

Official Journal of the European Union

L 65



English edition

Legislation

Volume 64

25 February 2021

Contents

II *Non-legislative acts*

REGULATIONS

- ★ **Commission Implementing Regulation (EU) 2021/328 of 24 February 2021 imposing a definitive countervailing duty on imports of continuous filament glass fibre products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council** 1
- ★ **Commission Implementing Regulation (EU) 2021/329 of 24 February 2021 concerning the renewal of the authorisation of a preparation of endo-1,4-beta-xylanase and endo-1,3(4)-beta-glucanase for chickens for fattening (holder of the authorisation: AVEVE NV), and repealing Regulation (EC) No 1091/2009 ⁽¹⁾** 38
- ★ **Commission Implementing Regulation (EU) 2021/330 of 24 February 2021 concerning the authorisation of a preparation of 3-phytase produced by *Komagataella phaffii* CECT 13094 as a feed additive for pigs for fattening, minor porcine species, turkeys for fattening and reared for breeding (holder of authorisation: Fertinagro Biotech S.L.) ⁽¹⁾** 43
- ★ **Commission Implementing Regulation (EU) 2021/331 of 24 February 2021 on the reporting of abuses committed by commercial intermediaries providing application services for travel authorisation under Regulation (EU) 2018/1240 of the European Parliament and of the Council** ... 47

⁽¹⁾ Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

DECISIONS

- ★ Council Decision (EU) 2021/332 of 22 February 2021 on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 13, 13-H, 18, 30, 41, 46, 48, 53, 54, 67, 74, 75, 79, 86, 97, 98, 106, 107, 113, 116, 117, 118, 123, 124, 125, 141, 142, 148, 149, 150, 152, 154, 157 and UN Regulation on event data recorder, as regards the proposal for modifications to Global Technical Regulation No 9, as regards the proposal for amendments to Consolidated Resolution R.E.5, as regards the proposals for four new UN Regulations in relation to event data recorder, protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use, the approval of immobilizers and approval of a vehicle with regard to its immobilizer, and the approval of vehicle alarm system and approval of a vehicle with regard to its vehicle alarm system, as regards the proposal for a new Mutual Resolution M.R.4, and as regards the proposals for interpretation documents for UN Regulations Nos 155 and 156 55
 - ★ Commission Implementing Decision (EU) 2021/333 of 24 February 2021 postponing the expiry date of approval of alphachloralose for use in biocidal products of product-type 14 ⁽¹⁾ 58
-

Corrigenda

- ★ Corrigendum to Council Regulation (CFSP) 2021/251 of 18 February 2021 amending Regulation (EC) No 314/2004 concerning restrictive measures in view of the situation in Zimbabwe (OJ L 58, 19.2.2021) 60
- ★ Corrigendum to Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012 (OJ L 150, 7.6.2019) 61

⁽¹⁾ Text with EEA relevance.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2021/328

of 24 February 2021

imposing a definitive countervailing duty on imports of continuous filament glass fibre products originating in the People's Republic of China following an expiry review pursuant to Article 18 of the Regulation (EU) 2016/1037 of the European Parliament and of the Council

THE EUROPEAN COMMISSION,

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

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

Whereas:

1. PROCEDURE

1.1. Measures in force

- (1) By Council Implementing Regulation (EU) No 248/2011 ⁽²⁾ the Council imposed a definitive anti-dumping duty on imports of certain continuous filament glass fibre products ('GFR') originating in the People's Republic of China ('the PRC' or 'China'). The duty, based on the injury elimination level, ranged from 7,3 % to 13,8 %.
- (2) By Commission Implementing Regulation (EU) No 1379/2014 ⁽³⁾ following an anti-subsidy investigation and a partial interim review of the anti-dumping measures, the Commission amended the original anti-dumping duty to values ranging from 0 % to 19,9 % and imposed an additional countervailing duty ranging from 4,9 % to 10,3 %.
- (3) By Commission Implementing Regulation (EU) 2017/724 ⁽⁴⁾ following an expiry review of the anti-dumping measures, the Commission extended the anti-dumping duties for a further five years.
- (4) The resulting combined countervailing and anti-dumping measures therefore range from 4,9 % to 30,2 %.
- (5) Measures are also in force on imports of GFR originating in Egypt. By Commission Implementing Regulation (EU) 2020/870 ⁽⁵⁾ following an anti-subsidy investigation, the Commission imposed a definitive countervailing duty on imports of certain continuous filament glass fibre products originating in Egypt. The duty, based on the level of subsidisation, was 13,1 %.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ OJ L 67, 15.3.2011, p. 1.

⁽³⁾ OJ L 367, 23.12.2014, p. 22.

⁽⁴⁾ OJ L 107, 25.4.2017, p. 4.

⁽⁵⁾ OJ L 201, 25.6.2020, p. 10.

1.2. Initiation of an expiry review

- (6) On 17 December 2019, the European Commission ('the Commission') initiated an expiry review with regard to imports of GFR originating in the People's Republic of China. The Commission published a Notice of Initiation in the *Official Journal of the European Union* ('Notice of Initiation') ⁽⁶⁾.
- (7) The Commission initiated the investigation following a review request lodged by the European Glass Fibre Producers Association ('APFE' or 'the applicant') on behalf of producers representing more than 50 % of the total Union production of continuous filament glass fibre products. The request contained evidence of likelihood of continuation of subsidisation and continuation and recurrence of injury to the Union industry that was sufficient to justify the initiation of the investigation.
- (8) Prior to the initiation of the anti-subsidy investigation, the Commission notified the Government of China ('GOC') ⁽⁷⁾ that it had received a properly documented request, and invited the GOC for consultations in accordance with Article 10(7) of the basic Regulation. The GOC did not respond and therefore consultations did not take place.

1.3. Review investigation period and period considered

- (9) The investigation of subsidisation and injury covered the period from 1 January 2019 to 31 December 2019 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2016 to the end of the review investigation period ('the period considered').

1.4. Interested parties

- (10) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the applicant, the GOC, other known Union producers, the known exporting producers, known importers and users about the initiation of the investigation and invited them to participate.
- (11) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings. However no hearings were requested.

1.5. Sampling

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

1.5.1. Sampling of Union producers

- (13) In the Notice of Initiation, the Commission stated that it had decided to limit the investigation to a reasonable number of Union producers by applying sampling. The Commission selected the sample on the basis of the highest representative quantity of production which could reasonably be investigated within the time available. The sample originally selected was the same as for the separate anti-subsidy investigation concerning the same product originating in Egypt. The sample was considered representative of the Union industry. No comments on the sample were received.

1.5.2. Sampling of unrelated importers

- (14) 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.
- (15) No replies were received.

⁽⁶⁾ OJ C 424, 17.12.2019, p. 5.

⁽⁷⁾ The term 'GOC' is used in this Regulation in a broad sense, including the State Council, as well as all Ministries, Departments, Agencies and Administrations at central, regional or local level.

1.5.3. *Sampling of exporting producers in the PRC*

- (16) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (17) Three exporting producers or groups of exporting producers in the PRC provided the requested information and agreed to be included in the sample.
- (18) As a result, the Commission decided that sampling was not necessary and requested all cooperating parties to complete and return the questionnaire for exporting producers.

1.6. **Questionnaire replies and verification visits**

- (19) The questionnaires for the Union producers, importers, users, and exporting producers in the PRC were made available online ⁽⁸⁾ on the day of initiation. In addition, on the day of initiation, the Commission sent a questionnaire to the GOC.
- (20) No questionnaire replies were received from any of the Chinese exporting producers.
- (21) The Commission did not receive a reply to the questionnaire sent to the GOC.
- (22) Without prejudice to the application of Article 28 of the basic Regulation, the Commission sought and verified all information deemed necessary and made available by the parties in a timely manner for the determination of subsidy, injury and Union interest.
- (23) In view of the outbreak of COVID-19 and the confinement measures put in place by various Member States as well as by various third countries, the Commission could not carry out verification visits pursuant to Article 26 of the basic Regulation.
- (24) The Commission remotely cross-checked all the information deemed necessary for its determinations. The Commission carried out remote crosschecks ('RCC') of the following companies/parties:

Union producers

- European Owens Corning Fibreglass SPRL, Belgium
- Johns Manville Slovakia a.s., Slovakia
- 3B Fibreglass SPRL, Belgium

1.7. **Non-cooperation of the GOC**

- (25) The GOC did not reply to the questionnaire that was sent to it by the deadline fixed in the notice of Initiation.
- (26) On 10 March 2020 the Commission sent a Note Verbale to the GOC. The Note Verbale informed the GOC that the Commission had not received a reply to the questionnaire that had been sent to the GOC by the deadline provided, and requested that the GOC respond within 10 days.
- (27) No response was received from the GOC.
- (28) Therefore, in the absence of a questionnaire reply, the Commission used facts available under the terms of Article 28 of the basic Regulation as regards the information requested of the GOC.
- (29) These facts available relied mainly on the findings of the investigation into subsidisation of imports of glass fibre fabrics ('the GFF investigation') that was published on 15 June 2020 ⁽⁹⁾.

⁽⁸⁾ Available at http://trade.ec.europa.eu/tdi/case_details.cfm?id=2423

⁽⁹⁾ Commission Implementing Regulation (EU) 2020/776 (OJ L 189, 15.6.2020, p. 1), (GFF).

- (30) The Commission noted that GFF is made from GFR, which is the largest input in GFF production accounting for roughly 70 % of the cost of manufacturing of GFF. Therefore there is a significant overlap between the products.
- (31) According to the Commission's information, the exporting producers of GFR are the same exporting producers recently investigated in the GFF case, therefore there is an overlap also from this point of view.
- (32) Therefore, all the horizontal subsidy schemes such as tax incentives, preferential lending etc. benefit all the activities of these companies, including GFR. The IP of the GFF case was calendar year 2018, therefore very close to the RIP of this investigation.
- (33) There is no evidence on file suggesting that the subsidies for GFF producers have in the meantime been discontinued or the underlying relevant preferential policies are no longer applicable. For all these reasons, the findings of the GFF case constitute appropriate facts available in this case.
- (34) Where the facts of the GFF case are not relevant or need to be supplemented by further facts and evidence, the Commission relied on the information contained in the request for review, on other previous relevant decisions in countervailing duty investigations concerning the PRC, or on other relevant evidence.

1.8. Non-cooperation by the Chinese exporting producers

- (35) The three Chinese exporting producers that were invited to submit questionnaire replies did not do so by the deadline fixed in the Notice of Initiation.
- (36) On 10 March 2020, the Commission sent letters to the three Chinese exporting producers informing them that it had not received their reply to the questionnaire, and requested that they respond within 10 days.
- (37) One Chinese exporting producer did not respond.
- (38) The remaining two Chinese exporting producers responded to the letter sent on 10 March 2020 but both requested that they be excused from the responsibility of replying to the Commission's questionnaire. This request was not connected to the COVID outbreak and was not a valid reason for not cooperating.
- (39) Therefore, in the absence of any questionnaire replies, the Commission used facts available under the terms of Article 28 of the basic Regulation as regards the information that was to be supplied by the Chinese exporting producers.
- (40) These facts available included the company specific findings of the GFF investigation as regards the benefit to Chinese exporting producers during the GFF investigation period, being calendar year 2018, and as far as those findings relate to GFR.
- (41) The Commission considered, in the absence of evidence to the contrary, that the benefit found in the GFF investigation and which could be linked to GFR continued into and during calendar year 2019.
- (42) Given the lack of cooperation from both the Chinese exporting producers of GFR and the GOC the Commission was unable to calculate the benefit received by the Chinese exporting producers of GFR from these subsidy practices during the review investigation period.
- (43) However, the Commission was able to take the findings of the GFF Regulation as regards benefit, and consider that these findings were applicable to Chinese exporting producers of GFR during the review investigation period.
- (44) This is because none of the subsidy practices investigated were linked directly to the production or export of GFF, but were rather subsidies which benefited the entire company or group of Chinese companies making also GFR. The Commission therefore in the GFF investigation first determined the benefit received by the exporting producer, and then allocated that benefit over their total turnover for all products sold by the exporting producer, including GFR.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (45) The product subject to this review is chopped glass fibre strands, of a length of not more than 50 mm ('chopped strands'); glass fibre rovings, excluding glass fibre rovings which are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887) ('rovings'); and mats made of glass fibre filaments excluding mats of glass wool ('mats') currently falling under CN codes 7019 11 00, ex 7019 12 00 (TARIC codes 7019 12 00 22, 7019 12 00 25, 7019 12 00 26, 7019 12 00 39) and 7019 31 00 ('the product under review').
- (46) The product under review is the raw material most often used to reinforce thermoplastic and thermoset resins in the composites industry. The resulting composite materials (filament glass fibre reinforced plastics) are used in a large number of industries: automotive industry, electric/electronics, wind turbine blades, building/construction, tanks/pipes, consumer goods, aerospace/military, etc.

2.2. Like product

- (47) The investigation showed that the following products have the same basic physical, chemical and technical characteristics as well as the same basic uses:
- the product under review originating in the PRC, exported to the Union;
 - the product produced and sold on the domestic market of PRC; and
 - the product produced and sold in the Union by the Union industry.
- (48) The Commission considered that those products were therefore like products within the meaning of Article 2(c) of the basic Regulation.

3. SUBSIDISATION

3.1. Introduction: Presentation of GOC plans, projects and other documents

- (49) Before analysing the alleged subsidisation in the form of subsidies or subsidy programmes, the Commission assessed government plans, projects and other documents, which were relevant for more than one of the subsidies or subsidy programmes. Given the absence of cooperation from the GOC, as set out above, the Commission used the information set out in the request for review and the findings of the GFF investigation insofar as they could be linked to GFR.
- (50) It found that all of the subsidies or subsidy programmes under assessment form part of the implementation of the GOC's central planning to encourage the GFR industry for the reasons set out below.
- (51) The 12th Five-Year Plan for National Economic and Social Development of the PRC ('the 12th Five-Year Plan') highlighted the importance of the new materials industry, which includes GFR, as a 'strategic emerging industry' and stipulates that it should be developed into a 'leading pillar industry' through comprehensive policy support and guidance ⁽¹⁰⁾. Furthermore, the 13th Five-Year Plan for National Economic and Social Development of the PRC ('the 13th Five-Year Plan'), which covers the period 2016-2020, aims to develop further new materials industries by strengthening research and development and enhancing the innovation capability of the manufacturing industry ⁽¹¹⁾.
- (52) The 13th Five-Year Plan highlights the strategic vision of the GOC for improvement and promotion of key industries. It emphasizes the role of technological innovation in the economic development of the PRC, as well as the continued importance of 'green' development principles. According to its Chapter 5, one of the main development lines is to promote the upgrading of the traditional industrial structure, as was already the case in the 12th Five-Year Plan.

⁽¹⁰⁾ See 12th Five-Year Plan, page 9.

⁽¹¹⁾ See 13th Five-Year Plan, pages 23 and 24.

Chapter 22 further elaborates this idea explaining the strategy to modernize the traditional industry in the PRC by promoting its technological conversion. In this respect, the 13th Five-Year Plan states that companies will be supported to *'comprehensively improve in areas such as product technology, industrial equipment, environmental protection and energy efficiency'*.

- (53) The 13th Five-Year Plan mentions the new materials in a couple of instances: *'we will move faster to make breakthroughs in core technologies in fields such as next generation information and communications, new energy, new materials [...]'* ⁽¹²⁾. The plan furthermore envisages that there will be projects carried out related to key new materials research, development and application ⁽¹³⁾.
- (54) The new materials industry is also an encouraged industry under the Made in China 2025 initiative ⁽¹⁴⁾, and thereby eligible to benefit from considerable State funding. A number of funds had been created to support the Made in China 2025 initiative and hence indirectly the GFR industry such as the National Integrated Circuit fund, the Advanced Manufacturing Fund and the Emerging Industries Investment Fund ⁽¹⁵⁾.
- (55) Furthermore, GFR is often referred to under the umbrella of 'new materials'. The Made in China 2025 Roadmap ⁽¹⁶⁾ contains 10 strategic sectors, which are the key industries for the GOC. It describes in Sector 9 'new materials' and its subcategories, including advanced fundamental materials (point 9.1), key strategic materials (point 9.2) including high performance fibres and composite materials, new energy materials ⁽¹⁷⁾. New materials thus benefit from the advantages stemming from the support mechanisms listed in the document, including, among others, Financial Support Policies, Fiscal & Taxation Policy, State Council Oversight and Support ⁽¹⁸⁾.
- (56) Additionally, further to the Made in China 2025 Roadmap, in November 2016, the list of 10 strategic sectors was refined into a Catalogue of Four Essentials published by the National Manufacturing Strategy Advisory Committee (NMSAC), an advisory group to the National Leading Small Group on Building a National Manufacturing Power. In this catalogue, each of the 10 strategic sectors is split into four chapters: (i) core essential spare parts, (ii) key essential materials, (iii) advanced essential processes/technologies and (iv) industry technology platforms. Glass fibre can be found in sector 7: electrical equipment, point II key essential material: subpoint 16 glass fibre insulation boards and sector 9: new materials, point II key essential materials, subpoints 10. High-performance fibre, monomer and composite materials and 24. Glass-based materials.
- (57) Furthermore, the Building Materials Industry Development Plan (2016-2020) also promotes the GFR industry. This plan calls for optimizing industrial structure by, inter alia, expanding emerging industries such as glass-based materials, industrial ceramics, intraocular lens, high-performance fibres and composites, and graphene and modified materials. This is to be achieved through government funding, taxation, financial, pricing, energy, and environmental protection policies, and support for capital to participate in the mergers, acquisitions and restructuring of building materials enterprises through various means including lending ⁽¹⁹⁾.
- (58) The GFR industry is also covered by the 2016-2020 Five-Year plan for Intelligent Manufacturing published by the Chinese Ministry of Industry and Information Technology (the 'MIIT'), which sets up 10 key tasks that aim at shortening the product development cycle, improving production efficiency, product quality, reducing operating cost, resources and energy consumption, and accelerating the development of intelligent manufacturing.

⁽¹²⁾ See 13th Five-Year Plan for Economic and Social Development of the People's Republic of China, part II, Chapter 6, Section 1.

⁽¹³⁾ Ibid, part II, Chapter 6, Section 4.

⁽¹⁴⁾ http://www.gov.cn/zhengce/content/2015-05/19/content_9784.htm

⁽¹⁵⁾ See US-China Economic and Security Review Commission: The 13th Five-Year Plan, page 12.

⁽¹⁶⁾ <https://www.cae.cn/cae/html/files/2015-10/29/20151029105822561730637.pdf>

⁽¹⁷⁾ See Made in China 2025 Roadmap. p. 142, 152.

⁽¹⁸⁾ See Made in China 2025, Chapter 4: Strategic Support and Supply.

⁽¹⁹⁾ See the Building Materials Industry Development Plan (2016-2020).

- (59) Moreover, the China High-Tech Export Products Catalogue issued by the Ministry of Science and Technology, the Ministry of Foreign Trade and the General Administration of customs lists 1900 high-tech products in 8 categories, which are targeted for preferential export policies by the GOC. One of the categories is the 'New Materials' category, which includes GFR ⁽²⁰⁾. In addition, the China High-Tech Products Catalogue issued by the Ministry of Science and Technology, the Ministry of Finance and State Administration of Taxation refers to 11 areas, among which the 'new materials category'.
- (60) Furthermore, according to the Law of the PRC on Science and Technology Progress, the high-tech enterprises established in High-tech Development Zones can benefit from a list of preferential policies, which include: (i) an Enterprise Income Tax ('EIT') rate of 15 %, instead of the normal rate of 25 %; (ii) if the output value of export products reaches 70 % of the total value for that year, the EIT rate is further reduced to 10 %; (iii) newly-established high-tech enterprises are exempt from EIT tax for the first two years from the date production begins; (iv) newly-established high-tech enterprises are exempt from construction tax; (v) for new technology development and production and operation houses, R & D land is tax-free; (vi) equipment used by high-tech enterprises for high-tech production and development is subject to accelerated depreciation; (vii) export products produced by high-tech enterprises are exempt from export tariffs except those restricted by the State or concerning specific products, etc. ⁽²¹⁾

3.2. Subsidies and subsidy programmes within the scope of the current investigation

- (61) On the basis of the information contained in the review request and the Notice of Initiation the Commission investigated the following subsidy practices:
- (1) direct transfer of funds;
 - (2) government revenue forgone or not collected;
 - (3) government provision of goods or services for less than adequate remuneration; and
 - (4) payments to a funding mechanism or the entrusting or directing of a private body to carry out one or more of the above functions.
- (62) More precisely, the Commission investigated:
- the provision of preferential loans and provision of credit lines by State-owned banks,
 - export credit subsidy programmes, export guarantees and insurances and grant programmes;
 - preferential income tax treatment & tax offset for R & D, accelerated depreciation of instruments and equipment used by High-Tech enterprises for High-Tech development and production,
 - dividend exemption between qualified resident enterprises, withholding tax reduction for dividends from foreign-invested Chinese enterprises to their non-Chinese parent companies,
 - land use tax exemptions, export tax rebates, import tariff rebates and VAT exemptions and import tariff rebates for the use of imported equipment and technology and VAT rebates on Foreign Invested enterprise (FIE) purchases of Chinese-made equipment.
- (63) The Commission also investigated the government provision of land and power as well as raw material for less than adequate remuneration.
- (64) These subsidy practices were countervailed in the original anti-subsidy investigation by Implementing Regulation (EU) No 1379/2014.

⁽²⁰⁾ Preferential policies of the National High-Tech Industrial Development Zones, pages 12 to 14.

⁽²¹⁾ Preferential policies of the National High-Tech Industrial Development Zones, page 1.

3.3. Preferential financing

3.3.1. Financial institutions providing preferential financing

- (65) According to the information available to the Commission, the Export-Import Bank of China ('EXIM Bank') provides export-contingent loans at preferential rates to Chinese companies that produce new- and hi-tech products, products with indigenous intellectual rights, self-owned brands, high value-added products and software products that are registered with the authorities for industry and commerce ⁽²²⁾.
- (66) According to the information available to the Commission, Chinese GFR producers qualify for export-oriented loans as new- and hi-tech products and/or as self-owned brands, given that several producers are recognized as 'National High-Tech Enterprises' or have been awarded famous brand, top brand, etc. status.
- (67) Furthermore, EXIM Bank also assists exporters through export buyers' credits. Export buyers' credits are provided to foreign companies to finance their import of Chinese products, technologies and services ⁽²³⁾.
- (68) In previous investigations, and notably in the GFF investigation, the Commission ascertained whether the State-owned banks were acting as public bodies within the meaning of Articles 3 and 2(b) of the basic Regulation. In this respect, the applicable test to establish that a State-owned undertaking is a public body is as follows ⁽²⁴⁾:
- (69) 'What matters is whether an entity is vested with authority to exercise governmental functions, rather than how that is achieved. There are many different ways in which government in the narrow sense could provide entities with authority. Accordingly, different types of evidence may be relevant to showing that such authority has been bestowed on a particular entity. Evidence that an entity is, in fact, exercising governmental functions may serve as evidence that it possesses or has been vested with governmental authority, particularly where such evidence points to a sustained and systematic practice. It follows, in our view, that evidence that a government exercises meaningful control over an entity and its conduct may serve, in certain circumstances, as evidence that the relevant entity possesses governmental authority and exercises such authority in the performance of governmental functions. We stress, however, that, apart from an express delegation of authority in a legal instrument, the existence of mere formal links between an entity and government in the narrow sense is unlikely to suffice to establish the necessary possession of governmental authority. Thus, for example, the mere fact that a government is the majority shareholder of an entity does not demonstrate that the government exercises meaningful control over the conduct of that entity, much less that the government has bestowed it with governmental authority. In some instances, however, where the evidence shows that the formal indicia of government control are manifold, and there is also evidence that such control has been exercised in a meaningful way, then such evidence may permit an inference that the entity concerned is exercising governmental authority.'
- (70) The Commission sought information about State ownership as well as formal indicia of government control in the State-owned banks. However, due to the non-cooperation of the GOC and the sampled exporting producers, the Commission had to rely entirely on facts available. In this respect, the Commission considered the findings of the GFF investigation to be a reliable source of information. These findings are in fact very recent and analysed the same behaviour of the same financial institutions and the same schemes applicable in this case.
- (71) In the GFF investigation and other investigations, the Commission concluded that the following banks were partially or fully owned by the State itself or by State-held legal persons: EXIM Bank, China Development Bank, China Construction Bank, Industrial and Commercial Bank of China, Bank of Communications, China Everbright Bank, Postal Savings Bank, China Merchants Bank, Shanghai Pudong Development Bank, China Industrial Bank, Shenyang Rural Commercial Bank, Bank of Shanghai, Ningbo Bank, China CITIC Bank, China Guangfa Bank, China

⁽²²⁾ EXIM Bank 2017 Annual Report, p. 5. Accessed from <http://english.eximbank.gov.cn/News/AnnualR/2017/> on 17.11.2020 and is available on the open file reference t20.007533.

⁽²³⁾ EXIM Bank, 2017 Annual Report, page 33.

⁽²⁴⁾ WT/DS379/AB/R (US – Anti-dumping and Countervailing Duties on Certain Products from China), Appellate Body Report of 11 March 2011, DS 379, paragraph 318. See also WT/DS436/AB/R (US – Carbon Steel (India)), Appellate Body Report of 8 December 2014, paragraphs 4.9 – 4.10, 4.17 – 4.20 and WT/DS437/AB/R (United States – Countervailing Duty Measures on Certain Products from China) Appellate Body Report of 18 December 2014, paragraph 4.92.

Bohai Bank, Huaxia Bank, Hankou Bank, Hubei Bank, Huishang Bank, Dongying Bank, Bank of Tianjin, Bank of Kunlun, Shanghai Rural Commercial Bank, China Industrial International Trust Limited, Daye Trust Co., Ltd., Sinotruk Finance Co., Ltd. Since no information has been provided indicating otherwise, the Commission maintained the same conclusion in the present investigation.

- (72) The Commission further established, absent specific information indicating otherwise, GOC ownership and control based on formal indicia. In particular, based on facts available, managers and supervisors in the non-cooperating State-owned banks would appear to be appointed by the GOC and be accountable to the GOC.
- (73) In those investigations, the Commission also concluded that the GOC exercise its control over these financial institutions in a meaningful manner.
- (74) In its analysis, the Commission took into account the following regulatory documents:
- (a) Article 34 of the Law of the PRC on Commercial Banks ('Bank law');
 - (b) Article 15 of the General Rules on Loans (implemented by the People's Bank of China)
 - (c) Decision No 40;
 - (d) Implementing Measures of the China Banking Regulatory Commission ('CBIRC') for Administrative Licensing Matters for Chinese-funded Commercial Banks (Order of the CBIRC [2017] No 1);
 - (e) Implementing Measures of the CBIRC for Administrative Licensing Matters relating to Foreign-funded Banks (Order of the CBIRC [2015] No 4); and,
 - (f) Administrative Measures for the Qualifications of Directors and Senior Officers of Financial Institutions in the Banking Sector (CBIRC [2013] No 3)
- (75) Reviewing these regulatory documents, the Commission found that financial institutions in the PRC operate in a general legal environment that directs them to align themselves with the GOC's industrial policy objectives when taking financial decisions, for the reasons set out below.
- (76) Article 34 of the Bank Law, which applies to all financial institutions operating in China, provides that 'Commercial banks shall conduct their business of lending in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State'.
- (77) Although Article 4 of the Bank Law states that 'Commercial banks shall, pursuant to law, conduct business operations without interference from any unit or individual. Commercial banks shall independently assume civil liability with their entire legal person property', it is applied subject to Article 34 of the Bank law. Where the State establishes a public policy, the banks implement it and follow State instructions.
- (78) In addition, Article 15 of the General Rules on Loans provides that 'In accordance with the State's policy, relevant departments may subsidize interests on loans, with a view to promoting the growth of certain industries and economic development in some areas.'
- (79) Similarly, Decision No 40 instructs all financial institutions to provide credit support specifically to 'encouraged' projects. As already explained in Section 3.1, the GFR industry belongs to the 'encouraged' category. Decision No 40 hence confirms that banks exercise governmental authority in the form of preferential credit operations. The Commission also found that the CBIRC has far-reaching approval authority over all aspects of the management of all financial institutions established in the PRC (including privately owned and foreign owned financial institutions), such as ⁽²⁵⁾:

⁽²⁵⁾ According to the Implementing Measures of the CBIRC for Administrative Licensing Matters for Chinese-funded Commercial Banks (Order of the CBIRC [2017] No 1), the Implementing Measures of the CBIRC for Administrative Licensing Matters relating to Foreign-funded Banks (Order of the CBIRC [2015] No 4) and the Administrative Measures for the Qualifications of Directors and Senior Officers of Financial Institutions in the Banking Sector (CBIRC [2013] No 3).

- approval of the appointment of all managers of the financial institutions, both at the level of headquarters and at the level of local branches. Approval of the CBIRC is required for the recruitment of all levels of management, from the most senior positions down to branch managers, and even includes managers appointed in overseas branches as well as managers responsible for support functions (for example the IT managers); and
- a very long list of administrative approvals, including approvals for setting up branches, for starting new business lines or selling new products, for changing the Articles of Association of the bank, for selling more than 5 % of their shares, for capital increases, for changes of domicile, for changes of organizational form, etc.

- (80) Absent any indication to the contrary, based on facts available, the Commission in this case reached the same conclusion.
- (81) On that basis, the Commission concluded that the State-owned banks were public bodies within the meaning of Article 2(b) read in conjunction with Article 3(1)(a)(i) of the basic Regulation.

3.3.2. *Preferential financing: loans*

- (82) In previous investigations, and notably the GFF investigation, the Commission found that all sampled groups of exporting producers benefited from preferential lending during 2018. In view of the existence of a financial contribution, a benefit to the exporting producers and specificity, the Commission considered preferential lending a countervailable subsidy.
- (83) In the GFF investigation, the Commission found that all the sampled companies benefitted from preferential loans (including revolving loans).
- (84) The Commission observed that (i) companies active in the GFF industry were generally vertically integrated and therefore also active in the GFR industry; and (ii) the investigation period of the GFF investigation was close to the RIP. Thus, absent any information to the contrary, the Commission considered that the findings in that case applied to this case as well. The finding of the GFF investigation on this matter were therefore used as facts available pursuant to Article 28 of the basic Regulation.
- (85) The Commission therefore concluded that companies active in the GFR industry benefitted from preferential lending during the RIP.

3.3.2.1. Benefit

- (86) In previous investigations, and notably in the GFF investigation, the Commission concluded that according to Article 6(b) of the basic Regulation, the benefit conferred on the recipients was the difference between the amount of interest that the company pays on the preferential loan and the amount that the company would pay for a comparable commercial loan obtainable on the market.
- (87) In this regard, the Commission noted that the loans provided by Chinese financial institutions reflected substantial government intervention and did not reflect rates that would normally be found in a functioning market. In the context of an expiry review, the Commission is not required to calculate the amount of benefit conferred upon the exporting producers during the RIP. Absent any information to the contrary, the Commission therefore considered that the findings in that case (with subsidy amounts ranging from 2,53 % to 7,39 %) ⁽²⁶⁾ applied to this case as well. The finding of the GFF investigation on this matter was therefore used as facts available pursuant to Article 28 of the basic Regulation. The Commission considered that the amount of subsidisation would still be significant.

⁽²⁶⁾ GFF Regulation, recital 344.

3.3.2.2. Specificity

- (88) In the GFF investigation, the Commission concluded that the GOC in several legal documents, which specifically target companies in the sector, directed the financial institutions to provide loans at preferential rates to the GFF industry. The Commission therefore concluded that these documents demonstrated that the financial institutions only provide preferential lending to a limited number of industries/companies, which comply with the relevant policies of the GOC.
- (89) In that investigation, the Commission therefore concluded that subsidies in the form of preferential lending were not generally available but specific within the meaning of Article 4(2)(a) of the basic Regulation. Moreover, there was no evidence submitted by any of the interested parties suggesting that the preferential lending was based on objective criteria or conditions in the sense of Article 4(2)(b) of the basic Regulation.
- (90) The GFR industry has the same status of the GFF industry and the vast majority of the company active in one industry, being vertically integrated, are also active in the other one. In the absence of cooperation and of any indication to the contrary, the Commission used the findings in the GFF investigation as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (91) The Commission therefore concluded that subsidies in the form of preferential lending were not generally available but specific within the meaning of Article 4(2)(a) of the basic Regulation.

3.3.2.3. Conclusion

- (92) In light of the above, the Commission concluded that the GFR industry continued to be subsidised by means of loans at preferential rates.

3.3.3. *Preferential financing: other types of financing*

3.3.3.1. Credit lines

- (93) The applicant further claimed that the GOC subsidised the GFR industry by opening large credit lines to undertakings active in that industry.
- (94) In previous investigations, and notably the GFF investigation, the Commission concluded that credit lines granted to exporting producers in the PRC constituted a countervailable subsidy. That investigation revealed that Chinese financial institutions also provided credit lines at preferential conditions in connection with the provision of financing to undertakings active in the GFF industry. In that investigation, the Commission could verify that these consisted of framework agreements, under which the bank allowed the sampled companies to use various debt instruments, such as working capital loans, bank acceptance drafts, documentary bills, other forms of trade financing, etc., within a certain maximum amount.
- (95) The purpose of a credit line is to establish a borrowing limit that the company can use at any time to finance its current operations thus making working capital financing flexible and immediately available when needed. The GFF investigation showed that exporting producers of GFF had credit line agreements with different banks that covered diverse short-term financing instruments with the purpose to finance operating expenses. Consequently, the Commission considered that in principle, all short-term financing of the sampled companies should be covered by a sort of credit line instrument, including bank acceptance drafts, which were issued on a regular basis to finance existing operations.
- (96) In that investigation, the Commission compared the amount of the credit lines available to the cooperating companies during 2018 with the amount of short-term financing used by those companies during the same period to establish whether all short-term financing was covered by a credit line. In case the amount of the short-term financing exceeded the credit line limit, the Commission increased the amount of the existing credit line by the amount actually used by the exporting producers beyond that credit line limit.

- (97) Under normal market circumstances, credit lines would be subject to a so-called 'arrangement' or 'commitment' fee to compensate for the bank's costs and risks at the opening of a credit line, as well as to a renewal fee charged on a yearly basis for renewing the validity of the credit lines. In that case, the Commission found that all of the sampled companies benefited from credit lines provided free of charge.
- (98) The Commission then calculated the benefit received as the difference between the amount that the company has paid as a fee for the opening or the renewal of credit lines by Chinese financial institutions and the amount that the company would pay for a comparable commercial credit line, which the company could obtain on the market.
- (99) The Commission also concluded that the scheme was specific because the GOC in several legal documents, which specifically target companies in the sector, directed the financial institutions to provide these credit lines to the GFF industry. The Commission therefore concluded that these documents demonstrate that the financial institutions only provide preferential lending to a limited number of industries/companies, which comply with the relevant policies of the GOC.
- (100) As already mentioned, the Commission considered that the findings of the GFF were particularly relevant for this case because the companies active in the GFF industry are generally also active in the GFR industry, the GFR industry has the same status as the GFF industry. In addition, the investigation period for the GFF investigation is very close to the RIP. The Commission therefore used the findings of the GFF investigation concerning credit lines ⁽²⁷⁾ as facts available pursuant to Article 28 of the basic Regulation.
- (101) The Commission therefore concluded that the GOC supported the GFR industry by opening of credit lines. In light of the above, the Commission also concluded that the GFR continued to be subsidised by means of credit lines at preferential terms.

3.4. Preferential insurance: export credit insurance

- (102) The applicant alleged that Sinasure provided short-, medium- and long-term export credit insurance, investment insurance and bond guarantees, among other services, on a concessional basis to encouraged industries. According to a recent study undertaken by the Organisation for Economic Cooperation and Development ('OECD'), the Chinese hi-tech industry, of which the GFR industry is part, received 21 % of the total export credit insurance provided by Sinasure ⁽²⁸⁾.
- (103) Furthermore, Sinasure has taken an active role in fulfilling the 'Made in China 2025' Initiative, guiding enterprises to use national credit resources, carrying out scientific and technological innovation and technological upgrading, and helping 'going out' enterprises become more competitive in the global market ⁽²⁹⁾.
- (104) The Commission has analysed the export credit insurance schemes offered by Sinasure in various investigations, including the GFF investigation.
- (105) The Commission found that the legal basis of Sinasure's action was the following:
- Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance (Shang Ji Fa [2004] No 368), issued jointly by MOFCOM and Sinasure;
 - 840 plan included in the Notice by the State Council of 27 May 2009;
 - Notice on Cultivation and Development of the State Council on Accelerating Emerging Industries of Strategic Decision (GuoFa [2010] No 32 of 18 October 2010), issued by the State Council and its Implementing Guidelines (GuoFa [2011] No 310 of 21 October 2011);
 - Notice on Issuing the 2006 Export Catalogue of High-Tech Products of China, Guo Ke Fa Ji Zi [2006] No 16; and,
 - Notice on Compilation of Guide Catalogue of Chinese High-tech Products from the Ministry of Science and Technology, G.K.B.J. [2009] No 61 of 9 October 2009.

⁽²⁷⁾ GFF Regulation, recitals 345 – 357.

⁽²⁸⁾ OECD Study on Chinese export credit policies and programmes, page 7, para. 32.

⁽²⁹⁾ See Sinasure website, Company profile, Supporting 'Made in China'.

- (106) According to information provided in previous anti-subsidy investigations, including the GFF investigation, Sinosure is a State-owned policy insurance company established and supported by the State to support the PRC's foreign economic and trade development and cooperation. The company is 100 % owned by the State. It has a board of directors and a board of supervisors. The Government has the power to appoint and dismiss the company's senior managers. Based on this information, the Commission concluded that there were formal indications of government control with respect to Sinosure.
- (107) In past investigations, the Commission further sought information about whether the GOC exercised meaningful control over the conduct of Sinosure with respect to the GFF industry. In this context, the Commission noted that the Export Catalogue of High and New Technology Products of China specifically listed glass fibre products, including GFF, as encouraged to be exported ⁽³⁰⁾.
- (108) In those investigations, the Commission also found that, according to the Notice on the Implementation of the Strategy of Promoting Trade through Science and Technology by Utilising Export Credit Insurance, Sinosure should increase its support for key industries and products by strengthening its overall support for the export of high and new technology products. It should treat industries such as 'new materials' and other high and new technology industries listed in the Export Catalogue of High and New Technology Products of China, as its business focus and provide comprehensive support in terms of underwriting procedures, approval with limits, claims processing speed and rate flexibility. With regard to rate flexibility, it should give products the maximum premium rate discount within the floating range provided by the credit insurance company.
- (109) On this basis, the Commission concluded that the GOC has created a normative framework that had to be adhered to by the managers and supervisors of Sinosure appointed by the GOC and accountable to the GOC. Therefore, the GOC relied on the normative framework in order to exercise control in a meaningful way over the conduct of Sinosure.
- (110) The Commission also examined the actual behaviour of Sinosure with regard to the insurance provided to the sampled companies and found that it was not acting based on market principles. The Commission could in fact verify that the premiums paid by the companies sampled in those cases were much lower than the minimum fee needed to cover operational costs.
- (111) The Commission also found that some of the exporting producers benefited from a partial or total refund of the export credit insurance premiums paid to Sinosure.
- (112) The Commission concluded that the legal framework set out above was being implemented by Sinosure in the exercise of governmental functions. The Commission also concluded that Sinosure acted as a public body in the sense of Article 2(b) of the basic Regulation read in conjunction with Article 3(1)(a)(i) of the basic Regulation and in accordance with the relevant WTO case law.
- (113) The Commission also concluded that the action of Sinosure granted a benefit to the exporting producers, since the insurance was provided at rates below the minimum fee needed for Sinosure to cover its operational costs.
- (114) The Commission also determined that the subsidies provided under the export insurance programme were specific, because they could not be obtained without exporting and were thus export contingent within the meaning of Article 4(4)(a) of the basic Regulation.
- (115) The Commission notes that the GFR industry is included in the more general category of 'new materials' and that the Annual Report of Sinosure for 2017 states that Sinosure has actively insured transactions of strategic emerging industries such as new materials ⁽³¹⁾. The above consideration therefore apply to the GFR industry as well.

⁽³⁰⁾ Export Catalogue of High and New Technology Products, No 531 to 545.

⁽³¹⁾ Sinosure Annual Report 2017, p. 6.

- (116) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽³²⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (117) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised by means of export credit insurance granted by Sinosure.

3.5. Government provision of goods for less than adequate remuneration

3.5.1. Raw materials for less than adequate remuneration

- (118) In their request for review, the applicant noted the clear support for the GFR industry in the 13th 5-Year Plan, and therefore said that it was reasonable to conclude that SOEs and private companies operating under government direction provide raw and input materials to the GFR industry at less than adequate remuneration.
- (119) Given the lack of cooperation by the GOC and the Chinese exporting producers, the Commission was unable to investigate in detail these allegations. However, in view of the general conclusion on the existence of continuation of subsidisation based on all other subsidy programmes, and for reasons of administrative economy, the Commission did not consider it necessary to pursue further the investigation on these allegations as it would not have any impact on the findings of the present review. This is therefore without prejudice to a substantive analysis on the allegations contained in the request.

3.5.2. Land use rights (LUR)

- (120) All land in the PRC is either owned by the State or by a collective, constituted of either villages or townships, before the land's legal or equitable title may be granted to corporate or individual owners. All parcels of land in urbanized areas are owned by the State and the villages or townships own all parcels of land in rural areas therein.
- (121) Pursuant to the constitutional law of the PRC and the Land Law, companies and individuals may however purchase 'land use rights'. For industrial land, the leasehold is normally 50 years, renewable for a further 50 years.
- (122) Article 137 of the Property Law of the People's Republic of China stipulates that '*the land used for purposes of industry, business, entertainment or commercial dwelling houses, etc. or the land for which there are two or more intended users shall be transferred by means of auction, bid invitation or any other public bidding method.*'
- (123) Furthermore, Article 3 of the Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in Urban Areas provides that '*any company, enterprise, other organization and individual within or outside the People's Republic of China may, unless otherwise provided by law, obtain the right to the use of the land and engage in land development, utilization and management in accordance with the provisions of these Regulations.*'
- (124) The GOC has made clear in previous investigations that it considers that there is a free market for land in the PRC, and that the price paid by an industrial enterprise for the leasehold title of the land reflects the market price.

(a) Legal basis

- (125) The land-use right provision in the PRC falls under the Land Administration Law of the People's Republic of China. In addition, the following documents also are part of the legal basis:
- Property Law of the People's Republic of China (Order of the President of the People's Republic of China No 62);
 - Land Administration Law of the People's Republic of China (Order of the President of the People's Republic of China No 28);

⁽³²⁾ GFF Regulation, recital 483.

- Law of the People's Republic of China on Urban Real Estate Administration (Order of the President of the People's Republic of China No 18);
- Interim Regulations of the People's Republic of China Concerning the Assignment and Transfer of the Right to the Use of the State-owned Land in the Urban Areas (Decree No 55 of the State Council of the People's Republic of China);
- Regulation on the Implementation of the Land Administration Law of the People's Republic of China (Order of the State Council of the People's Republic of China [2014] No 653);
- Provision on Assignment of State-owned Construction Land Use Right through Bid Invitation, Auction and Quotation (Announcement No 39 of the CSRC);
- Notice of the State Council on the Relevant Issues Concerning the Strengthening of Land Control (Guo Fa (2006) No 31).

(b) Findings of the investigation

- (126) According to Article 10 of the 'Provision on Assignment of State-owned Construction Land Use Right through Bid Invitation, Auction and Quotation', local authorities set land prices according to the urban land evaluation system, which is only updated every three years, and the government's industrial policy.
- (127) In previous investigations, the Commission found that prices paid for LUR in the PRC were not representative of a market price determined by free market supply and demand, since the auction system was found to be unclear, non-transparent and not functioning in practice, and prices were found to be arbitrarily set by the authorities. The authorities set the prices according to the Urban Land Evaluation System, which instructs them among other criteria to consider also industrial policy when setting the price of industrial land.
- (128) The Commission noted that there is also a dynamic land monitoring system in addition to the urban land monitoring system. In the expiry review on Solar Panels originating in the People's Republic of China ⁽³³⁾, the Commission found that these prices are higher than the minimum benchmark prices set by the urban land evaluation system and used by local governments, because the latter were updated only every three years, while the dynamic monitoring prices were updated quarterly. However, there was no indication of land prices being based on the dynamic monitoring prices.
- (129) In fact, the GOC confirmed during that investigation that the urban land price dynamic monitoring system monitored the fluctuations of the price levels of land in certain areas (105 cities) in the PRC and was designed to assess the evolution of land prices. However, the starting prices in biddings and auctions were based on the benchmarks established by the land evaluation system. This still occurred during the investigation period of that investigation, that is, 1 October 2014 to 30 September 2015. In addition, in that case, most of the sampled groups of companies received their plots of land through allocation.

(c) Conclusion

- (130) In the absence of cooperation, the Commission relied on the findings of previous investigations, including the GFF investigation, which showed that the situation concerning the acquisition of LURs in the PRC is non-transparent and the prices were arbitrarily set by the authorities and not reflecting market prices.
- (131) Therefore, the provision of land-use rights by the GOC should be considered a subsidy within the meaning of Article 3(1)(a)(iii) and Article 3(2) of the basic Regulation in the form of provision of goods, which confers a benefit on the recipient companies. There is no functioning market for land in the PRC and the use of an external benchmark in previous investigations demonstrates that the amount paid for land-use rights is usually well below the normal market rate.

⁽³³⁾ Commission Implementing Regulation (EU) 2017/366, OJ L 56, 3.3.2017, p. 1, (Solar panels), recitals 421 and 425.

- (132) In the context of preferential access to industrial land for companies belonging to certain industries, the Commission noted that the price set by local authorities has to take into account the government's industrial policy. Within this industrial policy, the GFR industry is listed as an encouraged industry ⁽³⁴⁾. In addition, Decision No 40 of the State Council requires that public authorities ensure that land is provided to encouraged industries. Article 18 of Decision No 40 makes clear that industries that are 'restricted' will not have access to land use rights.
- (133) It follows that the subsidy is specific under Article 4(2)(a) and 4(2)(c) of the basic Regulation because the preferential provision of land is limited to companies belonging to certain industries, in this case the GFR sector, and government practices in this area are unclear and non-transparent.
- (134) The Commission considered that this subsidy remained countervailable.

(d) Calculation of the subsidy amount

- (135) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽³⁵⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (136) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised by means of the provision of land use rights for less than adequate remuneration.

3.6. Government revenue that was forgone or not collected

3.6.1. Provision of electricity at reduced rates

- (137) The request for review noted that the Commission has established in various AS investigations that encouraged industries are often eligible for discounted power rates and had confirmed this finding in the China Report. Given that the GFR industry is an encouraged one, the request considered that it was reasonable to conclude that the GFR industry would also benefit from preferential electricity rates.

(a) Legal basis

- Circular of the National Development and Reform Commission and the National Energy Administration on Actively Promoting the Market-oriented Power Transactions and Further Improving the Trading Mechanism, Fa Gua Yun Xing [2018] No 1027, issued on 16 July 2018;
- Several Opinions of the Central Committee of the Communist Party of China and the State Council on Further Deepening the Reform of the Power System (Zhong Fa [2015] No 9);
- Notice on Taking Efforts on the Construction of Power Market in 2017 of Shandong Economy and Information Technology Committee, LJXDL [2017] No 93;
- Notice on Amending the 2017 Direct Electricity Trading Rules of the National Energy Administration Shandong Supervision Office, LJNSC [2017] No 36

(b) Findings of the investigation

- (138) The Commission found in the GFF investigation that some key large industrial users of electricity are allowed to purchase electricity directly from power generators instead of buying from the grid, either by signing direct purchasing agreements or being qualified to participate in the 'Market-oriented electricity trading system'. The prices paid by these key users through such contracts/trading system were lower than the fixed prices set at provincial level for large industrial clients.

⁽³⁴⁾ See Section 3.1 above.

⁽³⁵⁾ GFF Regulation, recital 519.

- (139) The possibility to enter into such direct contracts or to be qualified to participate in the 'Market-oriented electricity trading system' is currently not open to all large industrial consumers. At national level, the Opinions of the Central Committee of the Communist Party of China and the State Council on Further Deepening the Reform of the Power System specifies for example that '*enterprises that do not conform to the national industrial policy and whose products and processes are eliminated should not participate in direct transactions.*' ⁽³⁶⁾
- (140) In practice, direct electricity trading is executed by the provinces. Companies have to apply to provincial authorities for approval to participate in the direct electricity pilot scheme, and they have to fulfil certain criteria.
- (141) For example, in Shandong Province, the Notice on Amending the 2017 Direct Electricity Trading Rules of the National Energy Administration Shandong Supervision Office provides that '*users participating in direct electricity trading shall be confirmed according to 2017 access conditions approved by Shandong Economy and Information Technology Committee. To take part in direct electricity trading, the electricity selling enterprises shall put forward registration application to Shandong Electric Power Trading Center, and could participate in direct electricity trading after being reviewed and publicized by the Center*'. In that respect, a list of eligible enterprises that qualify to participate in the market-oriented electricity trading system is established and announced in a notice of the Shandong Economic and Information Technology Commission ⁽³⁷⁾.
- (142) For certain companies, there is no actual market-based negotiation or bidding process, since the quantities purchased under direct contracts are not based on the real supply and demand. Indeed, power generators and power users are not free to sell or purchase all of their electricity directly. They are restricted by quantitative quotas which are allocated to them by the local government.
- (143) Furthermore, although prices are supposed to be negotiated directly between the power generators and the power user or through intermediary service companies, the invoices to the companies are actually issued by the State Grid Company. For instance the Notice on Amending the 2017 Direct Electricity Trading Rules of the National Energy Administration Shandong Supervision Office stipulates that, the '*State Grid Shandong Electric Power Company will charge the electricity direct trading charge*' and that the '*State Grid Shandong Electric Power Company shall issue VAT invoice to users, and power generation enterprises*'.
- (144) Finally, all signed direct purchase contracts need to be submitted to the local government for the record.
- (145) In 2018, the GOC issued the Circular of the National Development and Reform Commission and the National Energy Administration on Actively Promoting the Market-oriented Power Transactions and Further Improving the Trading Mechanism (Fa Gai Yun Xing [2018] No 1027). However, the Commission noted in the GFF investigation that this legislation was issued during 2018 and had not yet been implemented.
- (146) Furthermore, although the Circular aims to increase the number of direct transactions on the electricity market it specifically mentions certain industries, including the building materials industry and high-tech industries, as supported and benefitting from liberalization of the electricity market.
- (147) In particular, the Circular provides that '*supporting users with annual electricity consumption of more than 5 million kWh to conduct direct electricity transactions with power generation enterprises. In 2018, electricity generation plans for coal, iron and steel, non-ferrous metals, building materials and other four industries will be liberalized*'.

⁽³⁶⁾ Several Opinions of the Central Committee of the Communist Party of China and the State Council on Further Deepening the Reform of the Power System (Zhong Fa [2015] No 9).

⁽³⁷⁾ For example, Notice on Announcement of the List of Pilot Users of Direct Power Transaction in 2015 of the Shandong Economic and Information Technology Commission, L.J.X.D.L [2015] No 9 and Notice on Announcement of the List of Pilot Users of Direct Power Transaction in 2017 of the Shandong Economic and Information Technology Commission, L.J.X.D.L. [2017] No 117.

- (148) In addition the Circular points out that *'supporting emerging industries with high added value, such as high-tech, internet, big data and high-end manufacturing industries, as well as enterprises with distinct advantages and characteristics and high technology content, to participate in transactions, free from voltage levels and power consumption restrictions'*.
- (149) Therefore, the legislation provides for a selective application of direct transactions on the electricity market to certain industries such as the building materials and high-tech industries. This selective application has the result of applying cheaper prices for electricity by the State to companies from these industries.

(c) Conclusion

- (150) The Commission considered that the reduced electricity rate at issue is a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation because there is a financial contribution in the form of revenue foregone by the GOC (the operator of the grid) that confers a benefit to the companies concerned.
- (151) The benefit for the recipients is equal to the electricity price saving, since the electricity was provided at rates below the normal grid price paid by other large industrial users that cannot benefit from the direct supply.
- (152) This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as the legislation itself limits the application of this scheme only to enterprises that conform with certain industrial policy objectives determined by the State and whose products or process have not been eliminated as not eligible.
- (153) Thus, the Commission concluded that the subsidy scheme was in place during the review investigation period and that it is specific within the meaning of Articles 4(2)(a) and 4(3) of the basic Regulation.

(d) Calculation of the subsidy amount

- (154) The Commission considers that Chinese exporting producers of GFR continue to receive subsidies under this scheme.
- (155) In the GFF investigation, the amount of countervailable subsidy was calculated in terms of the benefit conferred on the recipients in 2018. This benefit was calculated as the difference between the total electricity price payable according to the normal grid rate and the total electricity price payable under the reduced rate.
- (156) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽³⁸⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (157) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised by means of the provision of electricity for less than adequate remuneration.

3.6.2. Tax exemption and reduction programmes

- (158) In the request for review, the applicants alleged that the GOC continued to provide subsidies in the form of government revenue foregone or not collected, including the tax exemption and reduction programmes detailed below.

3.6.2.1. EIT privileges for High and New Technology Enterprises

- (159) In the request for review, the applicants alleged that GFR manufacturers in China benefit from the enterprise income tax exemption for 'High and New Technology Enterprises' as described below.

⁽³⁸⁾ GFF Regulation, recital 540.

- (160) According to the Law of the People's Republic of China on Enterprise Income Tax ('EIT Law') ⁽³⁹⁾, high and new technology enterprises to which the State needs to give key support benefit from a reduced enterprise income tax rate of 15 % rather than the standard tax rate of 25 %.

(a) Legal basis

- (161) The legal basis of this programme is Article 28 of the EIT Law and Article 93 of the Implementation Rules for the Enterprise Income Tax Law of the PRC ⁽⁴⁰⁾, as well as:
- Circular of the Ministry of Science and Technology, Ministry of Finance and the State Administration of Taxation on revising and issuing 'Administrative Measures for the Recognition of High-Tech Enterprises', G.K.F.H. [2016] No 32;
 - Notification of the Ministry of Science and Technology, Ministry of Finance and State Administration of Taxation concerning Revising, Printing and Issuing the Guidance for the Recognition Management of High and New Tech Enterprises, GKFFH [2016] No 195;
 - Announcement [2017] No 24 of the State Administration of Taxation on the Application of Preferential Income Tax Policies to High-tech Enterprises; and
 - Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries (2011), issued by the NDRC, the Ministry of Science and Technology, the Ministry of Commerce and the National Intellectual Property Office.

(b) Findings of the investigation

- (162) Companies, which can benefit from the tax reduction are part of certain key high and new technology fields supported by the State, as well as the current priorities on high technology fields supported by the State, as listed in the Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries. These guidelines clearly mention manufacturing technology and key raw materials for glass, including GFR, as a priority area.
- (163) In addition, in order to be eligible, the companies must satisfy the following criteria:
- keep a certain proportion of research and development expenses in comparison with their sales revenue;
 - keep a certain proportion of income from high-tech technology/products/services in the enterprise's total revenue; and
 - keep a certain proportion of technical personnel in the enterprise's total employees.
- (164) Companies benefiting from this measure have to file their income tax return and the relevant annexes. The actual amount of the benefit is included in the tax return.
- (165) The Commission considered that the tax offset at issue is a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation because there is a financial contribution in the form of revenue foregone by the GOC that confers a benefit to the companies concerned.
- (166) The benefit for the recipients is equal to the tax saving. This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as the legislation itself limits the application of this scheme only to enterprises that are operating in certain high technology priority areas determined by the State, such as some key technologies within the GFR sector.

(c) Calculation of the subsidy amount

- (167) The Commission considers that Chinese exporting producers of GFR continued to receive benefit under this scheme.

⁽³⁹⁾ Order No 23 of the President of the People's Republic of China.

⁽⁴⁰⁾ Regulation on the Implementation of the Enterprise Income Tax Law of the People's Republic of China (Issued by Order No 512 of the State Council on December 6, 2007; amended in accordance with the Decision of the State Council to Amend Some Administrative Regulations by Order No 714 of the State Council on April 23, 2019).

- (168) In the GFF investigation the amount of countervailable subsidy was calculated in terms of the benefit conferred on the recipients in 2018. This benefit was calculated as the difference between the total tax payable according to the normal tax rate and the total tax payable under the reduced tax rate.
- (169) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽⁴¹⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (170) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised.

3.6.2.2. EIT offset for research and development expenses

- (171) In the request for review, the applicants alleged that GFR manufacturers in China benefit from the enterprise income tax offset as described below.
- (172) The tax offset for research and development entitles companies to preferential tax treatment for their R & D activities in certain high technology priority areas determined by the State and when certain thresholds for R & D spending are met.
- (173) More specifically, R & D expenditures incurred to develop new technologies, new products and new crafts, which do not form intangible assets and are accounted into the current term profit and loss, are subject to an additional 50 % deduction after being deducted in full in light of the actual situation. Where the above-mentioned R & D expenditures form intangible assets, they are subject to depreciation based on 150 % of the intangible asset costs.

(a) Legal basis

- (174) The legal basis for the programme is Article 30(1) of the EIT Law, along with the Implementation Rules for the Enterprise Income Tax Law of the PRC as well as the following notices:
- Notice of the Ministry of Finance, the State Administration of Taxation and the Ministry of Science and Technology on Improving the Policy of Pre-tax Deduction of R & D Expenses. (Cai Shui [2015] No 119);
 - Announcement [2015] No 97 of the State Administration of Taxation on Relevant Issues concerning Policies of Additional Pre-tax Deduction of Research and Development Expenses of Enterprises;
 - Announcement 2017 No 40 of the State Administration of Taxation on Issues Concerning the Eligible Scope of Calculation of Additional Pre-tax Deduction of Research and Development Expenses; and
 - Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries (2011), issued by the NDRC, the Ministry of Science of Technology, the Ministry of Commerce and the National Intellectual Property Office.

(b) Findings of the investigation

- (175) In the GFF investigation the Commission established that the '*new technologies, new products and new crafts*', which can benefit from the tax deduction, are part of certain high technology fields supported by the State, as well as of the current priorities on high technology fields supported by the State, as listed in the Guidelines of the Latest Key Priority Developmental Areas in the High Technology Industries.
- (176) The Commission considered that the tax offset at issue is a subsidy within the meaning of Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation because there is a financial contribution in the form of revenue foregone by the GOC that confers a benefit to the companies concerned.
- (177) The benefit for the recipients is equal to the tax saving.

⁽⁴¹⁾ GFF Regulation, recital 556.

- (178) This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as the legislation itself limits the application of this measure only to enterprises that incur R & D expenses in certain high technology priority areas determined by the State, such as the GFR sector.

(c) Calculation of the subsidy amount

- (179) The Commission considers that Chinese exporting producers of GFR continued to receive benefit under this scheme.
- (180) In the GFF investigation the amount of countervailable subsidy was calculated in terms of the benefit conferred on the recipients in 2018. This benefit was calculated as the difference between the total tax payable according to the normal tax rate and the total tax payable after the additional 50 % deduction of the actual expenses on R & D.
- (181) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽⁴²⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (182) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised.

3.6.2.3. Dividends exemption between qualified resident enterprises

- (183) In the request for review, the applicants alleged that GFR manufacturers in China benefit from this dividend exemption as described below.
- (184) The EIT Law offers income tax preferences to enterprises engaged in the development of industries or projects which are specifically supported and encouraged by the State. In particular the Law offers tax exemptions for income from equity investment, such as dividends and bonuses, between eligible resident enterprises.

(a) Legal basis

- (185) The legal basis for the programme is Article 26(2) of the EIT Law, along with the Implementation Rules for the Enterprise Income Tax Law of the PRC.

(b) Findings of the investigation

- (186) In previous investigations, the Commission found that some inspected companies received an exemption from tax of dividend income between qualified resident enterprises.
- (187) Article 25 of the EIT provides that *'The State will offer income tax preferences to Enterprises engaged in industries or projects the development of which is specially supported and encouraged by the State'*. Article 26(2) specifies that the tax exemption is applicable to income from equity investments between *'eligible resident enterprises'*, which limits its scope of application to only certain resident enterprises.
- (188) As concluded in the GFF investigation, such preferential tax policy is limited to certain industries and projects, that is to say industries which are specifically supported and encouraged by the State such as the GFR industry, and therefore specific.
- (189) The Commission considers that this scheme is a subsidy under Article 3(1)(a)(ii) and Article 3(2) of the basic Regulation because there is a financial contribution in the form of revenue foregone by the GOC that confers a benefit to the companies concerned.
- (190) The benefit for the recipients is equal to the tax saving.
- (191) This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as the legislation itself limits the application of this exemption only to qualified resident enterprises which have the major support of, and the development of which is encouraged by, the State.

⁽⁴²⁾ GFF Regulation, recital 568.

(c) Calculation of the subsidy amount

- (192) The Commission considers that Chinese exporting producers of GFR continued to receive benefit under this scheme.
- (193) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽⁴³⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (194) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised.

3.6.2.4. Land use tax exemption

- (195) In the request for review, the applicants alleged that GFR manufacturers in China benefit from this land use tax exemption as described below.
- (196) An organization or individual using land in cities, county towns and administrative towns and industrial and mining districts shall normally pay urban land use tax. Land use tax is collected by the local tax authorities where the land is used.
- (197) However, certain categories of land, such as land reclaimed from the sea, land for the use of government institutions, people's organizations and military units for their own use, land for use by institutions financed by government allocations from the Ministry of Finance, land used by religious temples, public parks and public historical and scenic sites, streets, roads, public squares, lawns and other urban public land are exempted from the land use tax.

(a) Legal basis

- (198) The legal basis for this programme is:
- Provisional Regulations of the People's Republic of China on Real Estate Tax (Guo Fa [1986] No 90, as amended in 2011); and
 - Interim Regulations of the People's Republic of China on Urban Land Use Tax (Order of the State Council of the People's Republic of China [2013] No 645).

(b) Findings of the investigation

- (199) In the GFF investigation, the Commission found that one of the sampled groups of companies benefited from refunds of the payment of land use taxes by the local Land Use Bureau, even though they did not fall under any of the exempted categories as set by the national legislation above.

(c) Conclusion

- (200) The Commission considers that the tax exemption at issue is a subsidy within the meaning of either Article 3(1)(a)(i) or Article 3(1)(a)(ii), and Article 3(2) of the basic Regulation because there is a financial contribution in the form of either direct transfer of funds (refund of the tax paid) or revenue foregone by the GOC (the non-paid tax) that confers a benefit to the companies concerned.
- (201) The benefit for the recipients is equal to the amount refunded/tax saving.
- (202) This subsidy is specific within the meaning of Article 4(2)(a) of the basic Regulation as one of the sampled companies in the GFF investigation received a tax reduction although they did not fit into any of the objective criteria.

(d) Calculation of the subsidy amount

- (203) The Commission considers that Chinese exporting producers of GFR continued to receive benefit under this scheme.

⁽⁴³⁾ GFF Regulation, recital 577.

- (204) In the GFF investigation the amount of countervailable subsidy was calculated in terms of the benefit conferred on the recipients in 2018. This benefit was considered to be the refunded amount in 2018.
- (205) In view of the non-cooperation of the GOC and all sampled exporting producers in this case and absent any indication to the contrary, the Commission made use of the findings in the GFF investigation ⁽⁴⁴⁾ insofar as they related to GFR as facts available pursuant to Article 28 of the basic Regulation for the purposes of the present case.
- (206) In light of all the above, the Commission concluded that the GFR industry continued to be subsidised.

3.7. Conclusion on continuation of subsidisation

- (207) The Commission concludes, based on the information available, that the GFR industry in the PRC remained subsidised during the review investigation period. The conclusions of the GFF investigation in particular are significant as they cover subsidies to the companies that manufacture both GFF and GFR, and the subsidy schemes are not product specific.
- (208) As the subsidy schemes confer a benefit to the whole company, and not just to the part manufacturing and exporting GFF, we can again use the information available to 'carry forward' the basic subsidy calculations in the GFF case and assume, in the absence of any other information, that the companies manufacturing and exporting GFR to the Union in the RIP would benefit from an amount of subsidisation well above *de minimis*. Indeed, having regard to the findings in the GFF investigation, which included subsidies not countervailed in the original investigation, the average amount of subsidisation was found around 25 %.
- (209) While the amount of subsidisation cannot be precisely established due to the lack of cooperation, it can be considered significant.

3.8. Developments should measures be repealed

- (210) The existence of continued subsidisation during the RIP is an indication of the likelihood of continuation of subsidisation should measures lapse. Furthermore, the Commission also analysed whether there was a likelihood that volumes of the subsidised exports would increase should the measures be allowed to lapse.
- (211) In order to do this, the Commission analysed the following elements: the production capacity and spare capacity in the PRC and the attractiveness of the Union market.
- (212) As a consequence of the non-cooperation of producers/exporters in the PRC and the GOC, the Commission based its assessment on the facts available in accordance with Article 28 of the basic Regulation.

3.8.1. Capacity

- (213) In their request for the expiry review, the applicants noted that in 2018 global GFR demand was in the range of 5,3 to 6,5 million tonnes and global capacity between 6,0 and 6,9 million tonnes.
- (214) They noted that in 2018 the gap between capacity and demand in the PRC was 700 000 tonnes per year, which represents 70 % of the demand of the European Union for GFR.
- (215) In the absence of other information, the Commission concludes that the Chinese producers would be able to divert their overcapacity to the Union market should measures lapse.

3.8.2. Prices on the Union market

- (216) In their request for the expiry review, the applicants noted that the EU remains one of the top five export destinations for Chinese GFR exports, even with the measures in force.

⁽⁴⁴⁾ GFF Regulation, recital 591.

(217) An analysis of data from GTA ⁽⁴⁵⁾ up to the end of 2019 confirms this trend.

Importer/tonne	2016	2017	2018	2019
Total	776 268	872 093	1 000 941	907 082
United States	161 619	201 706	272 616	138 253
EU 28	97 684	94 035	97 563	95 610
South Korea	78 324	86 704	87 076	82 324
India	39 318	47 207	66 471	62 973
Japan	33 190	46 024	51 620	51 653

(218) The applicants also noted that compared to other markets, European prices for GFR are high.

(219) An analysis of unit prices, also taken from GTA up to the end of 2019, for the top five Chinese export markets, confirms this trend.

Importer/EUR per tonne	2016	2017	2018	2019
Total	926,52	867,70	844,54	820,13
United States	940,09	916,30	846,45	876,85
EU 28	1 027,18	985,83	1 044,33	1 025,66
South Korea	849,45	796,85	768,97	748,49
India	900,21	891,25	850,06	882,00
Japan	1 025,70	929,03	906,18	913,94

(220) The Commission concludes that the Union is an attractive market for Chinese producers of GFR. This is also confirmed by the Chinese producers investing in facilities in Bahrain and Egypt specifically to access the Union market without paying the duties in force on imports from the PRC.

3.9. Conclusion on continuation of subsidisation

(221) Based on the findings of the investigation, and through the application of Article 28 of the basic Regulation, the Commission has concluded that subsidy schemes specific to the GFR industry in the PRC remain in force, and these schemes provided a benefit to the GFR industry in the PRC during the review investigation period.

(222) The Commission also concludes that should the measures be allowed to lapse, then subsidised GFR imports from the PRC would continue.

4. INJURY

4.1. Definition of the Union industry and Union production

(223) During the review investigation period, nine producers in the Union manufactured the like product. They constitute the 'Union Industry' within the meaning of Article 9(1) of the basic Regulation.

(224) The Commission selected a sample of Union producers. The sample contained three Union producers representing over 60 % of the total Union production of the like product during the review investigation period.

⁽⁴⁵⁾ GTA = Global Trade Atlas

- (225) The Commission established the total Union production of GFR during the review investigation period at around 657 750 tonnes, based on information gathered by the applicant and verified during the investigation.

Table 1

Union production

	2016	2017	2018	RIP (2019)
Total Union Production (tonnes)	701 611	694 178	693 123	657 750
<i>Index</i>	100	99	99	94

Source: Request and Surveillance 2 database

- (226) Total Union production remained stable between 2016 and 2018 but declined during the review investigation period.

4.2. Union consumption

- (227) The Commission established the Union consumption of GFR by adding imports of GFR to the sales of the Union industry on the Union market.
- (228) Union consumption developed as follows:

Table 2

Union Consumption

	2016	2017	2018	RIP (2019)
Total Union consumption(tonnes)	978 454	1 045 331	1 060 071	984 122
<i>Index (2016 = 100)</i>	100	107	108	101

Source: Request and Surveillance 2 database

- (229) The Union consumption varied in the period considered. It rose between 2016 and 2018 by 8 % before declining significantly by 7 % during the review investigation period.

4.3. Imports from China**4.3.1. Volume and market share of the imports from China**

- (230) The Commission established the volume of imports and their market share based on data from the Surveillance 2 ⁽⁴⁶⁾ database.
- (231) GFR imports from the China developed as follows:

Table 3

Import volume and market share

	2016	2017	2018	RIP(2019)
Volume of imports from China (tonnes)	79 374	58 456	50 177	51 512

⁽⁴⁶⁾ Database of specific products under 'surveillance' or monitoring imported into the Union customs territory maintained by the Directorate-General for Taxation and Customs Union.

<i>Index</i>	100	74	63	65
Market share (%)	8	6	5	5

Source: Surveillance 2 database

- (232) Imports of GFR from China into the EU decreased in volume terms by 35 % between 2016 and the RIP. The corresponding market share decreased by 3 percentage points over the same period.

4.3.2. Prices of imports from China

- (233) The evolution of average import prices in the period considered was as follows:

Table 4

Import price

	2016	2017	2018	RIP(2019)
Import prices from PRC (EUR per tonne)	1 068	1 058	1 028	990
<i>Index</i>	100	99	96	93

Source: Surveillance 2 database

- (234) The import prices from China decreased by 7 % over the period considered.

4.3.3. Price undercutting

- (235) In the absence of cooperation, the Commission determined the price undercutting during the review investigation period by comparing
- (1) the weighted average sales price of the sampled Union producers charged to unrelated customers in the Union market, adjusted to an ex-works level, and
 - (2) the adjusted price data of imports of the product under review from China at CIF level as extracted from the Surveillance 2 database. The import data from Surveillance 2 was grouped into the three product types which together make up 100 % of the imports of the product under review.
- (236) The CIF price from Surveillance 2 was adjusted into landed price by adding import duties of 7 % on top of the CIF price and the importation costs of around 30 EUR per tonne imported.
- (237) The result of the comparison was expressed as a percentage of the sampled Union producers' turnover during the review investigation period.
- (238) The comparison showed for imports from China an average undercutting of over 24 % during the review investigation period.
- (239) Therefore, the Commission established that the prices of imports from China significantly undercut the prices of the Union Industry.

4.4. Imports from other third countries

- (240) The import volume, market share and import prices relating to imports from other third countries developed as follows:

Table 5

Import volume, market share and import prices from all other countries except China

Country		2016	2017	2018	RIP (2019)
Egypt	Volume (tonnes)	50 529	95 865	147 189	141 809
	<i>Index</i>	100	190	291	281
	Market share (%)	5	9	14	14
	Average price	993	918	897	890
Malaysia	Volume (tonnes)	98 446	111 373	115 249	77 410
	<i>Index</i>	100	113	117	79
	Market share (%)	10	11	11	8
	Average price	930	941	985	951
Norway	Volume (tonnes)	41 362	43 006	44 289	44 479
	<i>Index</i>	100	104	107	108
	Market share (%)	4	4	4	5
	Average price	1 156	1 126	1 101	1 078
All other countries excluding China	Volume (tonnes)	86 240	85 548	93 266	89 832
	<i>Index</i>	100	99	108	104
	Market share (%)	9	8	9	9
	Average price	1 090	1 045	1 017	1 019

Source: Surveillance 2 database

(241) The largest imports from third countries over the period considered were significantly increasing volumes from Egypt, and relatively stable imports from Malaysia and Norway. There were also stable imports from Bahrain with a 2 % market share.

(242) The market share of imports from Egypt increased from 5 % in 2016 to 14 % in the RIP.

(243) The Commission initiated the investigation on GFR imports from Egypt on 16 May 2019 ⁽⁴⁷⁾. The investigation was concluded in June 2020 and found that the increase in imports was caused by exports of an Egyptian plant operated by the Chinese CNBM Group. This exporter had set this operation with the express purpose of selling GFR to the Union market without payment of the duties in force against imports originating in China ⁽⁴⁸⁾.

⁽⁴⁷⁾ Notice of initiation of an anti-subsidy proceeding concerning imports of continuous filament glass fibre products originating in the People's Republic of China (OJ C 167, 16.5.2019, p. 11).

⁽⁴⁸⁾ Implementing Regulation (EU) 2020/379, recital 163.

- (244) According to the evidence before the Commission in that case, the orders of GFR to CNBM Group seem to have been transferred to the new production plant in Egypt. The imports from Egypt increased rapidly from 2016 to 2019 nearly trebling in volumes. In June 2020, the Commission imposed a definitive countervailing duty of 13,1 % on imports of GFR from Egypt ⁽⁴⁹⁾. Provisional measures had been imposed in March 2020 ⁽⁵⁰⁾.
- (245) Malaysian imports volumes decreased between 2018 and the RIP. Their market share dropped from 10 %-11 % during the period considered to 8 % in the RIP. The Commission determined that Malaysia was only exporting chopped strands to the EU ⁽⁵¹⁾. Comparing the average price of import of chopped stands from Malaysia to the Union industry prices of chopped strands, Malaysian imports prices were found to be in line with Union industry prices.
- (246) Imports from Norway had a stable market share of 4 %-5 % during the period considered. Furthermore, their average prices of imports were at a similar level to Union industry sales prices.
- (247) Imports from other countries had a stable market share of 9 % throughout the period considered.

4.5. Economic situation of the Union Industry

4.5.1. General remarks

- (248) In accordance with Article 8(5) of the basic Regulation, the examination of the impact of the subsidised imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (249) As mentioned in recital 13, sampling was used for the determination of possible injury suffered by the Union industry.
- (250) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators based on data contained in the questionnaire replies from the sampled Union producers and based on the information provided by the applicant and verified by the Commission. The microeconomic indicators were based on the data from the sampled producers' questionnaire replies.
- (251) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity and magnitude of the amount of subsidisation and recovery from past subsidisation.
- (252) The microeconomic indicators are: average unit prices, unit cost, average labour costs, profitability, cash flow, investments and return on investments, and ability to raise capital.

4.5.2. Macroeconomic indicators

4.5.2.1. Production, production capacity and capacity utilisation

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

⁽⁴⁹⁾ Implementing Regulation (EU) 2020/870.

⁽⁵⁰⁾ Implementing Regulation (EU) 2020/379.

⁽⁵¹⁾ The plant in Malaysia is owned by the same owner as one of the non-sampled Union producers.

Table 6

Production capacity and capacity utilisation

	2016	2017	2018	RIP(2019)
Production capacity (tonnes)	759 107	760 104	753 688	770 642
<i>Index</i>	100	100	99	102
Capacity utilisation (%)	92	91	92	85

Source: Applicant

- (254) Production capacity remained stable during the period considered. This is because capacity is based primarily on the number of furnaces feeding the production lines, and increasing capacity therefore involves significant investment.
- (255) The capacity utilisation of the Union industry also remained high and stable from 2016 to 2018 before the slight drop in the RIP.

4.5.2.2. Sales volume and market share

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

Table 7

Sales volume and market share

	2016	2017	2018	RIP(2019)
Sales volume on the Union market (tonnes)	622 504	651 082	609 902	579 080
<i>Index</i>	100	105	98	93
Market share (%)	64	62	58	59

Source: Applicant, Surveillance 2

- (257) The Union industry's sales sustained 7 % decrease during the period considered, with the exception of a very strong 2017 year, which saw a 5 % increase compared to 2016.
- (258) The market share of the Union industry decreased throughout the period considered from 64 % to 59 %. The market share of imports from China also decreased from 8 % to 5 %. The decreasing market shares of both imports from China and of the Union industry have to be looked at against the rising imports from Egypt. Indeed, the market share of imports from Egypt almost trebled during the period considered raising from 5 % to 14 %.

4.5.2.3. Employment and productivity

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

Table 8

Employment and productivity

	2016	2017	2018	RIP
Number of employees	3 620	3 636	3 661	3 656
<i>Index</i>	100	100	101	101

Productivity (tonne/employee (FTE))	194	191	189	180
<i>Index</i>	100	99	98	93

Source: Applicant

(260) The employment of the Union industry remained stable throughout the period considered.

(261) The decreasing productivity of the Union industry over the period considered reflected the decreasing production.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

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

Table 9

Sales prices in the Union

	2016	2017	2018	RIP
Average unit sales price in the Union on the total market (EUR/tonne)	1 167	1 123	1 139	1 106
<i>Index</i>	100	96	98	95
Unit cost of production (EUR/tonne)	1 035	1 027	1 086	1 115
<i>Index</i>	100	99	105	108

Source: Sampled Union producers

(263) The weighted average unit sales price of the sampled Union producers to unrelated customers declined during the period considered by 5 %.

(264) However, the unit cost of production for the sampled Union producers increased during the period considered by 8 %.

4.5.3.2. Labour costs

(265) The average labour costs of the sampled Union producers gradually increased over the period considered as follows:

Table 10

Average labour costs per employee

	2016	2017	2018	RIP
Average labour costs per employee (EUR)	55 351	56 722	57 703	58 366
<i>Index</i>	100	102	104	105

Source: Sampled Union producers

4.5.3.3. Inventories

- (266) Stock levels of the sampled Union producers increased during the period considered and remained at the highest level during the RIP:

Table 11

Stocks

	2016	2017	2018	RIP
Closing stocks (tonnes)	80 078	63 974	86 975	86 772
<i>Index</i>	100	80	109	108

Source: Sampled Union producers

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

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

Table 12

Profitability, cash flow, investments and return on investments

	2016	2017	2018	RIP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	12,6	10	7,4	3,7
Cash flow	99 824 451	99 239 696	54 615 552	49 028 234
<i>Index</i>	100	99	55	49
Investments	17 532 291	34 598 499	52 191 829	29 187 167
<i>Index</i>	100	197	298	166
Return on investment (%)	18	15	10	6

Source: Sampled Union producers

- (268) The Commission established the profitability of the three 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.
- (269) Profitability and yearly cash flow from its operations dropped considerably during the period considered.
- (270) The Union industry continued to invest during the whole period considered. Investments increased from 2016 to 2018, reflecting the lifecycles of the furnaces, which need to be periodically renewed to enable continuous production. However, investments dropped significantly during the RIP.
- (271) The return on investments is expressed as the profit in percentage of the net book value of investment. The negative development followed the decreasing profit margins over the period considered.
- (272) The financial performance of the Union industry in terms of profits during the review investigation period however limited its ability to raise capital.

4.6. Conclusion on injury

- (273) The Union industry profits over the period considered were hit strongly, falling from a 12,6 % profit in 2016 to a 3,7 % profit in the RIP a level which is well below the sustainable level for such an extremely capital-intensive industry. The significant decrease in profitability shows the Union industry's particularly precarious situation during the RIP.
- (274) The decreasing sales quantities together with decreasing prices caused the deterioration of all performance indicators. In addition to the decreasing profitability, productivity and capacity utilisation decreased. Closing stocks have risen by 8 % during the period considered. The cash flow in the IP decreased by 51 % compared to 2016. The return on investments diminished to just 6 % from 18 % in 2016.
- (275) The decreasing production had a significant impact on the industry, due to the high fixed costs and the impossibility to flexibly scale back production as furnaces must be fully utilised in this specific production process.
- (276) Even in such adverse circumstances, continuous investments were necessary, mainly to replace furnaces with strictly limited lifetime. This put additional financial pressure on the producers.
- (277) At the same time, Union industry lost part of its market share, with adverse impact on profitability.
- (278) Considering all the fact above the Commission concluded that the Union industry continued to suffer material injury within the meaning of Article 8 of the basic Regulation during the review investigation period.

5. CAUSATION

- (279) The Commission concluded that the Union industry was still materially injured in the review investigation period.
- (280) However, the Commission found that the injury suffered by the Union industry could not be attributed to the subsidised imports from China. As observed from the import statistics, imports from Egypt sharply increased during the period considered.
- (281) As pointed out in recital 243 above, these imports were recently investigated by the Commission and found to be subsidised and causing injury to the Union industry. In fact, the Commission found that the Chinese CNBM Group had set an operation in Egypt in order to avoid trade defence measures, including the one being currently reviewed ⁽⁵²⁾.
- (282) Despite the usual chilling effect on imports the anti-subsidy investigation usually have on the imports from countries under investigation, the imports from Egypt remained on the similar level of 141 809 tonnes in the review investigation period of this review compared to 144 169 tonnes for the period ending 31 March 2019. At the same time the trend of decreasing import price continued, where the price decreased from EUR 904 per tonne to EUR 890 per tonne.
- (283) The price pressure on the market, caused by those Egyptian imports at low prices, resulted in the inability of the Union industry to reflect the production cost increases into the price.
- (284) It is also worth mentioning that provisional measures against the subsidised imports from Egypt were put in place only in March 2020. Thus, the Union industry was unprotected from the subsidised Egyptian imports during the period considered in this investigation, including the review investigation period.
- (285) While Chinese imports still accounted for 5 % market share during the review investigation period and their import prices were still below the price observed for other countries as well as the Union industry's, the Commission notes that there are not only anti-subsidy but also anti-dumping measures in place against unfair imports of GFR from China.

⁽⁵²⁾ Implementing Regulation (EU) 2020/379, recital 163.

- (286) The Commission therefore compared the import prices from China adding both duties, with the Union industry prices.
- (287) Given the lack of cooperation by the Chinese exporting producers, the Commission used EU import statistics and took into account the TARIC additional codes to assign the individual company rates and the CN codes in order to distinguish rovings, mats and chopped strands.
- (288) Through this comparison, the Commission found no undercutting for chopped strands and rovings, which represent the vast majority of the Union industry production. Undercutting was only found in the case of mats, which due to their very low ratio in the total Union production (less than 4 %) were found not to have any measureable effect on the Union industry situation.
- (289) Therefore, the Commission concluded that these measures were effective to protect the Union industry from injury caused by subsidised imports from the PRC.

6. LIKELIHOOD OF RECURRENCE OF INJURY

- (290) The Commission then assessed whether there was a likelihood of recurrence of injury originally caused by imports of GFR from the PRC should measures be allowed to lapse.
- (291) To establish this likelihood, the Commission analysed the following elements: (a) likely price levels of imports from China in the absence of countervailing measures, (b) attractiveness of the Union market, (c) production capacity and spare capacity in China.

6.1. Likely price levels of imports from China in the absence of anti-subsidy measures

- (292) The investigation has shown that the imports from China were subsidized during the review investigation period and that there was a likelihood of continuation of subsidization should measures be allowed to lapse.
- (293) The Chinese import prices (without anti-dumping/countervailing duties) were substantially below the Union industry's sales prices. The average selling price of the Union industry in the EU market during the review investigation period was 1 106 EUR/tonne, while the average import price from China was 990 EUR/tonne. On this basis, it was concluded that Chinese exports of GFR to the Union would be made at injurious prices, undercutting the Union industry sales price, should measures be allowed to lapse.

6.2. Attractiveness of the Union market

- (294) The Union market is attractive in terms of its size and prices.
- (295) According to available information provided by the applicant, prices in the Union market are higher on average than in other countries. Export statistics also show that Chinese export prices to other export markets, i.e. the USA and South Korea, were on average lower (863 EUR/tonne in the USA and 780 EUR/tonne in South Korea) than to the EU (990 EUR/tonne) during the review investigation period ⁽⁵³⁾.
- (296) Finally, the attractiveness of the Union market for Chinese GFR producers is also confirmed by the fact that CPIC and CNBM Group invested substantially to start major GFR exports from plants in Bahrain and Egypt, respectively, to serve the European market shortly after the imposition of the anti-subsidy and anti-dumping measures in December 2014.
- (297) As confirmed in a previous investigation, the plant in Egypt was opened by CNBM Group for the express purpose of selling GFR to the Union market to avoid the duties in force against imports directly from China ⁽⁵⁴⁾.

⁽⁵³⁾ APFE's Expiry Review Request of 18 September 2019.

⁽⁵⁴⁾ Implementing Regulation (EU) 2020/379, recital 163.

6.3. Spare capacity in China

(298) As detailed in recitals 213 to 215 above, there are significant unused capacities in China.

6.4. Likelihood of recurrence of injury

(299) The investigation has shown that the imports from China continued to be made at prices undercutting the Union industry and that there are no indications that the subsidization would stop in the future.

(300) Furthermore, should the measures be repealed, it can be reasonably expected that, as a consequence of the attractiveness of the Union market, the available spare capacity in China, there will be a substantial increase of imports to the Union made at subsidized, injurious prices, undercutting the Union industry selling price.

(301) In such scenario, Chinese exports to the Union would rapidly gain market share from the Union industry, which would face an immediate drop in its sales volumes and an increase in its fixed costs per unit.

(302) The increase in fixed costs combined with a decrease in selling prices would immediately negatively affect the profitability of the Union industry, which remained far below the target profit throughout the period considered. Consequently, the Union industry would become loss-making, the overall economic situation of the Union industry would be negatively affected and material injury would recur.

(303) Based on the above, the Commission concluded that there was a likelihood of recurrence of injury from imports originating in China should the measures be repealed.

7. UNION INTEREST

(304) In accordance with Article 31 of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt countervailing measures corresponding to the total amount of countervailable subsidies in this case, despite the determination of injurious subsidisation. The determination of the Union interest was based on an appreciation of all various interests involved, including those of the Union industry, users and importers.

7.1. Interest of the Union industry

(305) The investigation has shown that the Union industry was in an injurious situation and that the removal of the measures would likely lead to an increased unfair competition by subsidised Chinese imports.

(306) The Commission concluded therefore that that it was in the interest of the Union industry to maintain the measures in force.

7.2. Interest of the users

(307) GFR is used for a large number of applications such as the transportation (automotive, marine, aerospace, military), electric/electronics, wind energy, building and construction, tanks/pipes, consumer goods,

(308) It is either used directly in the material industries (plastics) or as an input material for weaving into glass fibre fabric ("GFF") and open mesh fabric.

(309) For direct use, where GFR provides reinforcement in the material, its proportion on the total cost material is very low, and so is the impact of the measures on the total cost.

(310) For GFF weaving, the situation is different, as GFR represents an important percentage of the cost of manufacturing and the GFF industry relies on cheap prices of GFR to compete on the Union market. However, the GFF industry can now benefit from the anti-dumping and countervailing measures imposed on imports of GFF from both China and Egypt (the main competitors in the GFF market).

- (311) As no users came forward in this investigation, the best available data the Commission possess in this regard are the conclusions from past investigations: the expiry review of the anti-dumping measures as detailed in the Commission Implementing Regulation (EU) 2017/724 ⁽⁵⁵⁾, where it was concluded that the extension of the measures would have a limited impact on the situation of users and the anti-subsidy investigation as detailed in the Commission Implementing Regulation (EU) 2020/379 ⁽⁵⁶⁾ where it was concluded that given the alternative sources of available supply not subject to measures and since there is no evidence clearly showing that the additional costs from measures imposed on imports could not be absorbed by the users, the negative effects on users did not clearly show that it is not in the Union's interest to apply the measures.

7.3. Interest of the unrelated importers

- (312) The Commission invited all unrelated importers to participate in the investigation and but no unrelated importer came forward or cooperated in any way in the investigation.
- (313) The Commission considered that GFR is to a high extent standardised and its supply sources can be changed efficiently.
- (314) On this basis, given also the alternative sources of available supply not subject to measures, the Commission concluded that the measures currently in force had no significant negative effects on the situation of importers and that the continuation of the measures would not unduly affect them.

7.4. Conclusion on Union interest

- (315) The repeal of the measures would have a material and negative impact on the Union producers.
- (316) The extension of the anti-dumping duty would have a limited impact on the importers and users.
- (317) However, the Commission notes that other sources of GFR are available without measures in force.
- (318) On that basis, the Commission concluded that there were no compelling reasons that it was not in the Union interest to continue the countervailing measures on imports of GFR originating in China.

8. COUNTERVAILING MEASURES

- (319) In view of the conclusions reached with regard to the likelihood of continuation of subsidisation, recurrence of injury and in accordance with Article 18(1) of the basic Regulation, the countervailing duties applicable to imports of continuous filament glass fibre products originating in the People's Republic of China should be maintained.
- (320) Interested parties were informed of the essential facts and considerations on the basis of which it was intended to impose the definitive countervailing duty on imports of the product under review into the Union.
- (321) Interested parties were given the opportunity to provide comments to this disclosure and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.
- (322) Following the disclosure of the essential facts and considerations, two set of comments were received, one from Chengdu Chang Yuan Shun Co. Ltd., a Chinese exporting producer, and one from APFE.
- (323) The Chinese exporting producer stated its disagreement with the decision to maintain the countervailing duties and claimed that it did not benefit from any subsidy offered by the GOC. In particular, the company claimed that it did not benefit from the 'GOC central planning to encourage the GFR industry' and it did not receive any preferential financial support. Except for these general statements, the Chinese exporting producer did not offer any evidence to support its claims. These are therefore rejected.

⁽⁵⁵⁾ OJ L 107, 25.4.2017, p. 4.

⁽⁵⁶⁾ OJ L 69, 6.3.2020, p. 14.

- (324) APFE stated that it agreed with the Commission's findings. APFE also emphasised that the Chinese producers have maintained a strong position on the EU market not only thanks to imports from Egypt and Bahrain but also to imports from China. APFE claimed that according to Eurostat the Chinese producers have dropped their export prices to the Union by over 15 % after the RIP. APFE was not aware of any technological advance that would cause reduction of production costs in the GFR industry that would justify such a price decrease. On the contrary, APFE expected an increase of the prices due to the overall global economic situation and to the pandemic.
- (325) APFE contended that the imports of GFR from China continue to cause injury to the Union industry and that the Chinese producers have, following the review investigation period, engaged in an absorption practice that has substantially deprived the duties currently in force on GFR imports from China of the remedial effects they had when they were imposed in 2014 and the years immediately thereafter.
- (326) The Commission notes APFE's comments go in the same direction as the aforementioned conclusions. Whenever the Union industry is in possession of evidence that measures should be further reviewed it has the right to lodge a request pursuant to the basic Regulation.
- (327) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽³⁷⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (328) The measures provided for in this regulation are in accordance with the opinion of the Committee established by Article 25(1) Regulation (EU) 2016/1037,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive countervailing duty is imposed on imports of chopped glass fibre strands, of a length of not more than 50 mm; glass fibre rovings, excluding glass fibre rovings which are impregnated and coated and have a loss on ignition of more than 3 % (as determined by the ISO Standard 1887); and mats made of glass fibre filaments excluding mats of glass wool, currently falling under CN codes 7019 11 00, ex 7019 12 00 (TARIC codes 7019 12 00 22, 7019 12 00 25, 7019 12 00 26, 7019 12 00 39) and 7019 31 00, originating in the People's Republic of China.
2. The definitive countervailing duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1 and produced by the companies listed below, shall be as follows:

Company	Definitive countervailing duty (%)	TARIC additional code
Jushi Group Co., Ltd; Jushi Group Chengdu Co., Ltd; Jushi Group Jiujiang Co., Ltd.	10,3	B990
Changzhou New Changhai Fiberglass Co., Ltd; Jiangsu Changhai Composite Materials Holding Co., Ltd; Changzhou Tianma Group Co., Ltd.	4,9	A983
Chongqing Polycomp International Corporation	9,7	B991
Other companies cooperating listed in Annex I of Implementing Regulation (EU) No 1379/2014	10,2	
All other companies	10,3	A999

⁽³⁷⁾ OJ L 193, 30.7.2018, p. 1.

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

Article 2

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

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

Done at Brussels, 24 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2021/329**of 24 February 2021****concerning the renewal of the authorisation of a preparation of endo-1,4-beta-xylanase and endo-1,3(4)-beta-glucanase for chickens for fattening (holder of the authorisation: AVEVE NV), and repealing Regulation (EC) No 1091/2009****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting and renewing such authorisation.
- (2) A preparation of endo-1,4-beta-xylanase and endo-1,3(4)-beta-glucanase was authorised for 10 years as a feed additive for chickens for fattening by Commission Regulation (EC) No 1091/2009 ⁽²⁾.
- (3) In accordance with Article 14 of Regulation (EC) No 1831/2003, an application was submitted for the renewal of the authorisation of the preparation of endo-1,4-beta-xylanase produced by *Trichoderma reesei* MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma reesei* MUCL 49754 as feed additive for chickens for fattening in the additive category 'zootechnical additives' and in the functional group 'digestibility enhancers'. The microorganism *Trichoderma reesei* has meanwhile been renamed to *Trichoderma longibrachiatum*. The application was accompanied by the particulars and documents required under Article 14(2) of Regulation (EC) No 1831/2003.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinion of 17 March 2020 ⁽³⁾ that the applicant has provided data demonstrating that the additive complies with the conditions of authorisation under the proposed conditions of use. The Authority confirmed its previous conclusions that the preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* MUCL 49754 does not have an adverse effect on animal health, consumer health or the environment. It also stated that the additive should be considered a dermal and respiratory sensitiser. Therefore, the Commission considers that appropriate protective measures should be taken to prevent adverse effects on human health, in particular as regards the users of the additive. The Authority also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* MUCL 49754 shows that the conditions for authorisation, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the authorisation of that additive should be renewed as specified in the Annex to this Regulation.

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ Commission Regulation (EC) No 1091/2009 of 13 November 2009 concerning the authorisation of an enzyme preparation of endo-1,4-beta-xylanase produced by *Trichoderma reesei* (MUCL 49755) and endo-1,3(4)-beta-glucanase produced by *Trichoderma reesei* (MUCL 49754) as a feed additive for chickens for fattening (holder of authorisation Aveve NV) (OJ L 299, 14.11.2009, p. 6).

⁽³⁾ EFSA Journal 2020;18(4):6062.

- (6) As a consequence of the renewal of the authorisation of the preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49754 as a feed additive under the conditions laid down in the Annex to this Regulation, Regulation (EC) No 1091/2009 should be repealed.
- (7) Since safety reasons do not require the immediate application of the modifications to the conditions of authorisation for the preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49754, it is appropriate to provide a transitional period for interested parties to prepare themselves to meet the new requirements resulting from the renewal of the authorisation.
- (8) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

The authorisation of the preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49754, belonging to the additive category 'zootechnical additives' and to the functional group 'digestibility enhancers' is renewed subject to the conditions laid down in the Annex.

Article 2

1. The preparation of endo-1,4-beta-xylanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49755 and endo-1,3(4)-beta-glucanase produced by *Trichoderma longibrachiatum* (formerly identified as *Trichoderma reesei*) MUCL 49754 and premixtures containing it, which are produced and labelled before 17 September 2021 in accordance with the rules applicable before 17 March 2021 may continue to be placed on the market and used until the existing stocks are exhausted.

2. Feed materials and compound feed containing the preparation referred to in point 1, which are produced and labelled before 17 March 2022 in accordance with the rules applicable before 17 March 2021 may continue to be placed on the market and used until the existing stocks are exhausted where they are intended for food-producing animals.

Article 3

Regulation (EC) No 1091/2009 is repealed.

Article 4

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

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

Done at Brussels, 24 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

Identification number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method.	Species or category of animal	Maximum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feedingstuff with a moisture content of 12 %			

Category of zootechnical additives. Functional group: digestibility enhancers.

4a9	Aveve NV	Endo-1,4-beta-xylanase (EC 3.2.1.8) and Endo-1,3(4)-beta-glucanase (EC 3.2.1.6)	Additive composition: Preparation of endo-1,4-beta-xylanase (EC 3.2.1.8) and endo-1,3(4)-beta-glucanase (EC 3.2.1.6) having a minimum activity of 40 000 XU ⁽¹⁾/g and 9 000 BGU ⁽²⁾/g in solid and liquid form Characterisation of the active substances: Endo-1,4-beta-xylanase (EC 3.2.1.8) produced by <i>Trichoderma longibrachiatum</i> MUCL 49755 and endo-1,3(4)-beta-glucanase (EC 3.2.1.6) produced by <i>Trichoderma longibrachiatum</i> MUCL 49754 Analytical method ⁽³⁾ Characterisation of the active substance in the additive: — colorimetric method based on reaction of dinitrosalicylic acid on reducing sugar produced by action of endo-1,4-beta-xylanase on a xylan containing substrate; — colorimetric method based on reaction of dinitrosalicylic acid on reducing sugar produced by action of endo-1,3(4)-beta-glucanase on a β-glucan containing substrate.	Chickens for fattening	-	3 000 XU 675 BGU	-	1. In the directions for use of the additive and premixture, indicate the storage temperature, storage life, and stability to heat treatment. 2. For use in feed rich in starch and non-starch polysaccharides (mainly beta-glucans and arabinoxylans). 3. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks by inhalation and dermal contact. Where those risks cannot be eliminated or reduced to a minimum by such procedures and	17.3.2031
-----	----------	---	--	------------------------	---	---------------------	---	--	-----------

			Characterisation of the active substances in the feed — colorimetric method measuring water soluble dye released by action of endo-1,4-beta-xylanase from dye cross-linked wheat arabinoxylan substrate; — colorimetric method measuring water soluble dye released by action of endo-1,3(4)-beta-glucanase from dye cross-linked barley betaglucan substrate.					measures, the additive and premixtures shall be used with appropriate personal protective equipment, including breathing protection and gloves.	
--	--	--	--	--	--	--	--	---	--

⁽¹⁾ 1 XU is the amount of enzyme which liberates 1 micromole of reducing sugars (xylose equivalents) per minute from xylan of oat spelt at pH 4,8 and 50 °C.

⁽²⁾ 1 BGU is the amount of enzyme which liberates 1 micromole of reducing sugars (cellobiose equivalents) per minute from β -glucan of barley at pH 5,0 and 50 °C.

⁽³⁾ Details of the analytical methods are available at the following address of the Reference Laboratory: http://irmm.jrc.ec.europa.eu/EURLs/EURL_feed_additives/Pages/index.aspx

COMMISSION IMPLEMENTING REGULATION (EU) 2021/330**of 24 February 2021****concerning the authorisation of a preparation of 3-phytase produced by *Komagataella phaffii* CECT 13094 as a feed additive for pigs for fattening, minor porcine species, turkeys for fattening and reared for breeding (holder of authorisation: Fertinagro Biotech S.L.)****(Text with EEA relevance)**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EC) No 1831/2003 of the European Parliament and of the Council of 22 September 2003 on additives for use in animal nutrition ⁽¹⁾, and in particular Article 9(2) thereof,

Whereas:

- (1) Regulation (EC) No 1831/2003 provides for the authorisation of additives for use in animal nutrition and for the grounds and procedures for granting such authorisation.
- (2) In accordance with Article 7 of Regulation (EC) No 1831/2003, two applications were submitted for the authorisation of a preparation of 3-phytase produced by *Komagataella phaffii* CECT 13094. These applications were accompanied by the particulars and documents required under Article 7(3) of Regulation (EC) No 1831/2003.
- (3) The applications concern the extension of use of a preparation of 3-phytase produced by *Komagataella phaffii* CECT 13094 as a feed additive for pigs for fattening, minor growing porcine species, turkeys for fattening and reared for breeding, to be classified in the additive category 'zootechnical additives' and in the functional group 'digestibility enhancers'.
- (4) The European Food Safety Authority ('the Authority') concluded in its opinions of 3 July 2019 ⁽²⁾, 7 January 2020 ⁽³⁾ and 28 January 2020 ⁽⁴⁾ that, under the proposed conditions of use, 3-phytase produced by *Komagataella phaffii* CECT 13094 does not have an adverse effect on the health of pigs for fattening, minor growing porcine species, turkeys for fattening and reared for breeding, consumers safety or the environment. It was also concluded that both formulations of the additive should be considered as a respiratory sensitiser and the solid formulation as a dermal sensitiser. Therefore, the Commission considers that appropriate protective measures should be taken to prevent adverse effects on human health, in particular as regards the users of the additive. The Authority concluded that the additive is efficacious as a zootechnical additive in improving the digestibility of the diets in for pigs for fattening, minor porcine species, turkeys for fattening and reared for breeding. The Authority does not consider that there is a need for specific requirements of post-market monitoring. It also verified the report on the method of analysis of the feed additive in feed submitted by the Reference Laboratory set up by Regulation (EC) No 1831/2003.
- (5) The assessment of the 3-phytase shows that the conditions for authorisation of 3-phytase produced by *Komagataella phaffii* CECT 13094, as provided for in Article 5 of Regulation (EC) No 1831/2003, are satisfied. Accordingly, the use of that preparation should be authorised as specified in the Annex to this Regulation.
- (6) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

⁽¹⁾ OJ L 268, 18.10.2003, p. 29.

⁽²⁾ EFSA Journal 2019;17(8):5791.

⁽³⁾ EFSA Journal 2020;18(7):6205.

⁽⁴⁾ EFSA Journal 2020;18(6):6015.

HAS ADOPTED THIS REGULATION:

Article 1

The preparation specified in the Annex, belonging to the additive category 'zootechnical additives' and to the functional group 'digestibility enhancers', is authorised as an additive in animal nutrition, subject to the conditions laid down in that Annex.

Article 2

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

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

Done at Brussels, 24 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

Identi- fication number of the additive	Name of the holder of authorisation	Additive	Composition, chemical formula, description, analytical method	Species or category of animal	Maxi- mum age	Minimum content	Maximum content	Other provisions	End of period of authorisation
						Units of activity/kg of complete feed with a moisture content of 12 %			

Category of zootechnical additives. Functional group: digestibility enhancers.

4a25	Fertinagro Biotech S.L.	3-phytase (EC 3.1.3.8)	Additive composition: Preparation of 3-phytase (EC 3.1.3.8) produced by <i>Komagataella phaffii</i> (CECT 13094) having a minimum activity of: Solid form: 10 000 FTU ⁽¹⁾ /g Liquid form: 1 000 FTU/ml	— Turkeys for fattening — Turkeys reared for breeding purposes — Pigs for fattening — Minor porcine species for fattening	-	500 FTU	-	1. In the directions for use of the additive and premixtures, the storage conditions and stability to heat treatment shall be indicated. 2. For users of the additive and premixtures, feed business operators shall establish operational procedures and organisational measures to address potential risks by inhalation and dermal contact. Where those risks cannot be eliminated or reduced to a minimum by such procedures and measures, the additive and premixtures shall be used with appropriate personal protective equipment, including breathing protection and gloves.	17.3.2031
			Characterisation of the active substance: 3-phytase (EC 3.1.3.8) produced by <i>Komagataella phaffii</i> (CECT 13094)						
			Analytical method ⁽²⁾ For the quantification of 3-phytase activity in the feed additive: — colorimetric method based on the enzymatic reaction of phytase on phytate – VDLUFA 27.1.4 For the quantification of 3-phytase activity in premixtures: — colorimetric method based on the enzymatic reaction of phytase on phytate – VDLUFA 27.1.3						

			For the quantification of 3-phytase activity in feed materials and compound feed: — colorimetric method based on the enzymatic reaction of phytase on the phytate – EN ISO 30024						
--	--	--	---	--	--	--	--	--	--

(¹) 1 FTU is the amount of enzyme which liberates 1 micromole of inorganic phosphate per minute from a sodium phytate substrate at pH 5,5 and 37 °C.

(²) Details of the analytical methods are available at the following address of the Reference Laboratory: <https://ec.europa.eu/jrc/en/eurl/feed-additives/evaluation-reports>

COMMISSION IMPLEMENTING REGULATION (EU) 2021/331**of 24 February 2021****on the reporting of abuses committed by commercial intermediaries providing application services for travel authorisation under Regulation (EU) 2018/1240 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) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 ⁽¹⁾, and in particular Articles 15(5) and 16(10) thereof,

Whereas:

- (1) Regulation (EU) 2018/1240 establishes the European Travel Information and Authorisation System ('ETIAS') for third-country nationals exempt from the requirement to be in the possession of a visa for the purposes of entering and staying in the territory of the Member States.
- (2) To obtain the travel authorisation, the application is to be submitted by the applicant directly, or by a third person or a commercial intermediary authorised by the applicant to submit the application on his or her behalf.
- (3) In the context of comparable travel authorisation systems, commercial intermediaries have been known to engage in abusive practices. Abuses may take many different forms including: attempting to mislead applicants into believing that their website is the dedicated official public website or application for mobile devices for submitting an application, thereby giving the false impression that the excess charged by the commercial intermediary is a mandatory part of the application process rather than consideration for the voluntary use of a commercial service; making fraudulent use of the personal or financial data provided by the applicant; charging an unreasonably high price for its service, or failing to request the application in the required time, format and quality on behalf of the applicant.
- (4) In order to detect abusive practices and to prevent their recurrence, an online form for the reporting of abuse by commercial intermediaries should be made accessible via the dedicated public website and the application for mobile devices. In order to promote awareness of the possibility to report abuse and to facilitate such reporting, information regarding the process to be followed should be displayed visibly on the public website and the application for mobile devices. The form should contain standardised fields and request users to enter details of the abusive conduct.
- (5) In order to ensure that applicants are adequately informed of the nature and purpose of the reporting facility, the form should clarify that the reporting system is for monitoring purposes, it shall not collect any personal data and does not constitute a channel for appealing decisions on applications, or as a substitute for the pursuit of remedies under administrative, civil or criminal law.
- (6) The ETIAS Central Unit should receive and assess such reports, taking into account the similarities and recurrences of the abuses reported. The ETIAS Central Unit should regularly report to the Commission, as necessary, on the abuses reported and the assessments made. Account should be taken of these assessments in the development by the Commission of information campaigns referred to in Article 72 of Regulation (EU) 2018/1240. On the basis of the assessments, the ETIAS Central Unit should modify, as appropriate, the information to the general public referred to in Article 71 of Regulation (EU) 2018/1240, and in particular to the applicants.

⁽¹⁾ OJ L 236, 19.9.2018, p. 1.

- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union (‘TEU’) and to the Treaty on the Functioning of the European Union (‘TFEU’), Denmark did not take part in the adoption of Regulation (EU) 2018/1240 and is not bound by it or subject to its application. However, given that Regulation (EU) 2018/1240 builds upon the Schengen *acquis*, Denmark notified on 21 December 2018, in accordance with Article 4 of that Protocol, its decision to implement Regulation (EU) 2018/1240 in its national law.
- (8) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC ⁽²⁾; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (9) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* ⁽³⁾, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC ⁽⁴⁾.
- (10) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen *acquis* ⁽⁵⁾, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC ⁽⁶⁾.
- (11) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen *acquis* ⁽⁷⁾ which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU ⁽⁸⁾.
- (12) As regards Cyprus, Bulgaria and Romania and Croatia, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (13) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁹⁾ and delivered an opinion on 4 September 2020.

⁽²⁾ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland’s request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

⁽³⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁴⁾ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

⁽⁵⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁶⁾ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

⁽⁷⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁸⁾ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation’s association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

⁽⁹⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

- (14) The measures provided for in this Regulation are in accordance with the opinion of the Smart Borders Committee (ETIAS),

HAS ADOPTED THIS REGULATION:

Article 1

Form for reporting abuse

1. The reporting of abuse by a commercial intermediary shall be made using a form containing the information and fulfilling the technical requirements set out in points 1 to 7 of the Annex.
2. It shall be possible for the form to be completed in any of the official languages of the Union.
3. Before submitting the form, applicants shall be requested to provide confirmation of their having understood and consented to the general conditions applicable to the submission of a report on abuse, including that the applicant should not provide any personal data in his/her report, and the purposes for which the information provided shall be used, as set out in point 7 of the Annex.
4. Once submitted, the form shall automatically be sent to the ETIAS Central Unit.

Article 2

Additional documentation

The limitations on the number and size of additional files that may be uploaded shall be set out in the technical specifications referred to in Article 73(3) of Regulation (EU) 2018/1240.

Article 3

Notification to applicants

1. A notification of the receipt of the report of the abuse shall automatically appear on the screen of the applicant. The applicant shall be offered the possibility to save locally or print the acknowledgment of receipt.
2. Notifications shall at least include the following:
 - (a) acknowledgement of receipt of the report and confirmation of the date and time at which the form was submitted
 - (b) a reminder of all relevant information in relation to submitting an application for a travel authorisation as referred to in Article 71 of Regulation (EU) 2018/1240;
 - (c) information that the report of abuse shall be used to assist the monitoring and improving of the European Travel Information and Authorisation System. By contrast, the reporting facility is not intended to provide remedies in individual cases and is not a substitute for the pursuit of any claims in administrative, civil or criminal law that may be provided for under the applicable national law.

Article 4

Roles of the ETIAS Central Unit

1. The ETIAS Central Unit shall:
 - (a) monitor, process and analyse all reports of abuses;
 - (b) publish on the dedicated public website and in the application for mobile devices relevant information in order to prevent abuses.

2. Once a year, the ETIAS Central Unit shall submit a report to the Commission, which shall at least include:
 - (a) an anonymised description of the cases of abuse reported, including similarities between the cases, recurrences, trends and characteristics;
 - (b) an overview of the actions taken to adapt the information to the general public and applicants.

Article 5

Specific security measures

The form to report abuses shall be designed and implemented to ensure the confidentiality, integrity, availability, protection of personal data and non-repudiation of transactions as referred to in the Commission Decision (EU, Euratom) 2017/46 ⁽¹⁰⁾. Its technical and organisational implementation shall meet the requirements of the European Travel Information and Authorisation System's security plan, referred in Article 59(3) of Regulation (EU) 2018/1240, and shall comply with the rules on data protection and security applicable to the public website and the application for mobile devices referred to in Article 16(10) of Regulation (EU) 2018/1240.

Article 6

Entry into force

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

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 24 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

⁽¹⁰⁾ Commission Decision (EU, Euratom) 2017/46 of 10 January 2017 on the security of communication and information systems in the European Commission; OJ L 6, 11.1.2017, p. 40.

ANNEX

FORM FOR REPORTING ABUSE BY COMMERCIAL INTERMEDIARIES SUBMITTING AN APPLICATION FOR A TRAVEL AUTHORISATION ON BEHALF OF AN APPLICANT

1. Introduction

- (a) The form for reporting abuse by commercial intermediaries is to have the following title:

“Form for reporting abuse by commercial intermediaries submitting an application for a travel authorisation on behalf of an applicant.”

- (b) The following introductory notice is to appear at the beginning of this form:

“Please complete this form to report incidents of abuse you may have experienced by a commercial intermediary applying for a travel authorisation on your behalf.

Please note that the information you provide will be used to assist the monitoring and improving of ETIAS.

Please do not insert any personal data in this form, whether they are yours or those of any other person.”

- (c) The form must contain prompts requesting and permitting the entry of the data elements set out in the table below (though not necessarily in the order listed) in accordance with the standards, formats and requirements indicated.

2. Circumstances of the abuse

Circumstances of the abuse	Standard	Format	Requirement
The applicant must be offered the possibility to indicate whether his/her complaint has arisen in one or more of the following circumstances: — the applicant knowingly authorised a commercial intermediary to submit an application on his/her behalf — the applicant completed the application directly without knowing that he or she was using a non-official EU website operated by a commercial intermediary — other	N/A	Tick boxes.	Mandatory.
If the reply to the “circumstances of the abuse” is ‘other’.	N/A	Free text, including: latin-alphabet characters A-Z, spaces, diacritics, apostrophes and hyphens only. [number of characters permitted: 255]	Mandatory.

3. Information about the traveller reporting the abuse

Information	Standard	Format	Requirement
Country of birth	ISO 3166-1	Selection list of all countries, including countries that no longer exist.	Mandatory. “Unknown” as a selectable option shall be available.
Nationality	ISO 3166-1	Selection list of all countries, including countries that no longer exist.	Mandatory. “Unknown” as a selectable option shall be available.
Age group	N/A	18-25 26-40 41-55 > 55	Optional.
Gender		Tick boxes: Male/Female/Other	Optional.

4. Details of the abuse

Details of the abuse	Standard	Format	Requirement
Date of abuse	N/A	DD Month as word/YYYY	Optional. Mandatory.
Description and consequences of abuse	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes and hyphens only. [Number of characters permitted: to be defined]	Mandatory.
Travel authorisation received	N/A	Tick boxes: yes/no/I do not know.	Mandatory.
The total fee charged for travel authorisation and the provision of intermediary services	N/A	Free text (digits and currency).	Mandatory. “not applicable” option shall be available
Payment method of fee	N/A	Free text.	Mandatory. “not applicable” option shall be available

5. Information regarding the commercial intermediary

Information	Standard	Format	Requirement
Commercial name of the commercial intermediary		Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes and hyphens. Other special characters: “!”, “@”, “#”, “\$”, “&”, “*”, “?”.	Mandatory.

Information	Standard	Format	Requirement
Main commercial activities	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes and hyphens. Other special characters: “!”, “@”, “#”, “\$”, “&”, “*”, “?”.	Mandatory. “Not applicable” option shall be available.
Internet address	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Email	N/A	Local-part@domain	Mandatory. “Not applicable” option shall be available
Work phone number	ITU T, E.123 and E.164(country codes)	Selection list with all country codes, and free text (digits only).	Mandatory “Not applicable” option shall be available.
Mailing address — Street name	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — Street number	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — Apartment number	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — 2 nd line address	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — Town/City	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, apostrophes and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — Postal Code	N/A	Free text, including: latin-alphabet characters A-Z, digits, spaces, diacritics, oblique characters and hyphens only.	Mandatory. “Not applicable” option shall be available.
Mailing address: — Country	ISO 3166-1	Selection list of countries dependent territories and special areas of geographical interest.	Mandatory “Not applicable” option shall be available.

6. Supporting documentation

Supporting documentation	Standard	Format	Requirement
The applicant must be offered the possibility to upload documents in support of the report (where available). The applicant must acknowledge that the documents he/she will upload do not contain any personal data, or that he/she took care and redacted the personal data before he/she will upload the documents.	N/A	Uploading box Tick box	Size and number of additional files that may be uploaded. Accepted formats: Portable Document Format (PDF); Joint Photographic Experts Group (JPEG); Portable Network Graphics (PNG)).

7. Notice and consent

Notice and consent	Standard	Format	Requirement
Prior to submission, the applicant must be offered the possibility to confirm: (i) the applicant's understanding that the information provided will be used to assist the monitoring and improving of ETIAS. (ii) the applicant's understanding that the reporting facility does not constitute an appeal procedure against a refusal, annulment or revocation of a travel authorisation imputable to the conduct of a commercial intermediary. Neither does it provide remedies in individual cases and is not a substitute for the pursuit of any claims in civil or criminal law that may be provided for under the applicable national law. (iii) the applicant is informed that no personal data should be included in the report and where personal data are nonetheless provided consents that the data will be redacted.	N/A	Tick box	Mandatory.

DECISIONS

COUNCIL DECISION (EU) 2021/332

of 22 February 2021

on the position to be taken on behalf of the European Union in the World Forum for Harmonisation of Vehicle Regulations of the United Nations Economic Commission for Europe as regards the proposals for modifications to UN Regulations Nos 13, 13-H, 18, 30, 41, 46, 48, 53, 54, 67, 74, 75, 79, 86, 97, 98, 106, 107, 113, 116, 117, 118, 123, 124, 125, 141, 142, 148, 149, 150, 152, 154, 157 and UN Regulation on event data recorder, as regards the proposal for modifications to Global Technical Regulation No 9, as regards the proposal for amendments to Consolidated Resolution R.E.5, as regards the proposals for four new UN Regulations in relation to event data recorder, protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use, the approval of immobilizers and approval of a vehicle with regard to its immobilizer, and the approval of vehicle alarm system and approval of a vehicle with regard to its vehicle alarm system, as regards the proposal for a new Mutual Resolution M.R.4, and as regards the proposals for interpretation documents for UN Regulations Nos 155 and 156

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 114, in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) By Council Decision 97/836/EC ⁽¹⁾, the Union acceded to the Agreement of the United Nations Economic Commission for Europe (UNECE) concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of those prescriptions (the 'Revised 1958 Agreement'). The Revised 1958 Agreement entered into force on 24 March 1998.
- (2) By Council Decision 2000/125/EC ⁽²⁾, the Union acceded to the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts, which can be fitted and/or be used on wheeled vehicles (the 'Parallel Agreement'). The Parallel Agreement entered into force on 15 February 2000.
- (3) Regulation (EU) 2018/858 of the European Parliament and of the Council ⁽³⁾ lays down administrative provisions and technical requirements for the type-approval and placing on the market of all new vehicles, systems, components and separate technical units. That Regulation incorporates regulations adopted under the Revised 1958 Agreement ('UN Regulations') in the EU type-approval system, either as requirements for type-approval or as alternatives to Union legislation.

⁽¹⁾ Council Decision 97/836/EC of 27 November 1997 with a view to accession by the European Community to the Agreement of the United Nations Economic Commission for Europe concerning the adoption of uniform technical prescriptions for wheeled vehicles, equipment and parts which can be fitted to and/or be used on wheeled vehicles and the conditions for reciprocal recognition of approvals granted on the basis of these prescriptions ('Revised 1958 Agreement') (OJ L 346, 17.12.1997, p. 78).

⁽²⁾ Council Decision 2000/125/EC of 31 January 2000 concerning the conclusion of the Agreement concerning the establishing of global technical regulations for wheeled vehicles, equipment and parts which can be fitted and/or be used on wheeled vehicles ('Parallel Agreement') (OJ L 35, 10.2.2000, p. 12).

⁽³⁾ Regulation (EU) 2018/858 of the European Parliament and of the Council of 30 May 2018 on the approval and market surveillance of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles, amending Regulations (EC) No 715/2007 and (EC) No 595/2009 and repealing Directive 2007/46/EC (OJ L 151, 14.6.2018, p. 1).

- (4) Pursuant to Article 1 of the Revised 1958 Agreement and Article 6 of the Parallel Agreement, the UNECE World Forum for Harmonisation of Vehicle Regulations ('UNECE WP.29') may adopt proposals for modifications to UN Regulations, UN Global Technical Regulations ('UN GTRs') and UN Resolutions as well as proposals for new UN Regulations, UN GTRs and UN Resolutions concerning the approval of vehicles. Moreover, pursuant to those provisions, UNECE WP.29 may adopt proposals for authorisations to develop amendments to UN GTRs or to develop new UN GTRs and may adopt proposals for the extension of mandates for UN GTRs.
- (5) UNECE WP.29, during the 183rd session of the World Forum to be held between 9 and 11 March 2021, may adopt the proposals for modifications to UN Regulations Nos 13, 13-H, 18, 30, 41, 46, 48, 53, 54, 67, 74, 75, 79, 86, 97, 98, 106, 107, 113, 116, 117, 118, 123, 124, 125, 141, 142, 148, 149, 150, 152, 154, 157 and UN Regulation on event data recorder, the proposal for modifications to Global Technical Regulation No 9, the proposal for amendments to Consolidated Resolution R.E.5, the proposals for four new UN Regulations in relation to event data recorder, protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use, the approval of immobilizers and approval of a vehicle with regard to its immobilizer, and the approval of vehicle alarm system and approval of a vehicle with regard to its vehicle alarm system and the proposal for a new Mutual Resolution M.R.4. Moreover, UNECE WP.29 is to adopt the proposals for interpretation documents for UN Regulations Nos 155 and 156.
- (6) It is appropriate to establish the position to be taken on the Union's behalf in UNECE WP.29, as regards the adoption of those proposals, as the UN Regulations will be binding on the Union and, together with the UN GTRs and the Consolidated and Mutual Resolutions, capable of decisively influencing the content of Union law in the field of vehicle type-approval.
- (7) In the light of experience and technical developments, the requirements relating to certain elements or features covered by UN Regulations Nos 13, 13-H, 18, 30, 41, 46, 48, 53, 54, 67, 74, 75, 79, 86, 97, 98, 106, 107, 113, 116, 117, 118, 123, 124, 125, 141, 142, 148, 149, 150, 152, 154, 157 and UN Regulation on event data recorder, as well as by Consolidated Resolution R.E.5, need to be amended or supplemented.
- (8) In addition, certain provisions in UN GTR No 9 need to be amended.
- (9) In order to allow for technical progress and in order to improve vehicle safety, four new UN Regulations on event data recorder, protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use, the approval of immobilizers and approval of a vehicle with regard to its immobilizer, and the approval of vehicle alarm system and approval of a vehicle with regard to its vehicle alarm system, need to be adopted. In parallel, a new Mutual Resolution M.R.4. on panoramic sunroof glazing needs to be adopted,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 183rd session of the UNECE World Forum for Harmonisation of Vehicle Regulations to be held between 9 and 11 March 2021 as regards the proposals for modifications to UN Regulations Nos 13, 13-H, 18, 30, 41, 46, 48, 53, 54, 67, 74, 75, 79, 86, 97, 98, 106, 107, 113, 116, 117, 118, 123, 124, 125, 141, 142, 148, 149, 150, 152, 154, 157 and UN Regulation on event data recorder, as regards the proposal for modifications to Global Technical Regulation No 9, as regards the proposal for amendments to Consolidated Resolution R.E.5, as regards the proposals for four new UN Regulations in relation to event data recorder, protection of motor vehicles against unauthorized use and the approval of the device against unauthorized use, the approval of immobilizers and approval of a vehicle with regard to its immobilizer, and the approval of vehicle alarm system and approval of a vehicle with regard to its vehicle alarm system, as regards the proposal for a new Mutual Resolution M.R.4, and as regards the proposals for interpretation documents for UN Regulations Nos 155 and 156 (*) shall be to vote in favour.

(*) See document ST 5991/21 on <http://register.consilium.europa.eu>.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 22 February 2021.

For the Council

The President

J. BORRELL FONTELLES

COMMISSION IMPLEMENTING DECISION (EU) 2021/333
of 24 February 2021
postponing the expiry date of approval of alphachloralose for use in biocidal products of product-
type 14

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) No 528/2012 of the European Parliament and of the Council of 22 May 2012 concerning the making available on the market and use of biocidal products ⁽¹⁾, and in particular Article 14(5) thereof,

After consulting the Standing Committee on Biocidal Products,

Whereas:

- (1) The active substance alphachloralose was included in Annex I to Directive 98/8/EC of the European Parliament and of the Council ⁽²⁾ for use in biocidal products of product-type 14, and pursuant to Article 86 of Regulation (EU) No 528/2012 is therefore considered approved under that Regulation subject to the specifications and conditions set out in Annex I to that Directive.
- (2) The approval of alphachloralose for use in biocidal products of product-type 14 will expire on 30 June 2021. On 24 December 2019, an application was submitted in accordance with Article 13(1) of Regulation (EU) No 528/2012 for the renewal of the approval of alphachloralose.
- (3) On 15 October 2020, the evaluating competent authority of Poland informed the Commission that it had decided, pursuant to Article 14(1) of Regulation (EU) No 528/2012, that a full evaluation of the application was necessary. Pursuant to Article 8(1) of Regulation (EU) No 528/2012, the evaluating competent authority is to perform a full evaluation of the application within 365 days of its validation.
- (4) The evaluating competent authority may, as appropriate, request the applicant to provide sufficient data to carry out the evaluation, in accordance with Article 8(2) of Regulation (EU) No 528/2012. In such case, the 365-day period is suspended for a period that may not exceed 180 days in total unless a longer suspension is justified by the nature of the data requested or by exceptional circumstances.
- (5) Within 270 days of receipt of a recommendation from the evaluating competent authority, the European Chemicals Agency ('the Agency') is to prepare and submit to the Commission an opinion on renewal of the approval of the active substance in accordance with Article 14(3) of Regulation (EU) No 528/2012.
- (6) Consequently, for reasons beyond the control of the applicant, the approval of alphachloralose for use in biocidal products of product-type 14 is likely to expire before a decision has been taken on its renewal. It is therefore appropriate to postpone the expiry date of approval of alphachloralose for use in biocidal products of product-type 14 for a period of time sufficient to enable the examination of the application. Considering the time-limits for the evaluation by the evaluating competent authority and for the preparation and submission of the opinion by the Agency, it is appropriate to postpone the expiry date of approval to 31 December 2023.

⁽¹⁾ OJ L 167, 27.6.2012, p. 1.

⁽²⁾ Directive 98/8/EC of the European Parliament and of the Council of 16 February 1998 concerning the placing of biocidal products on the market (OJ L 123, 24.4.1998, p. 1).

- (7) Except for the expiry date of approval, alphachloralose remains approved for use in biocidal products of product-type 14 subject to the specifications and conditions set out in Annex I to Directive 98/8/EC,

HAS ADOPTED THIS DECISION:

Article 1

The expiry date of approval of alphachloralose for use in biocidal products of product-type 14 is postponed to 31 December 2023.

Article 2

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

Done at Brussels, 24 February 2021.

For the Commission
The President
Ursula VON DER LEYEN

CORRIGENDA

Corrigendum to Council Regulation (CFSP) 2021/251 of 18 February 2021 amending Regulation (EC) No 314/2004 concerning restrictive measures in view of the situation in Zimbabwe*(Official Journal of the European Union L 58 of 19 February 2021)*

On the cover, in the table of contents, and on page 9, in the title:

for: **'Council Regulation (CFSP) 2021/251 of 18 February 2021 amending Regulation (EC) No 314/2004 concerning restrictive measures in view of the situation in Zimbabwe'.**

read: **'Council Regulation (EU) 2021/251 of 18 February 2021 amending Regulation (EC) No 314/2004 concerning restrictive measures in view of the situation in Zimbabwe'.**

Corrigendum to Regulation (EU) 2019/876 of the European Parliament and of the Council of 20 May 2019 amending Regulation (EU) No 575/2013 as regards the leverage ratio, the net stable funding ratio, requirements for own funds and eligible liabilities, counterparty credit risk, market risk, exposures to central counterparties, exposures to collective investment undertakings, large exposures, reporting and disclosure requirements, and Regulation (EU) No 648/2012

(Official Journal of the European Union L 150 of 7 June 2019)

(1) On page 18, Article 6, new paragraph 1a, first subparagraph:

for: '1a. By way of derogation from paragraph 1 of this Article, only institutions identified as resolution entities that are also G-SIIs or that are part of a G-SII, and that do not have subsidiaries shall comply with the requirement laid down in Article 92a on an individual basis.'

read: '1a. By way of derogation from paragraph 1 of this Article, only institutions identified as resolution entities that are also G-SII entities and that do not have subsidiaries shall comply with the requirements laid down in Article 92a on an individual basis.'

(2) On page 20, Article 11, new paragraph 3a, first subparagraph:

for: '3a. By way of derogation from paragraph 1 of this Article, only parent institutions identified as resolution entities that are G-SIIs, part of a G-SII or part of a non-EU G-SII shall comply with Article 92a of this Regulation on a consolidated basis, to the extent and in the manner set out in Article 18 of this Regulation.'

read: '3a. By way of derogation from paragraph 1 of this Article, only parent institutions identified as resolution entities that are G-SII entities shall comply with Article 92a of this Regulation on a consolidated basis, to the extent and in the manner set out in Article 18 of this Regulation.'

(3) On page 21, new Article 12a, second and third paragraphs:

for: 'Where the amount calculated in accordance with the first paragraph of this Article is lower than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities shall act in accordance with Articles 45d(3) and 45h(2) of Directive 2014/59/EU.'

Where the amount calculated in accordance with the first paragraph of this Article is higher than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities may act in accordance with Articles 45d(3) and 45h(2) of Directive 2014/59/EU.'

read: 'Where the amount calculated in accordance with the first paragraph of this Article is lower than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities shall act in accordance with Articles 45d(4) and 45h(2) of Directive 2014/59/EU.'

Where the amount calculated in accordance with the first paragraph of this Article is higher than the sum of the amounts of own funds and eligible liabilities referred to in point (a) of Article 92a(1) of this Regulation of all resolution entities belonging to that G-SII, the resolution authorities may act in accordance with Articles 45d(4) and 45h(2) of Directive 2014/59/EU.’.

(4) On page 21, replaced Article 13, paragraph 2:

for: ‘2. Institutions identified as resolution entities that are G-SIIs or that are part of a G-SII shall comply with Article 437a and point (h) of Article 447 on the basis of the consolidated situation of their resolution group.’,

read: ‘2. Institutions identified as resolution entities that are G-SII entities shall comply with Article 437a and point (h) of Article 447 on the basis of the consolidated situation of their resolution group.’.

(5) On page 23, replaced Article 22:

for: ‘Article 22

Sub-consolidation in case of entities in third countries

1. Subsidiary institutions shall apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation if those institutions have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.

2. By way of derogation from paragraph 1 of this Article, subsidiary institutions may choose not to apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation where the total assets and off-balance-sheet items of their subsidiaries and participations in third countries are less than 10 % of the total amount of the assets and off-balance-sheet items of the subsidiary institution.’,

read: ‘Article 22

Sub-consolidation in case of entities in third countries

1. Subsidiary institutions shall apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation if those institutions, or their parent undertaking where the parent undertaking is a financial holding company or mixed financial holding company, have an institution or a financial institution as a subsidiary in a third country, or hold a participation in such an undertaking.

2. By way of derogation from paragraph 1 of this Article, subsidiary institutions may choose not to apply the requirements laid down in Articles 89, 90 and 91 and Parts Three, Four and Seven and the associated reporting requirements laid down in Part Seven A on the basis of their sub-consolidated situation where the total assets and off-balance-sheet items of the subsidiaries and participations in third countries are less than 10 % of the total amount of the assets and off-balance-sheet items of the subsidiary institution.’.

(6) On page 34, new Article 72e, paragraph 4, first subparagraph, definitions:

for:

- 'LP_i = the amount of eligible liabilities items issued by subsidiary i and held by the parent institution;
- β = percentage of own funds instruments and eligible liabilities items issued by subsidiary i and held by the parent undertaking;
- O_i = the amount of own funds of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
- L_i = the amount of eligible liabilities of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
- r_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with point (a) of Article 92a(1) of this Regulation and Article 45d of Directive 2014/59/EU; and',

read:

- 'LP_i = the amount of eligible liabilities instruments issued by subsidiary i and held by the parent institution;
- β = percentage of own funds instruments and eligible liabilities instruments issued by subsidiary i and held by the parent undertaking, calculated as:

$$\beta = \frac{(OP_i + LP_i)}{\text{the amount of all own funds instruments and eligible liabilities instruments issued by subsidiary i;}}$$

- O_i = the amount of own funds of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
- L_i = the amount of eligible liabilities of subsidiary i, not taking into account the deduction calculated in accordance with this paragraph;
- r_i = the ratio applicable to subsidiary i at the level of its resolution group in accordance with point (a) of Article 92a(1) of this Regulation and point (a) of the first subparagraph of Article 45c(3) of Directive 2014/59/EU; and'.

(7) On page 37, Article 1, point (35):

for:

'(35) in Article 76, paragraphs 1, 2 and 3 are replaced by the following:

- “1. For the purposes of point (a) of Article 42, point (a) of Article 45, point (a) of Article 57, point (a) of Article 59, point (a) of Article 67, point (a) of Article 69 and point (a) of Article 72h, institutions may reduce the amount of a long position in a capital instrument by the portion of an index that is made up of the same underlying exposure that is being hedged, provided that all the following conditions are met:
(...)
2. Where the competent authority has granted its prior permission, an institution may use a conservative estimate of the underlying exposure of the institution to instruments included in indices as an alternative to an institution calculating its exposure to the items referred to in one or more of the following points:
(...)”;

read:

'(35) in Article 76, the title and paragraphs 1, 2 and 3 are replaced by the following:

“Article 76

Index holdings of capital instruments and of liabilities

1. For the purposes of point (a) of Article 42, point (a) of Article 45, point (a) of Article 57, point (a) of Article 59, point (a) of Article 67, point (a) of Article 69, point (a) of Article 72f and point (a) of Article 72h, institutions may reduce the amount of a long position in a capital instrument or in a liability by the portion

of an index that is made up of the same underlying exposure that is being hedged, provided that all the following conditions are met:

(...)

2. Where the competent authority has granted its prior permission, an institution may use a conservative estimate of the underlying exposure of the institution to capital instruments or to liabilities included in indices as an alternative to an institution calculating its exposure to the items referred to in one or more of the following points:

(...)'.

(8) On page 38, replaced Article 78, paragraph 1, second subparagraph, fourth sentence:

for: 'In the case of Common Equity Tier 1 instruments, that predetermined amount shall not exceed 3 % of the relevant issue and shall not exceed 10 % of the amount by which Common Equity Tier 1 capital exceeds the sum of the Common Equity Tier 1 capital requirements laid down in this Regulation, in Directives 2013/36/EU and 2014/59/EU by a margin that the competent authority considers necessary.'

read: 'In the case of Common Equity Tier 1 instruments, that predetermined amount shall not exceed 3 % of the relevant issue and shall not exceed 10 % of the amount by which Common Equity Tier 1 capital exceeds the sum of the Common Equity Tier 1 capital requirements laid down in this Regulation, in Directives 2013/36/EU and 2014/59/EU and a margin that the competent authority considers necessary.'

(9) On page 42, replaced Article 82:

for: "Article 82

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds shall comprise the minority interest, Additional Tier 1 or Tier 2 instruments, as applicable, plus the related retained earnings and share premium accounts, of a subsidiary where the following conditions are met:

(...)

(c) those instruments are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One."';

read: "Article 82

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds

Qualifying Additional Tier 1, Tier 1, Tier 2 capital and qualifying own funds shall comprise the minority interest, Additional Tier 1 or Tier 2 instruments, as applicable, plus the related share premium accounts, of a subsidiary where the following conditions are met:

(...)

(c) the Common Equity Tier 1 items, Additional Tier 1 items and Tier 2 items referred to in the introductory part of this paragraph, are owned by persons other than the undertakings included in the consolidation pursuant to Chapter 2 of Title II of Part One."';

(10) On page 43, Article 92, new paragraph 1a, first subparagraph:

for: '1a. In addition to the requirement laid down in point (d) paragraph 1 of this Article, a G-SII shall maintain a leverage ratio buffer equal to the G-SIIs total exposure measure referred to in Article 429(4) of this Regulation multiplied by 50 % of the G-SII buffer rate applicable to the G-SII in accordance with Article 131 of Directive 2013/36/EU.'

read: '1a. In addition to the requirement laid down in point (d) of paragraph 1 of this Article, a G-SII shall maintain a leverage ratio buffer equal to the G-SIIs total exposure measure referred to in Article 429(4) of this Regulation multiplied by 50 % of the G-SII buffer rate applicable to the G-SII in accordance with Article 131 of Directive 2013/36/EU.'

(11) On page 43, new Article 92a, paragraph 1, introductory part:

for: '1. Subject to Articles 93 and 94 and to the exceptions set out in paragraph 2 of this Article, institutions identified as resolution entities and that are a G-SII or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:'

read: '1. Subject to Articles 93 and 94 and to the exceptions set out in paragraph 2 of this Article, institutions identified as resolution entities and that are G-SII entities shall at all times satisfy the following requirements for own funds and eligible liabilities:'

(12) On page 44, new Article 92a, paragraph 3 :

for: '3. Where the aggregate resulting from the application of the requirement laid down in point (a) of paragraph 1 of this Article to each resolution entity of the same G SII exceeds the requirement for own funds and eligible liabilities calculated in accordance with Article 12a of this Regulation, the resolution authority of the EU parent institution may, after having consulted the other relevant resolution authorities, act in accordance with Article 45d(4) or 45h(1) of Directive 2014/59/EU.'

read: '3. Where the aggregate resulting from the application of the requirement laid down in point (a) of paragraph 1 of this Article to each resolution entity of the same G-SII exceeds the requirement for own funds and eligible liabilities calculated in accordance with Article 12a of this Regulation, the resolution authority of the EU parent institution may, after having consulted the other relevant resolution authorities, act in accordance with Article 45d(4) or 45h(2) of Directive 2014/59/EU.'

(13) On page 68, new Article 279a, paragraph 1, point (a), definitions:

for: 'T = the expiry date of the option; for options which can be exercised at one future date only, the expiry date is equal to that date; for options which can be exercised at multiple future dates, the expiry date is equal to the latest of those dates; the expiry date shall be expressed in years using the relevant business day convention; and'

read: 'T = the period between the expiry date of the option (T_{exp}) and the reporting date; for options which can be exercised at one future date only, T_{exp} is equal to that date; for options which can be exercised at multiple future dates, T_{exp} is equal to the latest of those dates; T shall be expressed in years using the relevant business day convention; and'

(14) On page 70, new Article 279b, paragraph 1, point (a), the formula:

for:
$$\text{supervisory duration factor} = \frac{\exp(-R \cdot S) - \exp(-R \cdot E)}{R}$$

where:

R = the supervisory discount rate; R = 5 %;

S = the period between the start date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention; and

E = the period between the end date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention.’

read:
$$\text{supervisory duration factor} = \max \left\{ \frac{\exp(-R \cdot S) - \exp(-R \cdot E)}{R}; 10/\text{OneBusinessYear} \right\}$$

where:

R = the supervisory discount rate; R = 5 %;

S = the period between the start date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention;

E = the period between the end date of a transaction and the reporting date, which shall be expressed in years using the relevant business day convention; and

OneBusinessYear = one year expressed in business days using the relevant business day convention.’

(15) On page 73, new Article 280a, paragraph 3, the formula:

for:
$$\text{EffNot}_j^{\text{IR}} = \sqrt{[(D_{j,1})^2 + (D_{j,2})^2 + 1,4 \cdot D_{j,1} \cdot D_{j,2} + 1,4 \cdot D_{j,2} \cdot D_{j,3} + 0,6 \cdot D_{j,1} \cdot D_{j,3}]},$$

read:
$$\text{EffNot}_j^{\text{IR}} = \sqrt{[(D_{j,1})^2 + (D_{j,2})^2 + (D_{j,3})^2 + 1,4 \cdot D_{j,1} \cdot D_{j,2} + 1,4 \cdot D_{j,2} \cdot D_{j,3} + 0,6 \cdot D_{j,1} \cdot D_{j,3}]}$$

(16) On page 75, new Article 280c, paragraph 3, the formula:

for:
$$\text{AddOn}_j^{\text{Credit}} = \epsilon_j \sqrt{\left(\sum_k \rho_k^{\text{Credit}} \cdot \text{AddOn}(\text{Entity}_k) \right)^2 + \sum_k (1 - (\rho_k^{\text{Credit}})^2) \cdot (\text{AddOn}(\text{Entity}_k))^2},$$

read:
$$\text{AddOn}_j^{\text{Credit}} = \epsilon_j \sqrt{\left(\sum_k \rho_k^{\text{Credit}} \cdot \text{AddOn}(\text{Entity}_k) \right)^2 + \sum_k (1 - (\rho_k^{\text{Credit}})^2) \cdot (\text{AddOn}(\text{Entity}_k))^2}.$$

(17) On page 77, new Article 280d, paragraph 3, the formula:

$$\text{for:} \quad \text{AddOn}_j^{\text{Equity}} = \epsilon_j \sqrt{\left(\sum_k \rho_k^{\text{Equity}} \cdot \text{AddOn}(\text{Entity}_k) \right)^2 + \sum_k \left(1 - (\rho_k^{\text{Equity}})^2 \right) \cdot (\text{AddOn}(\text{Entity}_k))^2},$$

$$\text{read:} \quad \text{AddOn}_j^{\text{Equity}} = \epsilon_j \sqrt{\left(\sum_k \rho_k^{\text{Equity}} \cdot \text{AddOn}(\text{Entity}_k) \right)^2 + \sum_k \left(1 - (\rho_k^{\text{Equity}})^2 \right) \cdot (\text{AddOn}(\text{Entity}_k))^2},$$

(18) On page 77, new Article 280d, paragraph 4, the formula:

$$\text{for:} \quad \text{AddOn}(\text{Entity}_k) = \text{SK}_k^{\text{Equity}} \cdot \text{EffNot}_k^{\text{Equity}},$$

$$\text{read:} \quad \text{AddOn}(\text{Entity}_k) = \text{SF}_k^{\text{Equity}} \cdot \text{EffNot}_k^{\text{Equity}}.$$

(19) On page 78, new Article 280e, paragraph 1, the formula:

$$\text{for:} \quad \text{AddOn}^{\text{Com}} = \sum_i \text{AddOn}_i^{\text{Com}},$$

$$\text{read:} \quad \text{AddOn}^{\text{Com}} = \sum_j \text{AddOn}_j^{\text{Com}}.$$

(20) On page 78, new Article 280e, paragraph 4, the formula:

$$\text{for:} \quad \text{AddOn}_j^{\text{Com}} = \epsilon_j \sqrt{\left(\rho^{\text{Com}} \cdot \sum_k \text{AddOn}(\text{Type}_k^j) \right)^2 + (1 - (\rho^{\text{Com}})^2) \cdot \sum_k \text{AddOn}(\text{Type}_k^j)^2},$$

$$\text{read:} \quad \text{AddOn}_j^{\text{Com}} = \epsilon_j \sqrt{\left(\rho^{\text{Com}} \cdot \sum_k \text{AddOn}(\text{Type}_k^j) \right)^2 + (1 - (\rho^{\text{Com}})^2) \cdot \sum_k (\text{AddOn}(\text{Type}_k^j))^2}.$$

(21) On page 78, new Article 280e, paragraph 5, definitions :

for:

SF_k^{Com} = the supervisory factor applicable to the commodity reference type k;
where the commodity reference type k corresponds to transactions allocated to the hedging set referred to in point (e)(i) of Article 277a(1), excluding transactions concerning electricity, $SF_k^{Com} = 18\%$; for transactions concerning electricity, $SF_k^{Com} = 40\%$;

read:

SF_k^{Com} = the supervisory factor applicable to the commodity reference type k;
where the commodity reference type k corresponds to transactions allocated to the hedging set referred to in point (e) of Article 277a(1), excluding transactions concerning electricity, $SF_k^{Com} = 18\%$; for transactions concerning electricity, $SF_k^{Com} = 40\%$;

(22) On page 89, new Article 325a, paragraph 2, point (c):

for:

‘(c) all positions shall be valued at their market values on that date, except for positions referred to in point (b); where the market value of a position is not available on a given date, institutions shall take a fair value for the position on that date; where the fair value and market value of a position are not available on a given date, institutions shall take the most recent market value or fair value for that position;’

read:

‘(c) all positions shall be valued at their market values on that date, except for positions referred to in point (b); where the market value of a trading book position is not available on a given date, institutions shall take a fair value for the trading book position on that date; where the fair value and market value of a trading book position are not available on a given date, institutions shall take the most recent market value or fair value for that position;’

(23) On page 93, new Article 325f, paragraph 8, definitions:

for:

‘ $S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ in bucket c; where those values for S_b and S_c produce a negative number for the overall sum of $\sum_b K_b^2 + \sum_b \sum_c \gamma_{bc} S_b S_c$, the institution shall calculate the risk-class specific own funds requirements for delta or vega risk using an alternative specification whereby’

read:

‘ $S_b = \sum_k WS_k$ for all risk factors in bucket b and $S_c = \sum_k WS_k$ in bucket c; where those values for S_b and S_c produce a negative number for the overall sum of $\sum_b K_b^2 + \sum_b \sum_{c \neq b} \gamma_{bc} S_b S_c$, the institution shall calculate the risk-class specific own funds requirements for delta or vega risk using an alternative specification whereby’

(24) On page 100, new Article 325r, paragraph 4, definitions:

for:

' $V_i(.)$ = the market value of instrument i as a function of risk factor k; and',

read:

' $V_i(.)$ = the pricing function of instrument i; and'.

(25) On page 100, new Article 325r, paragraph 5, definitions:

for:

' $V_i(.)$ = the market value of instrument i as a function of risk factor k; and',

read:

' $V_i(.)$ = the pricing function of instrument i; and'.

(26) On page 101, new Article 325s, paragraph 1, the formula:

for:

$$S_k = \frac{V_i(1,01 + vol_k, x, y) - V_i(vol_k, x, y)}{0,01},$$

read:

$$S_k = \frac{V_i(0,01 + vol_k, x, y) - V_i(vol_k, x, y)}{0,01}.$$

(27) On page 104, new Article 325w, paragraph 1, definitions:

for:

' V_{notional} = the notional amount of the instrument;

$P\&L_{\text{long}}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the long exposure; gains shall enter the formula with a positive sign and losses with a negative; and

$\text{Adjustment}_{\text{long}}$ = the amount by which, due to the structure of the derivative instrument, the institution's loss in the event of default would be increased or reduced relative to the full loss on the underlying instrument; increases shall enter the $\text{Adjustment}_{\text{long}}$ term with a positive sign and decreases with a negative sign.'

read:

' V_{notional} = the notional amount of the instrument from which the exposure arises;

$P\&L_{\text{long}}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the long exposure; gains shall enter into the formula with a positive sign and losses shall enter into the formula with a negative sign; and

$\text{Adjustment}_{\text{long}} =$ where the instrument from which the exposure arises is a derivative instrument, the amount by which, due to the structure of the derivative instrument, the institution's loss in the event of default would be increased or reduced relative to the full loss on the underlying instrument; increases shall enter into the formula with a positive sign and decreases shall enter into the formula with a negative sign.'

(28) On page 104, new Article 325w, paragraph 2, definitions:

for:

$V_{\text{notional}} =$ the notional amount of the instrument that shall enter into the formula with a negative sign;
(...)

$\text{Adjustment}_{\text{short}} =$ the amount by which, due to the structure of the derivative instrument, the institution's gain in the event of default would be increased or reduced relative to the full loss on the underlying instrument; decreases shall enter the $\text{Adjustment}_{\text{short}}$ term with a positive sign and increases shall enter the $\text{Adjustment}_{\text{short}}$ term with a negative sign.'

read:

$V_{\text{notional}} =$ the notional amount of the instrument from which the exposure arises that shall enter into the formula with a negative sign;
(...)

$\text{Adjustment}_{\text{short}} =$ where the instrument from which the exposure arises is a derivative instrument, the amount by which, due to the structure of the derivative instrument, the institution's gain in the event of default would be increased or reduced relative to the full loss on the underlying instrument; decreases shall enter into the formula with a positive sign and increases shall enter into the formula with a negative sign.'

(29) On page 104, new Article 325w, paragraph 4 :

for:

- '4. For the purposes of the calculations set out in paragraphs 1 and 2, notional amounts shall be determined as follows:
- (a) in the case of debt instruments, the notional amount is the face value of the debt instrument;
 - (b) in the case of derivative instruments with debt security underlyings, the notional amount is the notional amount of the derivative instrument.'

- read:*
- ‘4. For the purposes of the calculations set out in paragraphs 1 and 2, notional amounts shall be determined as follows:
- (a) in the case of a bond, the notional amount is the face value of the bond;
 - (b) in the case of a sold put option on a bond, the notional amount is the notional amount of the option; in the case of a bought call option on a bond, the notional amount is 0.’.

(30) On page 104, new Article 325w, paragraph 5:

- for:*
- ‘5. For exposures to equity instruments, institutions shall calculate the gross JTD amounts as follows, instead of using the formulas referred to in paragraphs 1 and 2:

$$JTD_{long} = \max \{LGD \cdot V + P\&L_{long} + Adjustment_{long}; 0\}$$

$$JTD_{short} = \min \{LGD \cdot V + P\&L_{short} + Adjustment_{short}; 0\}$$

where:

JTD_{long} = the gross JTD amount for the long exposure;

JTD_{short} = the gross JTD amount for the short exposure; and

V = the fair value of the equity or, in the case of derivative instruments with equity underlyings, the fair value of the equity underlying.’.

- read:*
- ‘5. For exposures to equity instruments, institutions shall calculate the gross JTD amounts as follows:

$$JTD_{long} = \max \{LGD \cdot V_{notional} + P\&L_{long} + Adjustment_{long}; 0\}$$

$$JTD_{short} = \min \{LGD \cdot V_{notional} + P\&L_{short} + Adjustment_{short}; 0\}$$

where:

JTD_{long} = the gross JTD amount for the long exposure;

$V_{notional}$ = the notional amount of the instrument from which the exposure arises; the notional amount is the fair value of the equity for cash equity instruments; for the JTD_{short} formula, the notional amount of the instrument shall enter into the formula with a negative sign;

$P\&L_{long}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the long exposure; gains shall enter into the formula with a positive sign and losses shall enter into the formula with a negative sign;

$Adjustment_{long}$ = the amount by which, due to the structure of the derivative instrument, the institution’s loss in the event of default would be increased or reduced relative to the full loss on the underlying instrument; increases shall enter into the formula with a positive sign and decreases shall enter into the formula with a negative sign;

JTD_{short} = the gross JTD amount for the short exposure;

$P\&L_{short}$ = a term which adjusts for gains or losses already accounted for by the institution due to changes in the fair value of the instrument creating the short exposure; gains shall enter into the formula with a positive sign and losses shall enter into the formula with a negative sign; and

$\text{Adjustment}_{\text{short}}$ = the amount by which, due to the structure of the derivative instrument, the institution's gain in the event of default would be increased or reduced relative to the full loss on the underlying instrument; decreases shall enter into the formula with a positive sign and increases shall enter into the formula with a negative sign.'

(31) On page 105, new Article 325w, paragraph 8, first subparagraph, point (a):

for: '(a) how institutions are to calculate JTD amounts for different types of instruments in accordance with this Article';

read: '(a) how institutions are to determine the components $\text{P\&L}_{\text{long}}$, $\text{P\&L}_{\text{short}}$, $\text{Adjustment}_{\text{long}}$ and $\text{Adjustment}_{\text{short}}$ when calculating the JTD amounts for different types of instruments in accordance with this Article';

(32) On page 109, new Article 325ad, paragraph 4, the formula:

for:
$$\text{DRC}_{\text{ACTP}} = \max \left\{ \sum_b \max[\text{DRC}_b, 0] + 0,5 \cdot (\min[\text{DRC}_b, 0]); 0 \right\},$$

read:
$$\text{DRC}_{\text{ACTP}} = \max \left\{ \sum_b (\max\{\text{DRC}_b, 0\} + 0,5 \cdot \min\{\text{DRC}_b, 0\}); 0 \right\}.$$

(33) On page 115, Article 325an, paragraph 1, definitions :

for: ' $\rho_{kl}^{(\text{tranche})}$ shall be equal to 1 where ...',

read: ' $\rho_{kl}^{(\text{tranche})}$ shall be equal to 1 where ...'.

(34) On page 121, Article 325ay, paragraph 1, introductory part:

for: '1. Between vega risk sensitivities within the same bucket of the general interest rate risk (GIRR) class, the correlation parameter r_{kl} shall be set as follows';

read: '1. Between vega risk sensitivities within the same bucket of the general interest rate risk (GIRR) class, the correlation parameter ρ_{kl} shall be set as follows'.

(35) On page 124, new Article 325bb, paragraph 1, introductory part:

for: '1. Institutions shall calculate the expected shortfall risk measure referred to in point (a) of Article 325ba(1) for any given date "t" and for any given portfolio of trading book positions as follows';

read: ‘1. Institutions shall calculate the expected shortfall risk measure referred to in point (a) of Article 325ba(1) for any given date “t” and for any given portfolio of trading book positions and non-trading book positions that are subject to foreign exchange or commodity risk as follows:’.

(36) On page 125, new Article 325bc, paragraph 1, point (c), introductory part:

for: ‘(c) for a given portfolio of trading book positions, institution shall calculate the partial expected shortfall measure at time “t” accordance with the following formula:

$$PES_t = \sqrt{(PES_t(T))^2 + \sum_{j \geq 2} \left(PES_t(T, j) \cdot \sqrt{\frac{(LH_j - LH_{j-1})}{10}} \right)^2},$$

read: ‘(c) for a given portfolio of trading book positions and non-trading book positions that are subject to foreign exchange or commodity risk, institutions shall calculate the partial expected shortfall measure at time “t” in accordance with the following formula:

$$PES_t = \sqrt{(PES_t(T))^2 + \sum_{j \geq 2} \left(PES_t(T, j) \cdot \sqrt{\frac{(LH_j - LH_{j-1})}{10}} \right)^2}.$$

(37) On page 127, new Article 325bd, paragraph 4, introductory part:

for: ‘4. For the purpose of calculating the partial expected shortfall measures in accordance with point (c) of Article 325bc(1), the effective liquidity horizon of a given modellable risk factor of a given trading book position shall be calculated as follows:’.

read: ‘4. For the purpose of calculating the partial expected shortfall measures in accordance with point (c) of Article 325bc(1), the effective liquidity horizon of a given modellable risk factor of a given trading book position or a non-trading book position that is subject to foreign exchange or commodity risk shall be calculated as follows:’.

(38) On page 148, replaced Article 411, point (4):

for: ‘(4) “deposit broker” means a natural person or an undertaking that places deposits from third parties, including retail deposits and corporate deposits but excluding deposits from financial institutions, with credit institutions in exchange of a fee;’.

read: ‘(4) “deposit broker” means a natural person or an undertaking that places deposits from third parties, including retail deposits and corporate deposits but excluding deposits from financial customers, with credit institutions in exchange of a fee;’.

(39) On page 158, new Article 428k, paragraph 3, introductory part:

for: ‘3. The following liabilities shall be subject to a 0 % available stable funding factor:’.

read: '3. The following liabilities and capital items or instruments shall be subject to a 0 % available stable funding factor:'.

(40) On page 159, new Article 428l, introductory part:

for: 'The following liabilities shall be subject to a 50 % available stable funding factor:'.

read: 'The following liabilities and capital items or instruments shall be subject to a 50 % available stable funding factor:'.

(41) On page 159, new Article 428l, point (d) :

for: '(d) any other liabilities with a residual maturity of a minimum of six months but less than one year not referred to in Articles 428m, 428n and 428o.'.

read: '(d) any other liabilities and capital items or instruments with a residual maturity of a minimum of six months but less than one year not referred to in Articles 428m, 428n and 428o.'.

(42) On page 169, new Article 428al, paragraph 3, introductory part:

for: '3. The following liabilities shall be subject to a 0 % available stable funding factor:'.

read: '3. The following liabilities, and capital items or instruments shall be subject to a 0 % available stable funding factor:'.

(43) On page 169, new Article 428am, introductory part:

for: 'The following liabilities shall be subject to a 50 % available stable funding factor:'.

read: 'The following liabilities and capital items or instruments shall be subject to a 50 % available stable funding factor:'.

(44) On page 169, new Article 428am, point (b):

for: '(b) liabilities with a residual maturity of less than one year provided by:'.

read: '(b) liabilities and capital items or instruments with a residual maturity of less than one year provided by:'.

(45) On page 175, replaced Article 429, paragraph 5, first subparagraph, point (a):

for: ‘(a) a derivative instrument that is considered an off-balance-sheet item in accordance with point (d) of paragraph 4 but is treated as a derivative in accordance with the applicable accounting framework, shall be subject to the treatment set out in that point;’,

read: ‘(a) an off-balance-sheet item in accordance with point (d) of paragraph 4 that is treated as a derivative in accordance with the applicable accounting framework shall be subject to the treatment set out in point (b) of that paragraph;’.

(46) On page 176, new Article 429a, paragraph 1, first subparagraph, point (d):

for: ‘(d) where the institution is a public development credit institution, the exposures arising from assets that constitute claims on central governments, regional governments, local authorities or public sector entities in relation to public sector investments and promotional loans;’,

read: ‘(d) where the institution is a public development credit institution, the exposures arising from assets that constitute claims on central governments, regional governments, local authorities or public sector entities in relation to public sector investments, and promotional loans;’.

(47) On page 178, new Article 429a, paragraph 2, third subparagraph:

for: ‘For the purposes of points (d) and (e) of the first subparagraph, and without prejudice to the Union State aid rules and (...)’,

read: ‘For the purposes of points (d) and (e) of paragraph 1, and without prejudice to the Union State aid rules and (...)’.

(48) On page 209, new Article 461a, first paragraph:

for: ‘For the purposes of the reporting requirements set out in Article 430b(1), the Commission is empowered to adopt delegated acts in accordance with Article 462, to amend this Regulation by making technical adjustments to Articles 325e, 325g to 325j, 325p, 325q, 325ae, 325ak, 325am, 325ap to 325at, 325av, 325ax, and specify (...)’,

read: ‘For the purposes of the reporting requirements set out in Article 430b(1), the Commission is empowered to adopt delegated acts in accordance with Article 462, to amend this Regulation by making technical adjustments to Articles 325e, 325g to 325j, 325p, 325q, 325ae, 325ai, 325ak, 325am, 325ap to 325at, 325av, 325ax, and specify (...)’.

(49) On page 209, replaced Article 462:

for: ‘(...)

2. The power to adopt delegated acts referred to in Articles 244(6) and 245(6), in Articles 456 to 460 and in Article 461a shall be conferred on the Commission for an indeterminate period of time from 28 June 2013.

3. The delegation of power referred to in Articles 244(6) and 245(6), in Articles 456 to 460 and in Article 461a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

(...)

6. A delegated act adopted pursuant to Articles 244(6) and 245(6), Articles 456 to 460 and in Article 461a shall enter into force (...),

read:

‘(...)

2. The power to adopt delegated acts referred to in Articles 244(6) and 245(6), in Articles 456, 457, 459, 460 and 461a shall be conferred on the Commission for an indeterminate period of time from 28 June 2013.

3. The delegation of power referred to in Articles 244(6) and 245(6), in Articles 456, 457, 459, 460 and 461a may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of the delegated acts already in force.

(...)

6. A delegated act adopted pursuant to Articles 244(6) and 245(6), Articles 456, 457, 459, 460 and 461a shall enter into force (...).

(50) On page 210, replaced Article 494, paragraph 1, introductory part:

for:

- ‘1. By way of derogation from Article 92a, as from 27 June 2019 until 31 December 2021, institutions identified as resolution entities that are G-SIIs or part of a G-SII shall at all times satisfy the following requirements for own funds and eligible liabilities:’;

read:

- ‘1. By way of derogation from Article 92a, as from 27 June 2019 until 31 December 2021, institutions identified as resolution entities that are G-SII entities shall at all times satisfy the following requirements for own funds and eligible liabilities:’.

(51) On page 211, new Article 494a, paragraph 2, point (a):

for:

- ‘(a) the conditions set out in Article 63(1), except for the condition requiring that the instruments are directly issued by the institution;’;

read:

- ‘(a) the conditions set out in Article 63, except for the condition requiring that the instruments are directly issued by the institution;’.

(52) On page 211, new Article 494b, paragraph 3 :

for:

- ‘3. By way of derogation from point (a) of Article 72a(1), liabilities issued prior to 27 June 2019 shall qualify as eligible liabilities items where they meet (...),’

read: ‘3. By way of derogation from point (a) of Article 72a(1), liabilities issued prior to 27 June 2019 shall qualify as eligible liabilities instruments where they meet (...)’.

(53) On page 213, replaced Article 500, paragraph 1, first subparagraph, point (c):

for: ‘(c) the cumulative amount of defaulted exposures disposed of since the date of the first disposal in accordance with the plan referred to in point (a) has surpassed 20 % of the cumulative amount of all observed defaults as of the date of the first disposal referred to in points (a) and (b).’;

read: ‘(c) the cumulative amount of defaulted exposures disposed of since the date of the first disposal in accordance with the plan referred to in point (a) has surpassed 20 % of the outstanding amount of all defaulted exposures as of the date of the first disposal referred to in points (a) and (b).’.

(54) On page 213, replaced Article 501, paragraph 1, definitions:

for:

‘E* = the total amount owed to the institution, its subsidiaries, its parent undertakings and other subsidiaries of those parent undertakings, including any exposure in default, but excluding claims or contingent claims secured on residential property collateral, by the SME or the group of connected clients of the SME.’;

read: ‘E* is either of the following:

- (a) the total amount owed to the institution, its subsidiaries, its parent undertakings and other subsidiaries of those parent undertakings, including any exposure in default, but excluding claims or contingent claims secured on residential property collateral, by the SME or the group of connected clients of the SME;
- (b) where the total amount referred to in point (a) is equal to 0, the amount of claims or contingent claims against the SME or the group of connected clients of the SME that are secured on residential property collateral and that are excluded from the calculation of the total amount referred to in that point.’.

(55) On page 218, Article 510, new paragraph 8:

for: ‘8. By 28 June 2025, the required stable funding factors applied to the transactions referred to in point (g) of Article 428r(1), point (c) of Article 428s(1) and in point (b) of Article 428v, shall be raised (...)’;

read: ‘8. By 28 June 2025, the required stable funding factors applied to the transactions referred to in point (g) of Article 428r(1), point (b) of Article 428s(1) and in point (a) of Article 428v, shall be raised (...)’.

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)



Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

EN