic of China.

2.3. **Like product**

(25) As established in the original investigation as well as in the previous expiry reviews, the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:

— the product concerned when exported to the Union;

— the product under review produced and sold on the domestic market of the country concerned;

— the product under review produced and sold in the Union by the Union industry.

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

3. **DUMPING**

3.1. **Preliminary remarks**

(27) During the review investigation period, imports of okoumé plywood originating in the PRC virtually disappeared from the Union market. According to Eurostat imports of okoumé plywood from the PRC accounted for about 0,04 % of the Union market. The situation was similar in the previous expiry review. In absolute terms, imports of okoumé plywood originating in the PRC amounted to 74 m^3 in the review investigation period, as compared to 83 606 m^3 in the original investigation, 12 620 m^3 in the first expiry review and no imports in the second expiry review.

(28) As mentioned in recital (14), none of the producers/exporting producers from the PRC cooperated in the investigation. Therefore, the Commission informed the authorities of the PRC that, due to the absence of cooperation, it might apply Article 18 of the basic Regulation concerning the findings with regard to the PRC. The Commission did not receive any comments, or requests for an intervention of the Hearing Officer, in this regard.

(29) Consequently, in accordance with Article 18 of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping were based on facts available, in particular information contained in the request for review, publicly available data for a Turkish okoumé plywood producer, information provided by the applicant and the sampled Union producers, information from the Turkish national statistics office, Eurostat's Comext database, Global Trade Atlas ('GTA'), the International Trade Centre's market access map, and the Food and Agriculture Organisation of the United Nations ('FAO').

3.2. **Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation for the imports of okoumé plywood originating in the PRC**

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

(31) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the *Official Journal of the European Union*. No questionnaire reply was received from the GOC and no submission on the application of Article 2(6a) of the basic Regulation was received within the deadline. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of significant distortions in the PRC.

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

(33) On 24 August 2022, the Commission issued a Note for the file on the sources for the determination of the normal value ('Note on sources'). By the Note on sources, the Commission informed interested parties that it intended to use Türkiye as representative country, and on the relevant sources it intended to use for the determination of the normal value with Türkiye as the representative country. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company Eksioglu Orman Urunleri, a producer in Türkiye.

(34) By the Note on sources, the Commission also invited interested parties to comment on the sources and the appropriateness of Türkiye as a representative country and also suggest other countries, provided they submitted sufficient information on the relevant criteria. No comments were received.

3.3. **Normal value**

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

(36) However, according to Article 2(6a)(a) of the basic Regulation, 'in case it is determined […] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits' ('administrative, selling and general costs' is refereed hereinafter as 'SG&A').

(37) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC and the exporting producers or producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.3.1. *Existence of significant distortions*

3.3.1.1. Introduction

(38) Article 2(6a)(b) of the basic Regulation stipulates that 'significant distortions are those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:

— the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;

— state presence in firms allowing the state to interfere with respect to prices or costs;

— public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;

— the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;

— wage costs being distorted;

— access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state'.

(39) As the list in Article 2(6a)(b) of the basic Regulation is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.

(40) Article 2(6a)(c) of the basic Regulation provides that '[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'.

(41) Pursuant to this provision, the Commission has issued a country report concerning the PRC ('the Report') ([8]), showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals). Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The Report was placed in the investigation file at the initiation stage. The request also contained some relevant evidence complementing the Report.

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

(42) More specifically, the request, referring to the Report, indicated that structural distortions in many Chinese industrial sectors have contributed to the overcapacity in Chinese plywood sector, including okoumé plywood. Moreover, the request pointed out that policies of GOC, such as those detailed in the 13th Five-Year Plan ('FYP') on Forestry, have fostered the use of wood as a raw material through State intervention. In the subsequent 14th FYP, covering the years 2021-2026, the GOC stated its intention to 'improve the infrastructure of state-owned forest farms and forest zones'. In addition, referring back to the Report, the request noted the existence of distortions in the access to capital, chemical and labour sectors, as well as distortions in the energy markets. According to the request, those distortions are likely to have a material impact on the okoumé plywood industry. Furthermore, the request recalled that, in 2017, the US authorities imposed anti-dumping and countervailing duties on certain hardwood plywood imports into the USA from China following a conclusion that the GOC's interventions through various state programs, subsidies, policy loans at preferential terms etc., directly favoured the Chinese producers and exporters of certain hardwood plywood products.

(43) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the applicant, on the existence of significant distortions and/or on the appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand. Nor has the Commission received any comments from the Chinese exporting producers.

(44) The Commission examined whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the Report, which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under review. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC.

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

(45) The Chinese economic system is based on the concept of a 'socialist market economy'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the 'socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people'. The State-owned economy is the 'leading force of the national economy' and the State has the mandate 'to ensure its consolidation and growth' ([9]). Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ([10]).

(46) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing first sentence of the provision: '[t]he socialist system is the basic system of the People's Republic of China' a new second sentence was inserted which reads: '[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China' ([11]). This illustrates the unquestioned and ever growing control of the

([9]) Report – Chapter 2, p. 6-7.
([10]) Report – Chapter 2, p. 10.
([11]) Available at: Constitution of the People's Republic of China (npc.gov.cn), accessed on 15 November 2022.

CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.

(47) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ([12]). The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.

(48) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also section 3.3.1.5 below) ([13]).

(49) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial and policy banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also section 3.3.1.8 below) ([14]). The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ([15]).

(50) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market-based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ([16]). Similarly, in the area of investment, the GOC maintains significant control and influence over destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ([17]).

(51) In sum, the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles ([18]).

([12]) Report – Chapter 2, p. 20-21.
([13]) Report – Chapter 3, p. 41, 73-74.
([14]) Report – Chapter 6, p. 120-121.
([15]) Report – Chapter 6. p. 122 -135.
([16]) Report – Chapter 7, p. 167-168.
([17]) Report – Chapter 8, p. 169-170, 200-201.
([18]) Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

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

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

(53) While in the okoumé plywood sector, the degree of state ownership does not appear to be significant, the GOC maintains shareholding in a number of producers, such a stake exceeding 40 % in Jiangsu High Hope Arser Co., Ltd. ([19]) Beyond formal ownership, state authorities can control and supervise companies through informal channels, as illustrated by the privately owned Luli Group which, according to public sources, has been 'cultivated' by the Shandong province government ([20]). In addition, given that CCP interventions into operational decision making have become the norm also in private companies ([21]) (see also section 3.3.1.4 below), with CCP claiming leadership over virtually every aspect of the country's economy, the influence of the State by means of CCP structures within companies effectively results in economic operators being under control and policy supervision of the government, given how far the State and Party structures have grown together in the PRC.

(54) This is apparent also at the level of the China National Forest Product Industry Association ('CNFPIA') the sectoral industry association. According to Art. 4 of CNFPIA's Articles of Association, the organisation 'accepts the professional guidance, supervision and management of […] the State Forestry and Grassland Administration and the Ministry of Civil Affairs' ([22]).

(55) Consequently, even privately owned producers in the sector of the product under review are prevented from operating under market conditions. Indeed, both public and privately owned enterprises in the sector are subject to policy supervision and guidance as also set out in section 3.3.1.5 below.

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

(56) Apart from exercising control over the economy by means of ownership of State Owned Enterprise'('SOEs') and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights ([23]), CCP cells in enterprises, State-owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution ([24])) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has been reinforcing its claims to control business decisions in companies as a matter of political principle ([25]), including exercising pressure on private companies to put 'patriotism' first and to follow party discipline ([26]). In 2017, it was reported that party

([19]) See at: www.arserwood.com/?back = main (accessed on 8 February 2023).
([20]) See at: lyj.hunan.gov.cn/tslm_71206/lysc/scxx/201512/t20151227_2693076.html (accessed on 8 February 2023).
([21]) See for example Art. 33 of the CCP Constitution, Article 19 of the Chinese Company Law or the Guidelines on stepping up the United Front work in the private sector for the new era issued by the General Office of the CCP's Central Committee in 2020.
([22]) See at: www.cnfpia.org/about-law.html (accessed on 8 February 2023).
([23]) Report – Chapter 5, p. 100-1.
([24]) Report – Chapter 2, p. 26
([25]) See for example: Blanchette, J. – Xi's Gamble: *The Race to Consolidate Power and Stave off Disaster*; Foreign Affairs, vol. 100, no. 4, July/August 2021, pp. 10-19.
([26]) Report – Chapter 2, p. 31-2.

cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies ([27]). These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

(57) In addition, on 15 September 2020 a document titled General Office of CCP Central Committee's Guidelines on stepping up the United Front work in the private sector for the new era ('the Guidelines') ([28]) was released, which further expanded the role of the party committees in private enterprises. Section II.4 of the Guidelines state: '[w]e must raise the Party's overall capacity to lead private-sector United Front work and effectively step up the work in this area'; and section III.6 states: '[w]e must further step up Party building in private enterprises and enable the Party cells to play their role effectively as a fortress and enable Party members to play their parts as vanguards and pioneers.' The Guidelines thus emphasise and seeks to increase the role of the CCP in companies and other private sector entities ([29]).

(58) The investigation has confirmed that overlaps between managerial positions and CCP membership/Party functions are commonplace in the plywood sector. For example, the general manager of Jiangsu High Hope Arser Co., Ltd. holds in parallel the position of the Party branch secretary while the chairman of the mother company Jiangsu High Hope Group serves also as the Group's Party committee secretary ([30]).

(59) The State's presence and intervention in the financial markets (see also section 3.3.1.8 below) as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ([31]). Thus, the State presence in firms, in the okoumé plywood and other sectors (such as the financial and input sectors) allow the GOC to interfere with respect to prices and costs.

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

(60) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ([32]).

(61) The Chinese authorities have enacted a number of policies guiding the functioning of the sector of the product under review. To start with, wooden panels related technologies are listed among the encouraged industries in the Guiding Catalogue for industry structural adjustment 2019 ([33]), which signals the authorities' intentions to create a regulatory environment conducive to the sector's development and which also potentially paves way to the industry's access to finance. Moreover, the 14th FYP on the Development of the Forest and Grass Industry ([34]), not only invites the authorities to 'promote the comprehensive green transformation of the wood processing industry' or to 'consolidate and upgrade traditional advantageous industries such as wooden flooring, wooden furniture, wooden doors, […]

([27]) Available at: https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU (accessed on 15 November 2022).
([28]) Available at: www.gov.cn/zhengce/2020-09/15/content_5543685.htm (accessed on 15 November 2022)
([29]) Financial Times (2020) – Chinese Communist Party asserts greater control over private enterprise, available at: https://on.ft.com/3mYxP4j (accessed on 15 November 2022).
([30]) See at: www.arserwood.com/?CateID=10000098&ContentID=10000939 (accessed on 8 February 2023).
([31]) Report – Chapters 14.1 to 14.3.
([32]) Report – Chapter 4, p. 41-42, 83.
([33]) See Section I.1.39., as well as Section I.1.56. of the Annex to the Guiding Catalogue, available at: www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf (accessed on 8 February 2023).
([34]) Available at: http://www.gov.cn/zhengce/zhengceku/2022-02/13/content_5673332.htm (accessed on 8 February 2023).

and accelerate the development of customized furniture, wooden structures and wooden building materials', it also sets specific output targets: '[b]y 2025, the output of man-made panels will be stabilized at about 300 million cubic meters, the output of flooring will be stabilized at about 800 million square meters, and the output value of wooden furniture will exceed RMB 800 billion' ([35]). In addition, the Guiding Opinion on fostering the high quality development of forestry and grass industry, published by the National Administration for Forestry and Grassland in February 2019 ([36]), quantifies further parameters of the sector's planned development: 'By 2025, the institutional mechanism for the rational utilization of forest and grass resources will be basically formed, the supporting capacity of forest and grass resources will be significantly enhanced, the output volume of high-quality forest and grass products will be significantly increased, and the trade in forest products will be further expanded, and the total output value of forestry at national level shall eventually increase by more than 50 % on the basis of the current situation, the output of economic forest products that are important for the economy shall reach 250 million tons, and the import and export trade volume of forest products shall reach 240 USD billion' ([37]). Through these and other means, the GOC therefore directs and controls virtually every aspect in the development and functioning of the sector.

(62) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives concerning the sector of the okoumé plywood. Such measures impede market forces from operating freely.

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

(63) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ([38]).

(64) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC ([39]). All land is owned by the State (collectively owned rural land and State-owned urban land) and its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ([40]). Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ([41]).

(65) Much like other sectors in the Chinese economy, the producers of the product under review are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies, too, are subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the forestry and wood production sector. The present investigation revealed nothing that would call those findings into question.

([35]) See Section III.2. of the plan.
([36]) See at: www.gov.cn/xinwen/2019-02/19/content_5366730.htm (accessed on 8 February 2023).
([37]) See Section 3 of the Guiding Opinion.
([38]) Report – Chapter 6, p. 138-149.
([39]) Report – Chapter 9, p. 216.
([40]) Report – Chapter 9, p. 213-215.
([41]) Report – Chapter 9, p. 209-211.

(66) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the sector of the product under review.

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

(67) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining ([42]). Under national law, only one trade union organisation is active. However, this organisation lacks independence from the State authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary ([43]). Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration ([44]). Those findings lead to the distortion of wage costs in the PRC.

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

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

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

(70) Firstly, the Chinese financial system is characterised by the strong position of State-owned banks ([45]), which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP) ([46]) and, again just like non-financial SOEs, the banks regularly implement public policies designed by the GOC. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State ([47]). This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ([48]).

(71) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.

([42]) Report – Chapter 13, p. 332-337.
([43]) Report – Chapter 13, p. 336.
([44]) Report – Chapter 13, p. 337-341.
([45]) Report – Chapter 6, p. 114-117.
([46]) Report – Chapter 6, p. 119.
([47]) Report – Chapter 6, p. 120.
([48]) Report – Chapter 6, p. 121-122, 126-128, 133-135.

(72) For example, the GOC has clarified that even private commercial banking decisions must be overseen by the CCP and remain in line with national policies. One of the State's three overarching goals in relation to banking governance is now to strengthen the Party's leadership in the banking and insurance sector, including in relation to operational and management issues ([49]). Also, the performance evaluation criteria of commercial banks have now to, notably, take into account how entities 'serve the national development objectives and the real economy', and in particular how they 'serve strategic and emerging industries' ([50]).

(73) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ([51]).

(74) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ([52]). This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.

(75) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the growth in corporate leverage in the State sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.

(76) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government-induced distortions. The share of lending at or below the benchmark rate still represented at least one-third of all lending as of the end of 2018 ([53]). Official media in the PRC have recently reported that the CCP called for 'guiding the loan market interest rate downwards' ([54]). Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.

(77) Overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly, with the GOC a number of times opting to either avoid defaults, thus creating so called 'zombie' companies, or to transfer the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.

([49]) See official policy document of the China Banking and Insurance Regulatory Commission (CBIRC) of 28 August 2020: *Three-year action plan for improving corporate governance of the banking and insurance sectors (2020-2022)*, available at: http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=925393&itemId=928 (accessed on 15 November 2022). The Plan instructs to 'further implement the spirit embodied in General Secretary Xi Jinping's keynote speech on advancing the reform of corporate governance of the financial sector'. Moreover, the Plan's section II aims at promoting the organic integration of the Party's leadership into corporate governance: 'we shall make the integration of the Party's leadership into corporate governance more systematic, standardised and procedure-based […] Major operational and management issues must have been discussed by the Party Committee before being decided upon by the Board of Directors or the senior management.'

([50]) See CBIRC's *Notice on the Commercial banks performance evaluation method*, issued on 15 December 2020. http://jrs.mof.gov.cn/gongzuotongzhi/202101/t20210104_3638904.htm (last viewed on 12 April 2021).

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

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

([53]) See OECD (2019), *OECD* Economic Surveys: China 2019, OECD Publishing, Paris. p. 29, available at: https://doi.org/10.1787/eco_surveys-chn-2019-en (accessed on 8 February 2023).

([54]) See: http://www.gov.cn/xinwen/2020-04/20/content_5504241.htm (accessed on 22 November 2022).

(78) In essence, despite the steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

(79) No evidence was submitted in the present investigation demonstrating that the sector of the product under review is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

3.3.1.9. Systemic nature of the distortions described

(80) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.3.1.2 to 3.3.1.5 as well as in Part I of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.3.1.6 to 3.3.1.8 and in Part II of the Report.

(81) The Commission recalls that in order to produce the product under review, certain inputs are needed. When the producers of okoumé plywood purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.

(82) As a consequence, not only the domestic sales prices of the product under review are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

3.3.1.10. Conclusion

(83) The analysis set out in sections 3.3.1.2 to 3.3.1.9, which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the sector of the product under review showed that prices or costs of the product under review, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation as shown by the actual or potential impact of one or more of the relevant elements listed therein. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.

(84) Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as discussed in the following section.

3.3.2. *Representative country*

(85) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:

— A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ([55]);

— Production of the product under review in that country ([56]);

— Availability of relevant public data in the representative country.

— Where there is more than one possible representative country, preference should be given, where appropriate, to the country with an adequate level of social and environmental protection.

(86) As explained in recital (32), the Commission issued a Note on sources that described the facts and evidence underlying the relevant criteria, and informed interested parties of its intention to use Türkiye as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

(87) In the Note on sources, the Commission explained that, due to the absence of cooperation, it would need to rely on facts available according to Article 18 of the basic Regulation. The choice of representative country was based on the information contained in the expiry review request, combined with other sources of information deemed appropriate according to the relevant criteria laid down in Article 2(6a) of the basic Regulation in accordance with Article 18(5) of the basic Regulation.

(88) Regarding the level of economic development, in the expiry review request, the applicant examined five countries as potential representative countries that had a similar level of economic development to the PRC. The countries examined were Thailand, Indonesia, Brazil, Malaysia and Türkiye ([57]).

(89) Regarding production of the product under review, only Türkiye and Indonesia were identified as okoumé plywood producing countries in the request ([58]).

(90) Regarding the availability of relevant public data in the representative country, in its request for review the applicant identified three companies producing veneer wood products, including the product under review, in Türkiye, and none in Indonesia ([59]). As explained in the Note on sources, the Commission's analysis concluded that two of the Turkish companies did not have sufficiently up to date available financial data. The third company had available data for 2020 but it was unclear if they produced the product under review. The Commission however identified a company in Türkiye, Eksioglu Orman Urunleri that produced the product under review and had available financial data for 2020. Therefore, Türkiye fulfilled the criteria of availability of relevant public data.

(91) Having established that Türkiye was the only available appropriate representative country based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

(92) In the Note on sources, interested parties were invited to comment on the appropriateness of Türkiye as a representative country and also suggest other countries, provided they submitted sufficient information on the relevant criteria. No comments were received.

(93) In view of the above analysis, Türkiye met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

([55]) World Bank Open Data – Upper Middle Income, https://data.worldbank.org/income-level/upper-middle-income.
([56]) If there is no production of the product under review in any country with a similar level of development, production of a product in the same general category and/or sector of the product under review may be considered.
([57]) Request for expiry review section 4.1.1.
([58]) Ibid.
([59]) Ibid. For establishing normal value with Indonesia, the request relies on financial statements of tropical plywood producers, while for Türkiye it uses data from financial statements of okoumé plywood producers.

3.3.3. *Sources used to establish undistorted costs*

(94) In the Note on sources, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under review by the exporting producers. The Commission also stated in the Note on sources that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production, notably the main raw materials.

(95) The Commission informed interested parties that it would group items with negligible weight in the cost of production, such as other raw materials, packaging costs, utilities and consumables and express them as a percentage of the main raw materials. Further, the Commission announced that it would apply this percentage to the recalculated cost of raw materials when using the undistorted benchmarks in the appropriate representative country.

(96) In addition, the Commission stated that it would use information from the Turkish Statistical Institute ('TURKSTAT') for establishing the undistorted costs of electricity and labour.

(97) The Commission included a value for manufacturing overhead costs in order to cover the costs not included in the factors of production referred to above. The Commission established the ratio of manufacturing overheads to manufacturing costs based on the information provided in the request for review and on verified data of a Union producer, Joubert Plywood that provided specific information for that purpose. The methodology is duly explained in section 3.3.5 below.

(98) Finally, the Commission stated that to establish SG&A and profit, it would use the financial data from the Turkish producer of the product under review as set out in recital (32) above.

(99) The Commission did not receive any comments from interested parties concerning the list of factors of production in the Note on sources.

3.3.4. *Undistorted costs and benchmarks*

(100) Considering all the information based on the request for review and subsequent information submitted by the applicant and verified on spot and in the absence of cooperation by Chinese exporting producers or any comments on the Note on sources, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production of okoumé plywood

Factors of Production	HS Codes	Source of data	Unit of measurement	Undistorted value (RMB)
Raw Materials				
Sheets of veneer	4408 39	Global Trade Atlas (GTA) ([60])	M^3	6 507,69
Poplar logs	4403 97	GTA	M^3	2 615,34
Phenolic Glue	3909 40	GTA	KG	16,45
All other raw materials, packaging, utilities, consumables.	N/A		Fixed amount	[1-5] % of raw materials

([60]) http://connect.ihsmarkit.com/gta/home

Energy/Utilities				
Electricity	N/A	Turkish Statistical Institute. (TURKSTAT) ([61])	kWh	0,59
Labour				
Labour	N/A	TURKSTAT ([62])	hours	16,28

3.3.4.1. Raw materials

(101) In order to establish the undistorted price of the main raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA to which import duties and transport costs were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and the Council ([63]).

(102) The Commission decided to exclude imports from the PRC into the representative country as it concluded in section 3.3.1 that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. After excluding imports from the PRC into the representative country, the volume of imports from other third countries remained representative.

(103) For a number of factors of production, the actual costs represented a negligible share of total raw material costs in the review investigation period. As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission decided to include those costs into consumables and further group them with other raw materials, packaging costs and utilities and express them as a percentage of the main raw materials as explained in recital (94). Given the lack of cooperation by Chinese exporting producers, the Commission established this percentage based on the data provided in the request of review, that were subsequently verified based on the data of one of the Union producers that cooperated in the investigation and that provided specific information for that purpose ([64]), i.e. Joubert Plywood.

(104) In order to establish the undistorted price of raw materials, delivered at the gate of the producer's factory, the Commission applied the import duty of the representative country, at the respective levels, depending on the country of origin of the imported volumes ([65]). The Commission added domestic transport cost calculated per m^3 on the basis of the information contained in the email exchanges between the European Panel Federation and a leading wood-based panels producer in Türkiye ([66]).

([61]) https://data.tuik.gov.tr/Bulten/Index?p=Elektrik-ve-Dogal-Gaz-Fiyatlari-II.-Donem:-Temmuz-Aralik-2021-45566
([62]) https://data.tuik.gov.tr/Kategori/GetKategori?p=istihdam-issizlik-ve-ucret-108&dil=2
([63]) Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.
([64]) Figures provided were verified on spot and reconciled with the company accounts.
([65]) Available at Market Access Map, International Trade Centre, www.macmap.org (MacMap) (last seen on 31 January 2023).
([66]) Available at: https://sherlock.trade.ec.europa.eu/sherlock/viewDoc.do?activityId=101&docId=104397

3.3.4.2. Labour

(105) TURKSTAT publishes detailed information on monthly average labour cost ([67]) and components by economic activity in Türkiye. The Commission used the latest available statistics (2020) for calculating an hourly rate.

3.3.4.3. Electricity

(106) The price of electricity for companies (industrial users) in Türkiye is published by TURKSTAT. The Commission used the data on the industrial electricity prices in the corresponding consumption band in kWh as published on 31 March 2022 (covering the review investigation period) ([68]) to calculate an average electricity cost.

3.3.4.4. Manufacturing overhead costs, SG&A, and profits

(107) According to Article 2(6a)(a) of the basic Regulation, 'the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits'. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.

(108) Given the absence of cooperation from the exporting producers, the Commission calculated manufacturing overhead costs based on the ratio of manufacturing overhead divided by the cost of manufacturing reported by Joubert Plywood. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.

(109) For SG&A and profit, the Commission used the financial data of the Turkish producer mentioned in recital (32).

3.3.5. *Calculation of the normal value*

(110) On the basis of the above, the Commission constructed the normal value per product type (namely full okoumé and faced okoumé as explained in recital (21)) on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

(111) According to the information in the expiry review request, subsequently verified based on the data of one of the Union producers that cooperated in the investigation and that provided specific information for that purpose, full okoumé is produced using only sheets of veneer, while faced okoumé is produced using both sheets of veneer and poplar logs. Therefore, the undistorted value for poplar logs was used, together with all other raw materials, to construct normal value for faced okoumé, while it was not used to construct normal value for full okoumé. The methodology, explained in the following recitals, is the same in both cases.

(112) First, the Commission established the undistorted direct costs. In the absence of cooperation by the exporting producers, the Commission relied on the information ([69]) provided by Joubert Plywood, which was verified on-spot, on the consumption of each factor (raw materials, labour and electricity) for the production of okoumé plywood. The Commission multiplied the consumption volumes by the undistorted costs per unit observed in Türkiye, as described in Section 3.3.4.1. A number of factors of production that represented a negligible share of total raw material costs in the review investigation period were expressed as a percentage of the main raw materials as explained in recital (94). The commission applied that percentage to the undistorted cost of the main raw materials to arrive at an undistorted value.

(113) Once the undistorted manufacturing cost was established, the Commission added the manufacturing overheads, SG&A and profit as established in recitals (107) and (108) to the undistorted costs of manufacturing. Concretely:

([67]) https://data.tuik.gov.tr/Kategori/GetKategori?p=istihdam-issizlik-ve-ucret-108&dil=2.
([68]) https://data.tuik.gov.tr/Bulten/Index?p=Elektrik-ve-Dogal-Gaz-Fiyatlari-II.-Donem:-Temmuz-Aralik-2021-45566.
([69]) Available at: https://sherlock.trade.ec.europa.eu/sherlock/viewDoc.do?activityId=101&docId=104537
Ref: t22.006603

— Manufacturing overheads, which accounted in total for [5-12] % of the manufacturing cost,

— SG&A, which accounted for 4,06 % of the Costs of Goods Sold ('COGS'), and

— Profits, which amounted to 13,77 % of the COGS, were applied to the total undistorted costs of manufacturing.

(114) On that basis, the Commission constructed the normal value per product type, as explained in recital (110), on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

3.4. **Export price**

(115) In the absence of cooperation by the Chinese exporting producers, the export price was determined based on Eurostat import data, at a cost, insurance and freight ('CIF') level. This CIF price, 619 € per m^3, was reduced by the sea freight and insurance costs and domestic transport cost in China to arrive at the export price at ex-works level. The amounts deduced were based on the information contained in the expiry review request ([70]).

3.5. **Comparison and dumping margin**

(116) In the absence of cooperation by Chinese exporting producers, the Commission had no information on the product type exported. The Commission therefore compared the normal values established in accordance with Article 2(6a)(a) of the basic Regulation, i.e. for full okoumé and faced okoumé, with the export price on an ex-works basis as established above.

(117) On that basis, the dumping margin for imports from China, expressed as a percentage of the CIF Union frontier price, duty unpaid, was above 100 %, regardless of the normal value used.

(118) However, the volume of imports in question was negligible, corresponding to 0,2 % of the total imports into the Union and representing 0,04 % market share in the Union market. In the absence of cooperation, the Commission had no information on the product type. Also, these imports consisted of only one transaction, putting a question mark on its representativity. For these reasons, the Commission concluded that these low volumes did not provide a sufficient basis for a continuation of dumping analysis. Therefore, the Commission investigated the likelihood of recurrence of dumping.

4. **LIKELIHOOD OF RECURRENCE OF DUMPING**

(119) The Commission investigated, in accordance with Article 11(2) of the basic Regulation, the likelihood of recurrence of dumping should the measures be allowed to lapse. The following additional elements were analysed: the possible dumping levels in the Union market shall the measures be allowed to lapse; comparison of normal value established in this expiry review as explained in section 3.3.5 with prices of exports from China based on the commercial offers for exports to the Union and third countries provided in the expiry review request; the production capacity and spare capacity in PRC and the attractiveness of the Union market.

4.1. **Likely dumping levels in the Union market shall the measures be allowed to lapse**

(120) To determine the likely level of export prices to the Union should the measures be allowed to lapse, and given the absence of cooperation of Chinese producers, the Commission based the export price on facts available, in accordance with Article 18 of the basic Regulation, i.e. on information in the expiry review request. Specifically, the export price for both main product types described in recital (21) was established based on 64 commercial offers to the Union market and 26 commercial offers to other third countries (the Middle East, Türkiye, and the United Kingdom) made by email during the review investigation period, as contained in the expiry review request.

([70]) Request for expiry review section 5.4 and open annex XXIII.

(121) The average prices contained in the commercial offers for the review investigation period were, at CIF level at 686 EUR/m³ for full okoumé and at 458 EUR/m³ for faced okoumé for the Union market, and 371 EUR/m³ for faced okoumé for third countries. These price levels are in the same range as the price of okoumé plywood of imports from China in the review investigation period described in recital (114). Although the quantities concerned were marginal, this price level confirms the representativity of the commercial offers as indication of possible export prices of okoumé plywood from China. The average price of Chinese exports to third countries other than the Union under HS subheading 4412 31 from GTA is also in the same range. However, HS subheading 4412 31 contains products other than the product under review, so these data were not considered precise enough to provide useful information.

(122) The Commission adjusted the prices to ex-works level following the approach described in recital (114) and compared them with the normal value as established in Section 3.3.

(123) The dumping margins for these potential imports from China, for both product types, expressed as a percentage of the CIF Union frontier price, duty unpaid, would have been above 100 % had all these offers had entered into the Union.

4.2. **Production capacity and spare capacity in the PRC.**

4.2.1. *Production in the PRC*

(124) In the absence of cooperation from the Chinese producers/exporting producers or other available information on the Chinese okoumé plywood industry, production in the PRC was established on the basis of estimates provided by the applicant in the request for the expiry review, based on its best knowledge of the market.

(125) The applicant estimated the potential okoumé plywood production in China based on the imports of okoumé logs. Between 2017 and 2020 approximately 475 000 m³ to 1 million m³ of okoumé logs imported into China, of which it is estimated that 75 % could be used for okoumé plywood production ([71]). Therefore, Chinese producers could easily manufacture more than 400 000 m³ to 4 million m³ of okoumé plywood depending on the type produced. This corresponds to a minimum of twice to a maximum of 20 times the Union consumption.

4.2.2. *Production capacity in the PRC*

(126) In the absence of cooperation from the Chinese producers of okoumé plywood or other available information on the Chinese okoumé plywood industry, the situation of the Chinese plywood industry as a whole (regardless of the type of wood species used) was examined, as it was done in the previous review.

(127) According to the information in the expiry review request, and as confirmed by the previous investigations, plywood is produced by the same companies, on the same equipment, whatever the wood species used. The previous reviews also established that okoumé plywood is more lucrative than other types of plywood.

(128) On this basis, significant production capacity potentially available in China is indicated by the production volumes of all types of plywood, which, based on the latest available FAO statistics, accounted for 76,4 million m³ in 2021 ([72]). Evidence included in the request ([73]) for review estimates plywood production capacity at 270 million m³ per year at the end of the review investigation period.

(129) Given the large production capacities in the PRC, that dwarfed the EU demand of 192 000 m³ in the review investigation period regardless of the figure taken, and that only a change from other types of wood to okoumé is needed to produce okoumé plywood, there is a high likelihood that Chinese producers would use their large production capacity to shift their production from other types of plywood towards the more lucrative okoumé plywood for export to the Union if the measures expire.

([71]) Request for Review, Section 3.2 pg 27 and Open Annex XIV.
([72]) FAOSTAT (https://www.fao.org/faostat/en/#data/FO), 5 January 2023.
([73]) Request for review, annex IX.

4.3. **Attractiveness of the Union market.**

(130) The main element used to establish the attractiveness of the Union market should the measures be allowed to lapse was the price level of Chinese exports to other third countries compared to the price level of the Chinese exports to the Union. The commercial offers mentioned in recital (119) to the Union market and to the other third countries indicated that during the review investigation period the Union market was indeed attractive as the Chinese exports prices of okoumé plywood to the Union market were higher than the Chinese export prices to all other third markets for which commercial offers were available. Namely the export price offers at CIF level to the Union market were, on average, 23 % higher than export prices to third countries at CIF level. Thus, in the absence of measures, higher potential export prices to the Union would make the Union market attractive as exports to the Union would yield higher profits than exports to other third countries.

(131) In addition, there are trade defence measures on imports of Chinese plywood in the Republic of Korea (anti-dumping measures on plywood with at least one outer ply of tropical wood: of a thickness less than 3,2 mm), Morocco (anti-dumping measures on all plywood), USA (anti-dumping and countervailing measures on hardwood plywood) and Türkiye (anti-dumping measures on certain types of plywood) ([74]). These measures contribute to export limitations for Chinese plywood producers and to the existence of sustained significant spare capacity of plywood in China and render the Union market more attractive for Chinese plywood imports.

(132) Therefore, if measures are allowed to expire in the EU, while other countries maintain their anti-dumping measures, the Chinese producers are likely to restart producing okoumé plywood at significant volumes for export to the Union market.

4.4. **Conclusion on the likelihood of recurrence of dumping**

(133) In view of the above, the Commission concluded that there is a strong likelihood that dumping would recur if the current measures were allowed to lapse. In particular, the level of the normal value established in the PRC, the level of Chinese export prices to third country markets and the Union, the attractiveness of the Union market and the availability of significant production capacity in the PRC all point to a strong likelihood of recurrence of dumping in case the current measures would be allowed to lapse.

5. **INJURY**

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

(134) The like product was manufactured by 16 producers in the Union during the period considered. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.

(135) The total Union production during the review investigation period was established at around 174 000 m^3. The Commission established the figure on the basis of the questionnaires replies from the three sampled union producers and the macro-indicator questionnaire reply submitted by the applicant.

(136) As indicated in recital (11), sampling was applied for the determination of possible continuation or recurrence of injury suffered by the Union industry. The three Union producers selected in the sample represented 40 % of the total Union production of the like product.

5.2. **Union consumption**

(137) The Commission established the Union consumption on the basis of: a) the applicant's data concerning Union industry's sales of the like product, partially cross-checked with the sales volumes reported by sampled Union producers; and b) imports of the product under review from all third countries as reported in Eurostat.

([74]) Market access Map (https://www.macmap.org/en/query/trade-remedies), and Global Trade alert (https://www.globaltradealert.org/data_extraction), 19 September 2022.

(138) Union consumption developed as follows:

Table 2

Union consumption (m³)

	2018	2019	2020	RIP
Total Union consumption	171 309	187 104	171 737	192 264
Index	*100*	*109*	*100*	*112*

Source: Eurostat, Applicant, sampled Union producers.

(139) The review showed that Union consumption has increased by 12 % during the period considered. Union consumption was negatively affected by the outbreak of COVID-19 in 2020, but strongly rebounded during the review investigation period.

5.3. **Imports from the country concerned**

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

(140) The Commission established the volume of imports from China on the basis of Eurostat statistics, as duly explained in recital (136) above. Their market share was established by comparing imports to the Union consumption as set out in Table 2.

(141) Imports into the Union from the country concerned developed as follows:

Table 3

Import volume and market share

	2018	2019	2020	RIP
Volume of imports from the PRC (m³)	100	0	43	74
Index (2018 = 100)	*100*	*0*	*43*	*74*
Market share of imports from the PRC (%)	0,06	0,00	0,03	0,04

Source: Eurostat.

(142) The volume of imports from China was negligible over the whole period considered.

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

(143) The Commission established the average prices of imports from China on the basis of Eurostat statistics.

(144) The weighted average price of imports from the country concerned developed as follows:

Table 4

Import price (EUR/m³)

	2018	2019	2020	RIP
China	370	0	481	619
Index (2018 = 100)	*100*	*0*	*130*	*167*

Source: Eurostat.

(145) Prices from the country concerned increased by 67 % during the period considered, however they applied all the time to minimal volumes of imports. Those minimal volumes of imports from PRC do not allow any meaningful price undercutting calculations.

5.4. **Imports from third countries other than PRC**

(146) The Commission established the volumes and prices of imports from third countries applying the same methodology as for the PRC (see section 5.3.1).

(147) The volume of imports from third countries developed over the period considered as follows:

Table 5

Imports from third countries

Country		2018	2019	2020	RIP
Gabon	Import volume (m^3)	18 603	19 919	18 238	24 322
	Index (2018 = 100)	*100*	*107*	*98*	*131*
	Market share (%)	10,9	10,6	10,6	12,6
	Index (2018 = 100)	*100*	*98*	*98*	*116*
	Average price (EUR/m^3)	761	745	755	769
	Index (2018 = 100)	*100*	*98*	*99*	*101*
Morocco	Import volume (m^3)	6 231	8 493	8 332	9 917
	Index (2018 = 100)	*100*	*136*	*134*	*159*
	Market share (%)	3,6	4,5	4,8	5,2
	Index (2018 = 100)	*100*	*125*	*134*	*141*
	Average price (EUR/m^3)	852	833	846	870
	Index (2018 = 100)	*100*	*98*	*99*	*102*
Other third countries	Import volume (m^3)	466	1 922	1 837	2 490
	Index (2018 = 100)	*100*	*412*	*394*	*534*
	Market share (%)	0,3	1,0	1,1	1,3
	Index (2018 = 100)	*100*	*377*	*394*	*474*
	Average price (EUR/m^3)	526	867	710	938
	Index (2018 = 100)	*100*	*165*	*135*	*178*
Total imports excluding PRC	Import volume (m^3)	25 300	30 334	28 407	36 729
	Index (2018 = 100)	*100*	*120*	*112*	*145*
	Market share (%)	14,8	16,2	16,6	19,1
	Index (2018 = 100)	*100*	*110*	*112*	*129*
	Average price (EUR/m^3)	779	777	779	808
	Index (2018 = 100)	*100*	*100*	*100*	*104*

Source: Eurostat.

(148) Among imports from third countries, imports from Gabon and Morocco were the most important. Both countries increased during the period considered their sales volumes, by 31 % and 59 % respectively, and their market shares, by 1,7 and 1,6 percentage points, respectively. Imports from other third countries increased substantially in the period considered (more than 5 times), but they represented in the review investigation period a market share of only 1,3 %.

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

5.5.1. *General remarks*

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

(150) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data and information contained in the questionnaire reply of the applicant, duly cross-checked with the information in the request and the questionnaire replies of the sampled producers, and Eurostat statistics. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

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

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

5.5.2. *Macroeconomic indicators*

5.5.2.1. Production, production capacity and capacity utilisation

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

Table 6

Production, production capacity and capacity utilisation

	2018	2019	2020	RIP
Production volume (m^3)	164 635	179 457	164 383	174 048
Index (2018 = 100)	*100*	*109*	*100*	*106*
Production capacity (m^3)	286 965	299 163	288 272	306 816
Index (2018 = 100)	*100*	*104*	*100*	*107*
Capacity utilisation (%)	57,4	60,0	57,0	56,7
Index (2018 = 100)	*100*	*105*	*99*	*99*

Source: Applicant, sampled Union producers.

(154) The production of the Union industry increased by 6 % over the period considered. It followed the trend in the Union consumption, thus a negative impact of the COVID-19 outbreak was visible in 2020, with a noticeable recovery in the review investigation period.

(155) The production capacity also increased, by 7 % over the period considered.

(156) Since the adaptation of the production capacity to match the higher levels of consumption took place mainly before the period considered, the capacity utilisation rate has been stable but at a lower level compared to the rates established during the review investigation period in the previous review (80 %) ([75]).

5.5.2.2. Sales volume and market share

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

Table 7

Sales volume and market share

	2018	2019	2020	RIP
Total sales volume on the Union market – unrelated customers (m^3)	145 909	156 770	143 287	155 460
Index (2018 = 100)	*100*	*107*	*98*	*107*
Market share (%)	85,2	83,8	83,4	80,9
Index (2018 = 100)	*100*	*98*	*98*	*95*

Source: Eurostat, applicant, sampled Union producers.

(158) Sales volumes of the Union industry increased over the period considered by 7 %, which was less than the 13 % increase of consumption shown in Table 2. Therefore, despite the increase in sales volumes, taking also into account the parallel increase of imports from other third countries described in recital (147), the Union industry lost 4,3 percentage points of the market share. However, the Union industry market share is still at a high level.

5.5.2.3. Growth

(159) During the period considered, the Union consumption increased by 13 %, whereas the Union industry's volume of sales to unrelated customers in the Union increased by 7 %. Consequently, the Union industry has grown in absolute terms but not in terms of market share. However, growth in sales was also accompanied by growth in production, production capacity and investments.

5.5.2.4. Employment and productivity

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

Table 8

Employment and productivity

	2018	2019	2020	RIP
Number of employees	678	664	661	663
Index (2018 = 100)	*100*	*98*	*97*	*98*
Labour Productivity (m^3/ employee)	243	270	249	263

([75]) See recital (76) of Implementing Regulation (EU) 2017/648.

Index (2018 = 100)	*100*	*111*	*102*	*108*

Source: Applicant, sampled Union producers.

(161) After a slight reduction between 2018 and 2019, the number of employees remained rather stable over the remaining part in the period considered – the Union industry has been employing around 660 staff. Productivity per employee increased in the period considered by 8 %.

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

(162) As explained in recital (117), due to the negligible volume of imports from China it was not possible to establish a representative determination of dumping during the review investigation period. The investigation therefore focused on the likelihood of a recurrence of dumping should the anti-dumping measures be allowed to lapse.

(163) During the review investigation period, a number of injury indicators of Union industry showed favourable trends. On this basis, the Commission concluded that the Union industry recovered from past dumping.

5.5.3. *Microeconomic indicators*

5.5.3.1. Prices and factors affecting prices

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

Table 9

Sales prices and cost of production in the Union

	2018	2019	2020	RIP
Weighted average unit sales price in the Union (EUR/m³)	956	959	987	1 033
Index (2018 = 100)	*100*	*100*	*103*	*108*
Unit cost of production (EUR/m³)	939	922	978	1 011
Index (2018 = 100)	*100*	*98*	*104*	*108*

Source: Sampled Union producers.

(165) Unit sales prices remained stable in the first part of the period considered and then increased by 8 % in between 2019 and the review investigation period. This price increase fully reflected the increase in cost of production over the period considered.

5.5.3.2. Labour costs

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

Table 10

Average labour costs per employee

	2018	2019	2020	RIP
Average labour costs per employee (EUR)	31 134	31 846	30 408	31 521

Index	*100*	*102*	*98*	*101*

Source: Sampled Union producers.

(167) Between 2018 and the review investigation period, the average labour costs per employee of the sampled Union producers was rather stable and increased overall by 1 %.

5.5.3.3. Inventories

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

Table 11

Inventories

	2018	2019	2020	RIP
Closing stocks (m^3)	5 805	3 762	4 793	4 245
Index	*100*	*65*	*83*	*73*
Closing stocks as a percentage of production	9,6	5,8	7,6	6,1
Index	*100*	*61*	*79*	*64*

Source: Sampled Union producers.

(169) Usually, okoumé plywood is produced on order and the stock levels are therefore typically low. In 2018 they remained at a relatively high level, but over the period considered decreased by 36 %, from 9,6 % in relation to production volumes in 2018 to 6,1 % of production volumes in the review investigation period.

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2018	2019	2020	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	2,5	3,9	3,3	6,9
Index	*100*	*159*	*133*	*277*
Cash flow (EUR)	913 814	209 034	1 037 362	- 1 179 393
Index	*100*	*23*	*114*	*- 129*
Investments (EUR)	1 572 178	5 030 991	1 551 446	2 021 386
Index	*100*	*320*	*99*	*129*
Return on investments (%)	3,6	6,9	6,9	18,2
Index	*100*	*190*	*190*	*502*

Source: Sampled Union producers.

(171) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. Over the whole period considered, the Union industry remained profitable with an increasing trend. In the review investigation period profitability reached the level of almost 7 %.

(172) The net cash flow is the ability of the Union producers to self-finance their activities. Overall, in absolute terms cash flow was at a low level throughout the period considered and it was lower than during the period considered of the previous review. However, it still continued to be positive except during the review investigation period.

(173) Union producers continued investments over the whole period considered. The investments peaked in 2019. After a drop in the following year, which was obviously impacted by Covid-19, investments increased again in the review investigation period to a level 29 % higher than at the beginning of period considered.

(174) The return on investments is the profit in percentage of the net book value of investments. It developed positively during the period considered. During the review investigation period return on assets of the Union producers was 5 times higher than in 2018.

(175) None of the sampled Union producers reported any difficulties in their ability to raise capital.

5.6. **Conclusion on injury**

(176) The volume of imports from the country concerned was negligible during the period considered.

(177) During the period considered, the Union industry increased its production, production capacity and sales volumes. Loss of market share was noted, but this took place in the situation of overall consumption increase. The level of employment was marginally reduced, while productivity increased.

(178) In terms of financial indicators, it should be underlined that despite a constant increase of costs of production, the Union industry kept being profitable in all the years of the period considered. In the review investigation period, its profitability reached a level of almost 7 %. Furthermore, the Union industry increased investments and achieved a very good return on them.

(179) On the basis of the above, the Commission concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period.

6. **LIKELIHOOD OF RECURRENCE OF INJURY**

(180) The Commission concluded in recital (178) that the Union industry did not suffer material injury during the review investigation period. Therefore, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of recurrence of injury originally caused by the dumped imports from China if the measures were allowed to lapse.

(181) In this regard, the Commission examined the production capacity in China, the attractiveness of the Union market, and the impact of the potential import volume and import prices on the Union industry's situation should the measures be allowed to lapse.

(182) First, as described in recitals (125) to (128) above, in view of the considerable production capacities in China, it is likely that in the absence of measures imports from China would resume in significant quantities. As an indication of the potential of Chinese exporting producers to quickly increase their production and exports of okoumé plywood, it is recalled that in the original investigation Chinese exporting producers were able to increase their exports to the Union market from around 9 500 m^3 to more than 83 500 m^3 in less than three years (from 2001 to mid-2003). This figure should be seen against the background of 192 000 m^3 of Union consumption and 174 000 m^3 of Union industry production in the current RIP.

(183) No elements have been found that would indicate that the use of okoumé in the production of plywood in China has been substituted in a stable manner by other wood species. As explained in recital (126) the Chinese producers are still using okoumé to manufacture plywood. Due to the anti-dumping duties in place, imports from China almost ceased during the period considered, nevertheless, as confirmed by the investigation, there was a considerable demand for okoumé plywood on the Union market during the same period.

(184) Second, the prices on the Union market are relatively high in comparison to prices at which Chinese exporting producers can export their production, which makes the Union market very attractive for exporting producers in China.

(185) In this regard the Commission made an analysis concerning the likely price level at which the Chinese exporting producers would export to the Union market.

(186) With no exporting producer from the PRC cooperating and only very limited Chinese imports registered in Eurostat, the Commission used for the undercutting calculations the Chinese prices taken from commercial offers as provided by the applicant in the request (used also for dumping margin calculations as described in recital (119)) as an indication of possible price level at which Chinese producers would export the product concerned to the Union. Those prices were adjusted by adding the conventional rate of custom duty and post importation costs.

(187) After comparison of the Chinese CIF prices, thus established, to the ex-work sales prices of the sampled Union producers, undercutting of 40,8 % and 58,1 % was found for full okoumé plywood and faced okoumé plywood respectively.

(188) Moreover, the Chinese commercial offers taken into account in this calculation clearly show that prices to third countries are significantly lower (see recital (129) above) than prices to the Union, which additionally emphasizes the attractiveness of the Union market in terms of price level.

(189) In the likely scenario that imports from China of the product concerned would re-enter the Union market at prices considerably below the Union industry prices and in significant quantities, the Union industry would not be in a position to maintain its current price levels. This likely depression of prices would indeed jeopardise the current recovery progress of the Union industry and the Union industry would be brought to losses very quickly.

(190) Moreover, the Union industry would rapidly lose sales and market share on the Union market and production would consequently decrease. As a result the capacity utilisation rate would decrease again.

(191) On this basis, it is concluded that the absence of measures would in all likelihood result in a significant increase of dumped imports from China at injurious prices and material injury would be likely to recur.

7. **UNION INTEREST**

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

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

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

7.1. **Interest of the Union industry**

(195) As concluded in recital (178), the Union industry is no longer suffering from material injury. However, as concluded in recital (190), the Union industry would not be able to cope with a removal of the measures, which would likely to result in a significant quantity of dumped imports entering the Union market at prices undercutting those of the Union industry. A repeal of the measures would therefore put the industry's long term financial viability at stake. The continuation of the measures, therefore, is in the interest of the Union industry.

7.2. **Interest of unrelated importers and users**

(196) All known unrelated importers and users were informed about the initiation of the review. However, the Commission received no cooperation from unrelated importers and users.

(197) Therefore, there were no indications that the maintenance of the measures would have a negative impact on the users and/or importers outweighing the positive impact of the measures.

7.3. **Conclusion on Union interest**

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

8. **ANTI-DUMPING MEASURES**

(199) On the basis of the conclusions reached by the Commission on the likelihood of recurrence of dumping, likelihood of recurrence of injury and Union interest, the anti-dumping measures applicable to imports of okoumé plywood originating in China should be maintained.

(200) The individual company anti-dumping duty rates specified in Article 1(2) of this Regulation are exclusively applicable to imports of the product under review originating in China and produced by the named legal entities. Imports of the product under review produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other companies'. They should not be subject to any of the individual anti-dumping duty rates.

(201) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission ([76]). The request must contain all the relevant information demonstrating that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.

(202) To minimize the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.

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

(203) While presentation of this invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

(204) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the continuation of the measures, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the continuation of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty to the company benefiting from the lower individual anti-dumping duty rate.

(205) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained. All parties were also granted a period to make representations subsequent to this disclosure and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. No comments from interested parties were received.

(206) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ([77]) when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.

(207) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion on the measures provided for in this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of okoumé plywood, defined as plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with at least one outer ply of okoumé not coated by a permanent film of other materials, currently falling under CN code ex 4412 31 10 (TARIC code 4412 31 10 10) and originating in the People's Republic of China.

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

Company	Duty rate	TARIC additional code
Nantong Zongyi Plywood Co. Ltd Xingdong Town, Tongzhou City, Jiangsu Province, People's Republic of China	9,6 %	A526

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

Zhejiang Deren Bamboo-Wood Technologies Co. Ltd Linhai Economic Development Zone, Zhejiang, People's Republic of China	23,5 %	A527
Zhonglin Enterprise (Dangshan) Co. Ltd Xue Lou Miao Pu, Dangshan County, Anhui Province 235323, People's Republic of China	6,5 %	A528
Jiaxing Jinlin Lumber Co. Ltd North of Ganyao Town, Jiashan, Zhejiang Province, People's Republic of China	17 %	A529
All other companies	66,7 %	A999

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

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

Article 2

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

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

Done at Brussels, 13 June 2023.

For the Commission
The President
Ursula VON DER LEYEN