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COMMISSION IMPLEMENTING REGULATION (EU) .../...

of XXX

**imposing a provisional anti-dumping duty on imports of birch plywood originating in
Russia**

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union¹, and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

- (1) On 14 October 2020, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of birch plywood originating in Russia ('the country concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation'). It published a Notice of Initiation in the Official Journal of the European Union² ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 31 August 2020 by the Woodstock Consortium ('the complainant'). The complaint was made by the Union industry of birch plywood in the sense of Article 5(4) of the basic Regulation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Amendment to the Notice of initiation

- (3) The Notice of Initiation inadvertently omitted a section concerning the procedure for the assessment of Union interest. While this omission did not affect interested parties' right to make submissions regarding the Union interest, it was considered appropriate to address this omission as a matter of procedural transparency. It was therefore amended on 11 December 2020.³

1.3. Registration

- (4) Pursuant to Article 14(5a) of the basic Regulation, the Commission should register imports subject to an anti-dumping investigation during the period of pre-disclosure unless it has sufficient evidence within the meaning of Article 5 that the requirements either under point (c) or (d) of Article 10(4) are not met. One of these requirements, as

¹ OJ L 176, 30.6.2016, p. 21.

² OJ C 342, 14.10.2020, p. 2.

³ OJ C 428, 11.12.2020, p. 27.

indicated in Article 10(4)(d) of the basic Regulation, is that there is a further substantial rise in imports in addition to the level of imports which caused injury during the investigation period. The Commission analysed the evolution of the imports and found no further substantial rise in imports.

- (5) Consequently, the Commission did not make imports of birch plywood from Russia as defined in section 2 subject to registration under Article 14(5a) of the basic Regulation.

1.4. Interested parties

- (6) In the Notice of Initiation, as amended, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainant, other known Union producers, the known exporting producers and the Russian authorities, known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.
- (7) 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. Several parties requested a hearing with the Commission. The Commission held hearings with the Woodstock consortium, UPM Plywood Oy, UPM Kymmene Otepää OÜ, and the Russian producer UPM Kymmene Chudovo LLC.

1.5. Comments on initiation

1.5.1. Inadequate open version

- (8) Several parties claimed that the complaint failed to provide sufficient information on its open version.
- (9) The Commission considered that the version open for inspection by interested parties of the complaint contained sufficient essential evidence and non-confidential summaries of otherwise confidential information to allow interested parties to exercise their right of defence throughout the proceeding.

1.5.2. No evidence of injury

- (10) Several parties claimed that certain injury indicators, such as production capacity, Union prices and Union consumption, contained in the complaint did not support a finding of injury during the investigation period.
- (11) The Commission recalls that a prima facie finding of material injury necessary for the initiation of an investigation requires an examination, inter alia, of the relevant factors as described in the basic Regulation. However, it is not specifically required by Article 5 of the basic Regulation that all injury factors mentioned in Article 3(5) show deterioration in order for material injury to be sufficiently substantiated for the purpose of the initiation of an investigation. Indeed, the wording of Article 5(2) of the basic Regulation states that the complaint shall contain the information on changes in the volume of the allegedly dumped imports, the effect of those imports on prices of the like product on the Union market and the consequent impact of the imports on the Union industry, as demonstrated by relevant (not necessarily all) factors. The complaint contained this information, which pointed to the existence of injury. Accordingly, the Commission considered that the complaint contained sufficient evidence of injury.

1.6. Sampling

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

1.6.1. Sampling of Union producers

- (13) In the Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. This provisional sample consisted of three Union producers located in three different Member States accounting for almost 40 % of the estimated total production and 35 % of estimated total Union sales volume of the like product in the Union. The selection of those three companies was based on the largest volume of production and sales of the like product in the EU between July 2019 – June 2020 that could reasonably be investigated, whilst geographical spread was also considered. The Commission invited interested parties to comment on the provisional sample.
- (14) The Commission received comments from a group of related Union producers, UPM, which requested to be included in the sample. However, after carefully analysing the information supplied, the Commission found no compelling reason to change the provisionally selected sample. First, given the group's corporate structure and sales channels, the addition or inclusion of either of the two companies in the sample would jeopardize the Commission's ability to carry out its investigation within the legal deadlines due to the substantially increased workload. In addition, the inclusion of either company in the sample would change the representativity of the provisionally selected sample in terms of production or sales volumes in the Union or the geographical spread only to a marginal extent. The Commission therefore decided to retain the provisionally selected companies as the final sample.
- (15) Following the notification of the selection the definitive sample, one of the companies, UPM, argued that other sampled producers have equally or more complex corporate structures and sales channels. It similarly argued that the inclusion in the sample and verification of one of its entities UPM-Kymmene Otepää Oü would not be burdensome, and since the verification visit would take place from distance, it would not interfere the ability of the Commission to carry out the investigation.
- (16) The Commission noted that since the sample already included companies with complex structures, incorporating another company with a complex structure would substantially increase the workload and therefore endanger the Commission's ability to carry out its investigation within the legal deadlines. In this sense the inclusion of UPM-Kymmene Otepää Oü would, due to its sales organisation, have required the verification of several other legal entities of the UPM group, involving sales and producing units. These entities could not reasonably be investigated within the time available.
- (17) The Commission therefore retained its decision not to include UPM in the finally selected sample. The provisional sample was confirmed as the final sample and is representative of the Union Industry.

1.6.2. Sampling of unrelated importers

- (18) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (19) Thirteen unrelated importers provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three importers on the basis of the largest sales

volume of the product under investigation in the Union. In accordance with Article 17(2) of the basic Regulation, all known importers concerned were informed on the selection of the sample but no comments were made.

1.6.3. Sampling of exporting producers in Russia

- (20) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Russia to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Russian Federation to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (21) Fifteen exporting producers/group of exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of three groups of companies, one of which consisting of seven related exporting producers, on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned and the authorities of the country concerned were consulted on the selection of the sample. The sample represented approximately 47 % of the total exports to the Union during the investigation period.
- (22) Two non-sampled cooperating exporting producers argued that they should also be included in the sample. The first one claimed that it should be included in the sample as its sales volume to the Union was close to the third sampled exporting producer. The second one claimed that the Commission investigated in the past a significantly larger number of exporting producers and thus its addition will not unreasonably strain the Commission's capacity and resources. Moreover, the same exporting producer claimed that the fact it is related to a group of Union producers differentiates it from the other exporting producers. In particular, it claimed that its management, sales structure and the logistics organization distinguish it from some or all of the sampled exporting producers⁴.
- (23) As mentioned in recital (21) above, the Commission sampled three companies/groups of companies. However, the number of entities to be investigated was much larger as one of the groups consisted of seven exporting producers. In addition, the companies/groups also had related traders and a related importer involved in the sales of the product concerned. The claim of the first exporting producer on sales volume was based on the open version of the sampling reply available to all cooperating exporting producers while the decision on sampling was based on the actual volume reported by all exporting producers. When considering the volume of sales reported by the two exporting producers in question, the third exporting producer reported [5 % - 10 %] more in terms of sales volumes compared with the fourth one. Moreover, the arguments put forward by the second exporting producer are not a relevant criterion for the selection of the sample under Article 17(1) of the basic Regulation. Consequently, the Commission concluded that the selected sample is representative on the basis of the criteria indicated in Article 17(1) and no relevant data had been provided by the two parties in question that would challenge this conclusion. Therefore, the requests were rejected.

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Tron documents t20.006971 and t20.006972 both dated on 2 November 2020.

1.7. Individual examination

- (24) Ten exporting producers in Russia requested individual examination under Article 17(3) of the basic Regulation. However, only three exporting producers submitted complete questionnaires within the deadline. The examination of these requests during the provisional stage of the investigation would have been unduly burdensome. Therefore, the Commission will decide whether to grant individual examination at the definitive stage of the investigation.

1.8. Questionnaire replies and verification visits

- (25) The Commission sent questionnaires to the three sampled Russian exporting producers/group of exporting producers, the sampled Union producers and the sampled unrelated importers. The questionnaires had also been made available online⁵ on the day of initiation.
- (26) Questionnaire replies were received from the three sampled Russian exporting producers/group of exporting producers, from three cooperating Russian exporting producers, the sampled Union producers, the sampled unrelated importers and nine users.
- (27) 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 16 of the basic Regulation at provisional stage. The Commission instead crosschecked remotely all the information deemed necessary for its provisional determinations in line with its Notice on the consequences of the COVID-19 outbreak on anti-dumping and anti-subsidy investigations⁶. The Commission carried out remote crosschecks ('RCC's') of the following companies/parties:

Union producers

- Latvijas Finieris AS, Latvia and related sales companies.
- Paged Pisz sp. z o.o., Poland and related sales companies.
- Metsä Wood, Finland and related sales companies.

Importers

- Orlimex CZ s.r.o. , Osik, Czech Republic
- Robert Neudeck GmbH &Co KG, Germersheim,, Germany
- Groupe ISB, Pacé, France

Exporting producers in Russia

- Sveza Group composed of seven exporting producers: JSC «SVEZA Manturovo»; JSC «SVEZA Novator»; Tyumen Plywood Plant Limited; JSC «SVEZA Ust-Izhora»; JSC «SVEZA Uralskiy»; JSC «SVEZA Kostroma»; JSC «SVEZA Verhnaya Sinyachiha» ('Sveza group');
- Zheshartsky LPK LLC ('UPG');

⁵ The respective questionnaires, as well as the users' questionnaire, were available online on the day of initiation at https://trade.ec.europa.eu/tdi/case_details.cfm?id=2486.

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

- Syktyvkar Plywood Mill Ltd.

1.9. Investigation period and period considered

(28) The investigation of dumping and injury covered the period from 1 July 2019 to 30 June 2020 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2017 to the end of the investigation period ('the period considered').

1.10. Withdrawal of the United Kingdom from the EU

(29) This case was initiated on 14 October 2020, i.e. during the transition period agreed between the United Kingdom ('UK') and the EU in which the UK remained subject to the Union law. This period ended on 31 December 2020. Consequently, as of 1 January 2021, companies and associations from the UK no longer qualified as interested parties in this proceeding.

(30) By a note to the case file on 19 January 2021, the Commission invited UK operators that considered that they still qualified as interested parties to contact it⁷. No company came forward.

(31) In order to align the data set collected from interested parties with the fact that the transition period had ended and that the UK was no longer subject to Union law, interested parties concerned were invited to provide a revised questionnaire reply on an EU-27 basis.

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(32) The product concerned is plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated ('birch plywood' or the 'product under investigation'), originating in Russia, currently falling under CN code ex 4412 33 00 (TARIC code 4412 33 00 10) ('the product concerned').

(33) Birch plywood is a wood sheet material consisting of layers or strands of wood veneers pressed together with glue into large, flat sheets. It is used in a wide range of applications, for example in the construction, packaging and furniture sectors.

2.2. Like product

(34) 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 concerned;
- the product produced and sold on the domestic market of Russia; and
- the product produced and sold in the Union by the Union industry.

(35) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

2.3. Claims regarding product scope

2.3.1. Product exclusion

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Tron document t21.000594.

- (36) One user, Emiliana Imballaggi S.p.A., and two Russian exporting producers, Sveza and Vlas Truda, requested that square-shaped birch plywood with the length and width of five feet (1525x1525mm) should be excluded from the investigation due to differences in terms of: (i) physical, technical and chemical properties, and geometrical characteristics; (ii) end-use and interchangeability; (iii) quality of the product and (iv) consumer perception and prices; and (v) lack of competition between rectangular and square-shaped birch plywood.
- (37) The Commission analysed the requests and concluded that square-shaped plywood could not be excluded from the product scope for the following reasons: it shares the same basic physical, technical and chemical characteristics with the rectangular shaped plywood. Likewise, square-shaped birch plywood exercises competitive pressure on rectangular-shaped birch plywood as there is a degree of substitutability, and it is possible for the square-shaped birch plywood to be further processed into rectangular-shaped birch plywood once it has been imported, with the subsequent risk of circumvention. In addition, Union industry produces and have the necessary equipment to adapt to specific customers' needs. The Commission, therefore, rejected the exclusion requests.

2.3.2. Product Scope

- (38) A Russian producer, Segezha, claimed that the product scope should be extended to include not only birch plywood but also pine, poplar, okoumé and beech plywood. It was argued that there is direct competition and interchangeability between the said woods plywood and birch plywood, constituting together one single product.
- (39) The Commission rejected this claim given that pine, poplar, okoumé and beech plywood do not share the same basic physical, technical and chemical characteristics with birch plywood. The fact that in some applications, which were not developed or identified in the claim, alternative products and materials could be used, with an undetermined degree of substitution capacity, does not change the nature of the physical, technical and chemical differences between the product concerned and the said products.

3. DUMPING

3.1. Preliminary remarks

- (40) Three groups of exporting producers were sampled.
- (41) The Sveza group consisted of seven producers and one trader, all directly involved in the production and sales of the product concerned. The seven producers sold via a related trader on the domestic market and exported directly to the Union.
- (42) Zheshartsky LPK LLC is part of a group of companies named UPG. This producer exported both directly and through a related company established in Latvia.
- (43) Syktyvkar Plywood Mill Ltd. is part of a group of companies directly involved in the production and sales of the product concerned. This group included four related traders acting on the domestic market.

3.2. Normal value

- (44) For establishing the normal value, the Commission requested a questionnaire reply from all sampled producers producing the product concerned.
- (45) The Commission first examined whether the total volume of domestic sales for each sampled cooperating exporting producer was representative, in accordance with

Article 2(2) of the basic Regulation. The domestic sales are representative if the total domestic sales volume of the like product to independent customers on the domestic market per exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the investigation period.

- (46) On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.
- (47) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union for the exporting producers with representative domestic sales.
- (48) The Commission then examined whether the domestic sales by each sampled exporting producer on its domestic market for each product type that is identical or comparable with a product type sold for export to the Union were representative, in accordance with Article 2(2) of the basic Regulation. The domestic sales of a product type are representative if the total volume of domestic sales of that product type to independent customers during the investigation period represents at least 5 % of the total volume of export sales of the identical or comparable product type to the Union.
- (49) For the three exporting producers/group of exporting producers, for some product types that were exported to the Union during the investigation period, there were either no domestic sales at all, or the domestic sales of that product type were below 5 % in volume and thus not representative.
- (50) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the investigation period in order to decide whether to use actual domestic sales for the calculation of the normal value, in accordance with Article 2(4) of the basic Regulation.
- (51) The normal value is based on the actual domestic price per product type, irrespective of whether those sales are profitable or not, if:
- (a) the sales volume of the product type, sold at a net sales price equal to or above the calculated cost of production, represented more than 80 % of the total sales volume of this product type; and
 - (b) the weighted average sales price of that product type is equal to or higher than the unit cost of production.
- (52) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the investigation period.
- (53) On the other hand, the normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the investigation period, if:
- (a) the volume of profitable sales of the product type represents 80 % or less of the total sales volume of this type: or
 - (b) the weighted average price of this product type is below the unit cost of production.
- (54) The analysis of domestic sales showed that between 28 % and 93 % of all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, depending on the product type, the normal value was calculated as a weighted average of the prices of all domestic sales during the

investigation period in the situation described in recital (51), or as a weighted average of the profitable sales only in the situation described in the above recital.

- (55) When there were no or insufficient sales of a product type of the like product in the ordinary course of trade or where a product type was not sold in representative quantities on the domestic market, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (56) Normal value was constructed by adding the following to the average cost of production of the like product of the cooperating sampled exporting producers during the investigation period:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period; and
 - (b) the weighted average profit realised by the cooperating sampled exporting producers on domestic sales of the like product, in the ordinary course of trade, during the investigation period.
- (57) For the product types not sold in representative quantities on the domestic market, the average SG&A expenses and profit of transactions made in the ordinary course of trade on the domestic market for those types were added. For the product types not sold at all on the domestic market, the weighted average SG&A expenses and profit of all transactions made in the ordinary course of trade on the domestic market were added.

3.2.1. Export price

- (58) The sampled exporting producers exported to the Union either directly to independent customers or through a related company, as described in recitals (39) and (41) above.
- (59) For the exporting producers that exported the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (60) For the exporting producers that exported the product concerned to the Union through a related company acting as an importer, the export price was established based on the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. In this case, adjustments to the price were made for all costs incurred between importation and resale, including SG&A expenses, and for profits accruing.

3.2.2. Comparison

- (61) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.
- (62) Where justified by the need to ensure a fair comparison, the Commission adjusted the normal value and/or the export price for differences affecting prices and price comparability, in accordance with Article 2(10) of the basic Regulation. Adjustments were made for transport, insurance, handling and loading, packaging, credit costs, bank charges, EU customs duty, other import charges and commissions.
- (63) The exporting producer UPG claimed that the Government of the Russian Federation reimbursed up to 80 % of the transportation costs incurred by manufacturers when

transporting their products to foreign markets. This exporting producer claimed that an upward adjustment to the export price should be made in accordance to Article 2(10)(e) and (k) of the basic Regulation as a similar reimbursement was not granted on domestic sales.

- (64) Article 2(10)(k) of the basic Regulation provides that an adjustment may also be made for differences in other factors not provided for under points (a) to (j), if it is demonstrated that they affect price comparability as required under this paragraph, in particular if customers consistently pay different prices on the domestic market because of the difference in such factors. The exporting producer did, however, not submit any evidence demonstrating that the prices were impacted by this subsidy scheme. In particular, the exporting producer claiming the adjustment did not provide any evidence showing that its customers consistently paid different prices on the domestic market because of the alleged difference in reimbursement of transport costs by the Government of the Russian Federation between domestic and export sales. Without prejudice to the above, the Commission also noted that the reimbursement of transportation costs for sales to foreign markets to the exclusion of domestic sales in all likelihood constitutes an export subsidy within the meaning of Article 4(4)(a) of Regulation (EU) 2016/1037. Such schemes improve the exporters' ability to compete unfairly on foreign markets and, in particular, to financially sustain dumping practices. As such, they do not constitute a factor that qualifies for an adjustment under Article 2(10) of the basic Regulation. Indeed, allowing an adjustment for factors making it easier for an exporter to engage in dumping practices would result in hiding the magnitude of the dumping actually practised. Therefore, the Commission rejected the claim.
- (65) The same exporting producer also requested that an adjustment should be made in accordance with the Article 2(10)(i) of the basic Regulation for commissions paid to a related trader for the sales on the domestic market. However, the exporting producer also provided information that the commissions paid concerned both the domestic sales and the export sales to the Union. Consequently, the Commission allocated the amount of the commissions paid to the related trader to both domestic and export sales based on the volume of those sales.
- (66) All the exporting producers of the sampled Sveza group exported the product concerned to the Union through a related domestic company, namely Sveza-Les LLC ('Sveza-Les') located in Saint Petersburg. All the exporting producers of the Sveza group have signed a commission agent agreement with the related trader in question. All the exporting producers within the group are either directly or indirectly related to that company. They claimed that the commissions paid to the trader should not be deducted from the export price as they do not affect price comparability, because the related trader performed exactly the same functions in the export sales and the domestic sales. The only difference allegedly relates to the remuneration of the related trader activities: The domestic sales are covered by a mark-up, while the export sales are subject to a commission, based on commission agreements. The exporting producers further claimed to constitute a single economic entity with the trader, which affects both domestic and export sales.
- (67) In response, the Commission recalled that all seven producing companies of the group had signed a contract providing for a clearly defined commission on each export sales which was actually paid. This was not the case on the domestic market. This gives rise to a price comparability issue under Article 2(10) between the export price and the

normal value, and the Commission therefore deducted the commission paid pursuant to Article 2(10)(i).

- (68) In addition, concerning the existence of a single economic entity, the Commission recalled that under Union case law the existence of a written commission agreement only on the export sales is an important element tending to show that the trader is not an internal sales department of the exporting producers as far as export sales are concerned⁸. The contract also contains numerous clauses, such as an arbitration clause, showing a lack of solidarity between the companies. These clauses were difficult to reconcile with the claim that the exporting producers and the related trader should be treated as a single economic entity despite being legally distinct companies. It also appeared that some sales functions were retained by the exporting producers in view of their SG&A expenses to that effect. Finally, the Commission noted that the related trader issued the invoices in the name of the exporting produces to the first independent customers in the Union. In view of the above considerations, the Commission provisionally rejected the claim that the trader and the exporting producers constitute a single economic entity as far as export sales are concerned..
- (69) The investigation further revealed that unrelated agents located in the Union were also involved in some export sales of the Sveza group. These agents received a commission, which was recorded in the accounts of Sveza-Les as a part of its SG&A expenses. Therefore, the Commission adjusted the export price in accordance with article 2(10)(i) of the basic Regulation for the commission paid to the unrelated agents for export sales. The adjustment amounted to the commission comprising of agent's fees as recorded in Sveza-Les accounts.
- (70) Finally, the same group claimed that in case the Commission were to adjust the export price, this would imply that the Commission considered that the exporting producers and the related trader did not form a single economic entity, Consequently, deductions should then also be made for the SG&A and profit associated with the re-sales of the like product sold on the domestic market.
- (71) The Commission recalled that, contrary to the situation for export sales, where the mills directly invoice the first independent customers in the Union, domestic sales are made to the first independent customers via Sveza-Les. In other words, Sveza-Les resells the product concerned it has purchased from the various mills of the group. Pursuant to Article 2(1) of the basic Regulation, it is on that domestic sales' price to the first independent customer that the normal value needs to be established. An adjustment for mark-up pursuant to Article 2(10)(i) would assume that the relevant sale for the establishment of the normal value would rather be the sale between the mills and Sveza-Les for which a price would be determined after deduction of the alleged mark-up charged by Sveza-Les when reselling the product. Yet, the sale by the mills to Sveza-Les are not sales to a first independent customer. In those circumstances, a deduction of the mark-up charged by Sveza-Les would not be consistent with Article 2(1) of the basic Regulation. Moreover, in accordance with the text of Article 2(10)(i), an adjustment for the mark-up received by a trader would also require evidence that Sveza-Les performs functions similar to those an agent acting on a commission basis for domestic sales. There is no such evidence on file. Based on the

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Judgment of the General Court of 25 June 2015 in case T-26/12, PT Musim Mas, para 50, confirmed by the Court of Justice when deciding about the appeal in case C-468/15 P of 26 October 2016, paragraphs 43-44.

above considerations, the Commission provisionally rejected the claim that an adjustment for mark-up for domestic sales was warranted.

3.2.3. Dumping margins

- (72) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.
- (73) For the exporting producers within the Sveza Group, the Commission first calculated an individual dumping margin for each exporting producer and as a second step, it calculated a weighted dumping margin for the entire Sveza Group.
- (74) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin
Sveza Group	15,9 %
Syktyvkar Plywood Mill Ltd.	15,0 %
Zheshartsky LPK LLC	17,2 %

- (75) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the sampled exporting producers.
- (76) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 16,0 %.
- (77) For all other exporting producers in Russia, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that were established on the basis of Eurostat.
- (78) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted around 81 % of the total imports during the investigation period. On this basis, the Commission decided to establish the dumping margin for non-cooperating exporting producers at the level of the cooperating sampled individually examined company with the highest dumping margin.
- (79) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin
Sveza Group	15,9 %
Syktyvkar Plywood Mill Ltd.	15,0 %

Zheshartsky LPK LLC	17,2 %
Other cooperating companies	16,0 %
All other companies	17,2 %

4. INJURY

4.1. Definition of the Union industry and Union production

- (80) Fifteen known producers in the Union manufactured the like product during the investigation period. They constitute the ‘Union industry’ within the meaning of Article 4(1) of the basic Regulation.
- (81) The total Union production during the investigation period was estimated at around 849 000 cubic meters. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the questionnaire replies received from the sampled Union producers. As indicated in section 1.6, the three sampled Union producers represented 39 % of the total Union production of the like product.
- (82) The Union production destined to captive consumption was estimated to be lower than 0,5 %. Due to its immateriality, captive consumption is not considered relevant for the injury analysis in this case.

4.2. Union consumption

- (83) The Commission established the Union consumption on the basis of (a) data submitted by the complainant concerning the Union industry’s sales of the like product to unrelated customers in the Union, as cross-checked with the sales volumes reported by the sampled Union producers; (b) imports of the product under investigation from all third countries as reported in Eurostat⁹.
- (84) Union consumption developed as follows:

	2017	2018	2019	Investigation period
Total Union consumption	1 874 725	2 000 293	2 080 786	2 130 325
Index	100	107	111	114

Source: Complainant, sampled Union producers and Eurostat

- (85) The consumption in the Union increased by 14 % during the period considered. A detailed analysis shows a steadily increase year by year, with the biggest increase from 2017 to 2018 of 7 %, attenuating the rate in the following years but with a constant growth.

4.3. Imports from the country concerned

⁹ Source of data Eurostat, adjusted by applying the methodology explained in section 4.3.1.

4.3.1. Methodology for the identification of imports of the product concerned

- (86) Prior to the initiation of the proceeding and the subsequent creation of a specific TARIC code¹⁰, imports of the product concerned were recorded at CN level¹¹ including also products other than the product concerned. In order to estimate the volume of imports of the product concerned during the period considered, the Commission applied the same ratio (TARIC/CN) observed after initiation between the import volumes of the full CN code and the imports for the product concerned based on TARIC data. For imports from the country concerned, the ratio was established at 78 %.
- (87) The results of this methodology confirm the import trend provided in the complaint.

4.3.2. Volume and market share of the imports from the country concerned

- (88) Based on the above mentioned methodology the Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established by comparing the volume of imports with the Union consumption.
- (89) Imports from the country concerned developed as follows:

	2017	2018	2019	Investigation period
Volume of imports from Russia (m ³)	871 050	933 329	1 081 937	1 192 712
Index	100	107	124	137
Market share	46 %	47 %	52 %	56 %
Index	100	100	112	120

Source: Eurostat

- (90) Imports from the country concerned increased from around 871 050 cubic meters to around 1 192 712 cubic meters over the period considered, an increase of 37 %. The market share of those imports increased from 46 % to 56 % over the period considered, an increase of 20 %.

4.3.3. Prices of the imports from the country concerned and price undercutting

- (91) The Commission established the prices of imports based on EUR / tonne Eurostat statistics at CN level. While, as explained in section 4.3.1 above, the imports of the product concerned were recorded together with a bigger basket of products, this methodology provides a reliable estimation of prices and its evolution over time as the large majority of imports under this CN code were product concerned, and enables comparison of price development between different exporting countries.

¹⁰ TARIC code: 4412 33 00 10

¹¹ CN code: 4412 33 00

- (92) The average price of imports from the country concerned developed as follows:

Table 3 — Import prices (EUR/ tonne)				
	2017	2018	2019	Investigation period
Russia	646	681	608	584
Index	100	105	94	90
Source: Eurostat				

- (93) The average prices of the imports from Russia decreased from 646 EUR/tonne in 2017 to 584 EUR/tonne during the investigation period, a decrease by 10 %. The average price of the imports went up in 2018 by 5 % and decreased in the subsequent periods by 15 %.
- (94) The same trend can be observed when using the weighted average export prices as reported by the sampled exporting producers, showing a price of 434 euro/m³ in the IP for the product under investigation. Thus import prices were consistently below the sales prices of the Union producers (see table 7), showing a price difference of 38% during the IP.
- (95) Birch plywood is sold in a large variety of dimensions, quality and according to specific customer specifications. Due to the wide variety of product types sold by the Union industry and the Russian exporting producers, the detailed PCN system, which was set up at initiation, made a high degree of matching of identical products difficult. For the purpose of the price comparison, the Commission therefore carried out a reasonable and technically robust approximation by grouping closely some resembling product types, thus allowing for a proper comparison of the products sold by the Union industry with the equivalent product types sold by the Russian exporting producers. On this basis, the level of matching between various product types sold by the Union industry and the product types sold by the Russian exporting producers was over 68 % of the imported volumes by the sampled Russian exporting producers.
- (96) The Commission determined the price undercutting during the investigation period by comparing:
- (97) the weighted average sales prices per product type of the sampled Union producers charged to unrelated customers on the Union market. Given that the Union producers sold the product concerned directly, as well as via related sales companies, the sales price was adjusted, as appropriate, for transport, insurance and handling cost to an ex-works level; and
- (98) the corresponding weighted average prices per product type of the imports from the sampled Russian producers to the first independent customer on the Union market adjusted to the Union customs border level. For the sales made via a related importer a further adjustment under Article 2(9) of the basic Regulation was made. An amount for post importations costs and customs duty was then added to the established price at Union customs border level. These sales represented less than 5 % of the total sales of the sampled Russian producers.

- (99) The price comparison was made on a type-by-type basis for transactions, duly adjusted where necessary for rebates and discounts. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period.
- (100) On the basis of the above, the dumped imports of the sampled exporting producers showed a weighted average undercutting margin of 12,2 % (ranging between 9,5 % and 16,1 %). The undercutting margins are considered significant.

4.4. Economic situation of the Union industry

4.4.1. General remarks

- (101) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.
- (102) As mentioned in section 1.6.1 , sampling was used for the determination of possible injury suffered by the Union industry.
- (103) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic indicators on the basis of data contained in the questionnaire reply of the complainant relating to all Union producers, cross-checked where necessary with the questionnaire replies of the sampled Union producers. The Commission examined the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers, which were cross checked remotely. Both sets of data were found to be representative of the economic situation of the Union industry.
- (104) The macroeconomic indicators are: production, production capacity, capacity utilisation, sales volume, market share, growth, employment, productivity, magnitude of the dumping margin, and recovery from past dumping.
- (105) The microeconomic indicators are: average unit prices, unit cost, labour costs, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital.

4.4.2. Macroeconomic indicators

4.4.2.1. Production, production capacity and capacity utilisation

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

	2017	2018	2019	Investigation period
Production volume (m ³)	982 658	1 009 772	879 540	848 900
Index	100	103	90	86
Production capacity (m ³)	1 244 310	1 296 650	1 328 000	1 203 000

Index	100	104	107	97
Capacity utilisation	79 %	78 %	66 %	71 %
Index	100	99	84	89
Source: Complainant and sampled Union producers				

- (107) During the period considered, the Union industry's production volume decreased by 14 %, or approximately 140 000 cubic meters. There was a slight increase from 2017 to 2018, followed by a significant reduction in the following periods.
- (108) The Union production capacity was reduced by overall 3 % in the period considered. The Union production capacity increased slightly in 2018 and 2019, which is explained by the time lag between the decision to increase capacities and its effect. However, during the IP the Union industry was scaled back by 10 % compared to 2019.
- (109) During the period considered, the Union industry's capacity utilisation fell by 11 % since Union producers were unable to increase production in line with market growth. From 2017 to 2019 the utilization decrease was 16 %, followed by an increase in the IP by 5 % due to the disinvestment and the closure of production sites.

4.4.2.2. Sales volume and market share

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

	2017	2018	2019	Investigation period
Total Sales volume on the Union market (m ³)	821 341	818 621	757 103	680 243
Index	100	100	92	83
Market share	44 %	41 %	36 %	32 %
Index	100	93	83	73
Source: Complainant, sampled Union producers and Eurostat				

- (111) Throughout the period considered the total Union industry's sales volume decreased significantly by 17 %. Union sales volume remained at the same level from 2017 to 2018, but showed in 2019 a decrease of 8 % and a further decrease of 9 % from 2019 to the IP.

- (112) Coupled with the decrease of sales, Union industry's market share was reduced by 27 %, during an invariable declining trend that reduced the presence of Union industry in the market from 44 % of market share in 2017 to 32 % in the IP.

4.4.2.3. Growth

- (113) In a context of market expansion, with increased Union consumption, the above figures show that the Union industry experienced substantial decreases in respect of production, sales volume and market share.

4.4.2.4. Employment and productivity

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

Table 6 — Employment and productivity				
	2017	2018	2019	Investigation period
Number of employees	6 039	5 960	5 325	5 308
Index	100	99	88	88
Productivity (m ³ /employee)	163	169	165	160
Index	100	104	102	98

Source: Complainant and sampled Union producers

- (115) The level of Union industry employment experienced a decrease of 12 % over the period considered. Employment remained relatively stable from 2017 to 2018 albeit even during that relatively stable period the number of employees decreased by 79. Employment was further significantly reduced in 2019 and did not pick up in the IP but continued decreasing to a lesser extent.
- (116) In view of the decrease in production and employment the productivity of the Union industry's workforce, measured as tonnes per employee produced per year, decreased by 2 % over the period considered. It increased from 2017 to 2018 by 4%, followed by a decrease in the subsequent periods.

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

- (117) All dumping margins were significantly above the *de minimis* level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the country concerned.
- (118) This is the first anti-dumping investigation regarding the product concerned. Therefore, no data were available to assess the effects of possible past dumping.

4.4.3. Microeconomic indicators

4.4.3.1. Prices and factors affecting prices

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

	2017	2018	2019	Investigation period
Average unit sales price in the Union on the total market (EUR/ m ³)	717	746	732	694
Index	100	104	102	97
Unit cost of production (EUR/ m ³)	629	670	713	692
Index	100	107	113	110

Source: Sampled Union producers

- (120) Sales prices on the Union market to unrelated parties decreased from 717 EUR/m³ to 694 EUR/m³ over the period considered, a decrease of 3 %. In 2018, the price level experienced a slight but temporary increase of 4 %, which was attenuated in the following periods.
- (121) Over the same period, the unit cost of production of sampled union producers increased by 10 %. Cost of production was impacted by the development of the main raw material prices, birch wood logs veneers, and the difficulties to fully benefit from economies of scale because of the reduction in sales and production.

4.4.3.2. Labour costs

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

	2017	2018	2019	Investigation period
Average labour costs per employee (EUR)	23 474	23 542	23 733	23 690
Index	100	100	101	101

Source: Sampled Union producers

- (123) The average labour costs per employee increased by 1 % over the period considered.

4.4.3.3. Inventories

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

Table 9 — Inventories				
	2017	2018	2019	Investigation period
Closing stocks (m ³)	30 894	43 550	35 706	37 685
Index	100	141	116	122
Closing stocks as a percentage of production	3,1 %	4,3 %	4,1 %	4,4 %
Index	100	137	129	141
<i>Source: Sampled Union producers</i>				

- (125) The stocks of the sampled Union producers increased by 22 % over the period. The major increase of 41 % took place between 2017 and 2018 with stocks reaching their maximum level in 2018. Thereafter the Union industry succeeded to decrease stocks by 25 % in 2019 by adjusting its production, however the stocks increased again from 2019 to the IP by 6 % due to the continued decrease of Union sales. The closing stocks as a percentage of production increased from 3,1 % in 2017 to 4,4 % in the IP.

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

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

Table 10 — Profitability, cash flow, investments and return on investments				
	2017	2018	2019	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	9,7 %	7,4 %	0,2 %	-2,8 %
Index	100	76	2	-28
Cash flow (EUR)	191 991 172	187 065 363	175 135 121	165 108 224
Index	100	97	91	86

Investments (EUR)	14 326 493	12 473 095	11 169 293	14 237 597
Index	100	87	78	99
Return on investments	20 %	11 %	0 %	-2 %
Index	100	55	2	-10
Source: Sampled Union producers				

- (127) The Commission established the profitability of the sampled Union producers by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. The profitability of the sampled producers collapsed throughout the period considered and declined from almost 10 % in 2017 to close to -3 % in the investigation period.
- (128) As explained in section 4.4.3.1, the costs of the Union producers increased noticeably more than their prices. The Union industry was unable to raise prices at the same extent as costs were increasing because of the downward pressure caused by dumped imports from Russia, both in terms of volumes and low prices. Indeed, throughout the period considered, Russian imports came in at high and steadily increasing volumes at prices which were consistently low and following a clear decreasing trend over the period considered. The average price of Russian imports was significantly below Union industry prices, thus limiting the possibility of price increases, which would have been expected in a context of increasing raw material costs, and growing demand. This resulted in depressed and decreasing profitability to the extent that the Union industry was loss-making during the investigation period.
- (129) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow developed negatively during the period investigated, with yearly decreases, which lead to an overall drop of 14 % from 2017 to the IP. The ability to raise capital was negatively affected by the drop in profits.
- (130) The level of yearly investments decreased over the period considered by 1 %, but shrank between 2018 and 2019 by 22 %, barely recovering to the level of 2017 in the IP. While the initial decreases are explained by the development of the market and the impact on sales and profitability, the recent increase in the IP aimed at retaining the existing capacities and making due replacements of necessary production assets.
- (131) The return on investments is the profit in percentage of the net book value of investments. It developed negatively over the period considered and vanished from 20 % in 2017 to -2 % in the IP. The negative development shows that, although investments have continued in order to maintain competitiveness, the returns on those investments have fallen substantially over the period considered.

4.4.4. Conclusion on injury

- (132) In a context of a substantial increase of the Union consumption (+14 %), imports from Russia increased even stronger during the period considered (+37 %), at prices which significantly undercut those of the Union industry. This allowed Russian exporting producers to reach a market share of 56 % in the IP (up from 46 % in 2017).

- (133) In these circumstances, the Union industry was not only prevented from benefiting from an expanding market, but its economic situation worsened as shown by all major macro-indicators presenting a negative trend: production (-14 %), EU sales (-17 %) and a significant reduction of its market share (from 44 % to 32 %) in the period considered.
- (134) In reaction to the pressure of low Russian prices, the Union industry tried to reduce cost and adjustments in employment (-12 %) were undertaken. However, as a result of the pressure exerted by dumped Russian imports in terms of increased volumes and low prices, EU sales dropped and stocks increased rapidly (+22 %) in the period considered, reaching their maximum level (+41 %) in 2018.
- (135) The cost of production of the Union industry went up significantly during the period considered (+10 %), mainly because of a strong increase in the raw material prices.
- (136) The Union industry's cost increased more than sales prices, consequently, profitability collapsed in the period considered, from a healthy situation (+10 %) in 2017 to an unsustainable loss making scenario (-3 %) in the IP.
- (137) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. CAUSATION

5.1. In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are: Imports from third countries, export performance of the Union industry, consumption, competitive disadvantage in access to the main raw material, self-inflicted injury, strikes in Finland, COVID-19 effects, product comparability.

5.2. Effects of the dumped imports

- (138) The deterioration of the economic situation of the Union industry coincided with significant and increasing market penetration of increased imports from Russia, which consistently undercut the Union industry's prices and in any event led to price suppression. In this respect, the evolution of import volumes and prices as reflected in tables 2 and 3 suppressed price levels of the Union industry, establishing a causal nexus between the two.
- (139) Imports from Russia increased by 37 % during the period considered, from ca. 870 050 m³ in 2017, representing a market share of 46 %, to 1 192 712 m³ in the IP, representing a market share of 56 %. These increasing imports were made at prices lower than those of the Union industry throughout the period considered and in any event at a price levels leading to price suppression, in light of the fact that the Union industry could not increase its prices in line with the increase in the cost of production.
- (140) This had a strong negative impact on the Union industry in the IP. In a situation of increasing costs and the price pressure exerted by the Russian dumped imports, the Union industry was precluded from setting sustainable prices, which resulted in a very

strong drop in profitability from 10 % to losses (-3 %), and the consequent deterioration of its financial indicators.

- (141) It was, therefore, provisionally concluded that dumped imports from Russia caused material injury to the Union industry in terms of price and volume.

5.3. Effects of other factors

5.3.1. Imports from third countries

- (142) To determine the volume of imports from third countries, the Commission, as explained in section 4.3.1 above, applied the same ratio (TARIC/CN) observed after initiation between the import volumes of the full CN code and the imports for the product concerned based on TARIC data. The only third countries which imported significant volumes to the Union were Belarus and the Ukraine. In the case of Belarus, the ratio has been established at 43 %.
- (143) In the case of Ukraine, the Commission found distorted data in the reported statistics at the level of the supplementary unit (cubic meter in this case). For comparison purposes, the Commission therefore decided to convert the reported weight (tonnes), a more reliable and stable set of data, into cubic meters.
- (144) To convert tonnes into cubic meters, the Commission used a conversion key, namely the “mode” of Russia and Belarus on volume and weight at TARIC level after initiation (mode defined as the value that appears most often in a set of data value). The conversion key, to convert imported tonnes from Ukraine into cubic meters was established at 0,69.
- (145) The Commission established the prices of imports based on EUR / tonne at CN level, as explained in section 4.3.2 above.
- (146) The volume of imports from other third countries developed over the period considered as follows:

Country		2017	2018	2019	Investigation period
Ukraine	Volume (m ³)	82 029	100 935	104 962	106 785
	Index	100	123	128	130
	Market share	4 %	5 %	5 %	5 %
	Average price (EUR / tonne)	651	725	641	616
	Index	100	111	98	95
Belarus	Volume (m ³)	81 638	112 922	75 961	93 231

	Index	100	138	93	114
	Market share	4 %	6 %	4 %	4 %
	Average price (EUR / tonne)	403	481	387	363
	Index	100	119	96	90
Other third countries ¹²	Volume (m ³)	18 668	34 486	60 822	57 354
	Index	100	185	326	307
	Market share	1 %	2 %	3 %	3 %
	Average price (EUR / tonne)	566	576	565	561
	Index	100	102	100	99
Total of all third countries except Russia	Volume (m ³)	182 335	248 344	241 746	257 371
	Index	100	136	133	141
	Market share	10 %	12 %	12 %	12 %
	Average price (EUR / tonne)	537	574	535	520
	Index	100	107	100	97
<i>Source: Eurostat</i>					

- (147) Compared to Russia, Belarus and the Ukraine have a limited presence in the Union market. In the period considered their market shares remained stable, with minimal or none variations, at a level of 4 % and 5 % respectively. All the other third countries slightly increased their presence from a market share of 1 % to a still very low market share of 3 %. The combined market share of imports from all third countries except

¹² The ratio (TARIC/CN) after initiation between the import volumes of the full CN code and the imports for the product concerned based on TARIC data, for 'Other third countries' has been established at 3 %.

Russia increased by 2 % from 2017 to 2018, and afterwards remained stable at a level of 12 %.

- (148) In terms of prices during the period considered, Ukraine sold at prices slightly higher than Russia, and Belarus at lower prices. The lower prices from Belarus are explained by its limited technology that only allows producing a very specific and cheaper quality product in the market. In contrast to Belarus, imports from Russia concern higher quality birch plywood, thus showing higher average prices.
- (149) On that basis, the Commission provisionally concluded that the impact of imports from other countries does not attenuate the causal link between dumped Russian imports and the material injury suffered by Union producers.

5.3.2. Export performance of the Union industry

- (150) The volume of exports of the sampled Union producers developed over the period considered as follows:

	2017	2018	2019	Investigation period
Export volume (m ³)	98 324	96 327	93 892	101 866
Index	100	98	95	104
Average price (EUR/m ³)	689	755	752	705
Index	100	110	109	102

Source: Sampled Union producers

- (151) Exports volumes from the sampled Union producers increased by 4 % during the period considered. From 2017 to 2019, exports decreased by 5 %, followed by an increase of 9 % in the IP. Average prices of exports increased by 2 % during the period considered. From 2017 to 2018 average prices increased by 10%, with decreases in the following periods.
- (152) Given the positive evolution in both export volume and average prices over the period considered the Commission provisionally concluded that the impact of export performance could not have contributed to the injury suffered by the Union industry.

5.3.3. Competitive disadvantage in access to the main raw material

- (153) Some parties claimed that the Union industry suffers from a limited availability of the main raw material, birch wood logs, compared to Russia. This limited availability of raw materials would be the origin of lower production volumes, costs increases and therefore be the cause of injury.
- (154) Access to raw main material, birch wood logs, does not explain the injury, since Union producers have sufficient access to supplies of birch logs. The increase in stocks evidences that the problem does not reside in the production, but rather in its

commercialization. Therefore, the decrease in production during the period considered is not explained by the availability of wood.

- (155) Concerning the alleged disadvantage in cost, the investigation has determined that an important factor affecting the increase of the cost of production on the Union industry is the price of birch wood logs. However, the cost of raw materials and its effect on the overall increase of cost of production on the Union industry does not attenuate the causal link. Specifically, this can be observed by the fact that between 2019 and the IP the cost of production of the Union industry decreased, whereas this did not result in an improvement of the profitability.

5.3.4. Self-inflicted injury

- (156) Some parties claimed that the Union industry made unwarranted investments into capacity expansion when sales were slowing down, and that this was a source of the injury.
- (157) The Union production capacity was, however, reduced by overall 3% in the period considered. The Union production capacity increased slightly in 2018 and 2019, but over the whole period considered the Union industry scaled back. The claim that expansion capacity investments were a source of injury is thus unfounded.

5.3.5. Strikes in Finland

- (158) Some parties claimed that a number of strikes at Finnish mills that took place in December 2019 and early 2020 would be the cause of the decrease in production.
- (159) The Commission provisionally concluded that the strikes of the mills in Finland do not attenuate the causal link since their impact was limited geographically (Finland) and limited in time (strikes occurred between December 2019 and January 2020).

5.3.6. COVID-19 effects

- (160) Some parties claimed that the Commission should consider the data covering the end of 2019 and the first half of 2020 with special caution, in order to distinguish the effects of the COVID-19 in the economy from those of the allegedly dumped imports.
- (161) The investigations established that the demand for birch plywood remained relatively stable in the second quarter of 2020. In addition, there were no major disruptions in the supply chain and export sales also continued in this period. The Commission, thus, concluded that effects of the COVID-19 do not attenuate the causal link.

5.3.7. Product comparability

- (162) Some parties claimed that the birch plywood produced by the Russian industry does not compete with the plywood produced by the EU industry, since they allegedly produce different qualities destined to different segments, and therefore, Russian imports are not the cause of injury.
- (163) However, the comparison of the various product types sold by the Union industry and the product types sold by the Russian exporting producers shows that product types closely resemble, and quite often are even identical, as well as a substantial level of interchangeability. In addition, the investigation established that the Union industry and Russian producers both supply the main sectors using birch plywood. In any event as explained in section 2, the investigation showed that the products sold by the Union industry and Russian exporting producer are like products as they have the same basic physical, chemical and technical characteristics as well as the same basic uses. Thus, the claim is considered to be unfounded.

5.4. Conclusion on causation

- (164) In light of the above considerations, the Commission provisionally established a causal link between the injury suffered by the Union industry and the dumped imports from Russia. As a result of the significant increase of dumped imports from Russia the Union industry was precluded from setting sustainable prices, which resulted in strong deterioration of its economic situation.
- (165) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports.
- (166) On the basis of the above, the Commission concluded at this stage that the dumped imports from the country concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury.

6. LEVEL OF MEASURES

- (167) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

6.1. Injury margin

- (168) The injury would be removed if the Union Industry were able to obtain a target profit by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic Regulation.
- (169) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country concerned, the level of profitability needed to cover full costs and investments, research and development (R&D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.
- (170) As a first step, the Commission established a basic profit covering full costs under normal conditions of competition. The Commission took the profits achieved by the sampled Union producers before unfair imports from Russia accelerated and started injuring the Union industry. Such profit margin was established at 9,7 %, which corresponds to the level of profit achieved by the Union industry in 2017.
- (171) Some Union producers claimed that its level of investments, research and development (R&D) and innovation during the period considered would have been higher under normal conditions of competition.
- (172) The Commission assessed this claim, but observed that despite a decreasing turnover, the level of investments during the IP was higher than in the two precedent years and very close to the level of investments in 2017 when the Union industry reached an average profit of 9,7 %. On this basis, also considering that investments in research and development (R&D) and innovation are prospective forecasts based on investment plans, the Commission provisionally did not accept these claims.
- (173) On this basis, the non-injurious price is 766,33 euro/cubic meter resulting from applying the above-mentioned profit margin of 9,7 % to the cost of production during the IP of the sampled Union producers
- (174) In accordance with article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental

Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the remote crosschecked questionnaire replies and evidence available provided by some of the sampled Union producers, the Commission established an additional cost of 6,68 euro/cubic meter, from which it deducted the actual cost of compliance with such conventions during the IP, namely 5,28 euro per unit of measurement, leading to a result of 1,40 euro/cubic meter. This difference was added to the non-injurious price.

- (175) On this basis, the Commission calculated a non-injurious price of 767,73 euro/cubic meter for the like product of the Union industry by applying the above-mentioned target profit margin to the cost of production of the sampled Union producers during the investigation period and then adding the adjustments under Article 7(2d) on a type-by-type basis..
- (176) The Commission then determined the underselling margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the country concerned, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the sampled Union producers on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.
- (177) The injury elimination level for ‘other cooperating companies’ and for ‘all other companies’ is defined in the same manner as the dumping margin for these companies.

Company	Dumping margin (%)	Injury margin (%)
Sveza Group	15,9 %	30,0%
Syktyvkar Plywood Mill Ltd.	15,0 %	43,3%
Zheshartsky LPK LLC	17,2 %	48,2%
Other cooperating companies	16,0 %	36,2%
All other companies	17,2 %	48,2%

7. UNION INTEREST

- (178) The Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping, in accordance with Article 21 of the basic Regulation. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

7.1. Interest of the Union industry

- (179) The Union industry is composed of around fifteen companies. They are mostly geographically located close to the birch forest regions in North East Europe (Finland, Baltic countries and Poland) and employs over 5 000 workers directly. The majority of

Union producers supported the complaint, two expressed a neutral position and none opposed the initiation of the investigation.

- (180) Current levels of profitability are unsustainable. The imposition of measures is expected to allow the Union industry to recover parts of the lost market share, and to set prices at levels that at least cover the cost.
- (181) The absence of measures is likely to have a significant negative effect on the Union industry in terms of further price suppression and a further reduction of sales, thus translating into more losses and likely closure of production facilities and dismissals.
- (182) The Commission therefore concluded that the imposition of provisional measures is in the interest of the Union industry.

7.2. Interest of unrelated importers and traders

- (183) Twenty-nine importers made themselves known, and a number of submissions and comments were received. As mentioned in section 1.6.2, the Commission selected a sample of three importers, which submitted questionnaires replies.
- (184) Several importers argued that the imposition of anti-dumping duties would increase material costs for them and for their customers. These additional costs would be difficult to cover and therefore threaten their profitability and competitiveness. Further claims were made concerning the lack of capacity of the Union industry to meet demand in the Union, estimated to be around 2,1 million m³, hence alleging that measures would create a shortage in the market. In addition claims were raised concerning the lack of interest of Union producers in supplying small enterprises, as well as the refusal to provide certain materials.
- (185) Concerning the economic consequences on importers, the investigation has established that sampled importers have a weighted profit of 4,7 %, with different shares of birch plywood in their portfolio of products. Furthermore, while the share of Russian plywood distributed by importers might reduce if the measures are imposed, the level of measures is not expected to cause a complete cessation of Russian imports. Given that there are also alternative sources of supply in neighbouring countries, such as Ukraine and Belarus, the impact of measures on the profitability and competitiveness of importers is expected to be limited. The interest of users, is addressed in section 7.3 below.
- (186) Concerning the supply risk, the level of the measures will likely not bring Russian imports to a halt, but rather allow the continued sourcing of birch plywood from Russia at fair prices. In addition, birch plywood can still be imported from other third countries, like Ukraine and Belarus.
- (187) Concerning the supply to consumers of small quantities, the investigation has established that the Union industry has developed an extensive network of retailers, related and unrelated, allowing the Union industry to reach small customers which do not have the capacity to buy entire containers. Furthermore, as mentioned above, any consumer can continue sourcing from Russian producers.
- (188) The investigation also established that the Union industry has the necessary equipment and capacity to adapt to specific customers product requirements, hence is capable to produce all required product types.
- (189) In conclusion, the anti-dumping measures at the level established might negatively affect some unrelated importers. However such impact should not be significant overall and will highly depend on the importers' business model, the variety of their

sources of supplies and the extent to which increased costs are passed on to their customers.

- (190) In the basis of the above, the Commission provisionally established that any negative impact of measures on unrelated importers as a whole is expected to be limited and not to outweigh the positive effect of measures on Union producers.

7.3. Interest of users

- (191) Thirteen users made themselves known. Nine users submitted comments and/or questionnaire replies.
- (192) The Commission is engaged in a deficiency process with most of the users that provided a questionnaire reply due to the lack of versions available for consultation of interested parties. At this stage, only one questionnaire response, from Emiliana Imballaggi S.p.A., which purchases birch plywood for the packaging business, has provided an open version.
- (193) Claims were raised arguing that the imposition of anti-dumping duties would increase costs for users that would be difficult to pass on to customers and therefore threaten their profitability and competitiveness.
- (194) Birch plywood is used in different type of sectors. Imposition of measures are likely to have a different impact across users, depending on the share of birch plywood costs in the total costs for that sector and the ability to pass on costs to downstream consumers. Detailed information from users along with an open version was provided by only one company using plywood for the packaging sector. In addition, the complainant submitted an independent study analysing the expected impact of measures on users, based on theoretical duties of 20 % to 30 %.
- (195) The main sectors using birch plywood in the EU are by consumption: construction (39 %), transport (27 %), furniture (10 %) and packaging (8 %). Based on the available information, for the sectors capturing the majority of the birch plywood consumption, the impact of the measures was provisionally assessed to be limited or negligible. The sectors where the duties may have the largest impact are packaging and parquet producers. However, even in these sectors the impact of measures is limited. For the packaging sector, the estimated impact is around 2 % to 4 % in the cost structure, which can be expected to be passed on to customers. As far as the parquet and flooring sector is concerned, birch plywood has various substitutes, like other types of wood and alternative materials, which is another reason why the impact of possibly slightly higher cost of birch plywood is expected to be limited.
- (196) On the basis of the above, the Commission provisionally established that any negative impact of measures on users is expected to be limited and not to outweigh the positive effect of measures on Union producers.

7.4. Interest of Suppliers

- (197) Three suppliers came forward as interested parties.
- (198) All three companies are suppliers of machinery, woodworking equipment or materials used in the production of birch plywood to Russian exporting producers. The companies claimed that the imposition of measures would imply a decrease of Russian imports, which would lead to a decrease of investments on equipment by Russians exporting producers and, accordingly, would have a negative impact on their business.

- (199) The Commission expects that Russian investments on equipment would not be significantly affected since the level of the measures is not expected to bring a halt to Russian imports. On the other hand, measures are likely to allow the Union industry engaging in equipment investments, thus affect positively the Union suppliers of woodworking equipment.
- (200) On the basis of the above, the Commission provisionally established that any negative impact of measures on supplier as a whole is expected to be limited and not to outweigh the positive effect of measures on Union producers

7.5. Other interested parties: other wood plywood producers, environmental interest and COVID-19.

- (201) Three national associations (of France, Italy and Spain) representing plywood producers of poplar, pine and other types of wood came forward as interested parties. They claimed that while the product concerned and their products are different products, a certain level of substitution might take place. They argued that while traditionally birch plywood prices were at higher levels, the dumped prices of birch plywood from Russia attracted demand that traditionally was for other type of woods, such as poplar, pine and okoume, and threatened the value chain established in other types of wood industries. Therefore, they support the imposition of measures.
- (202) Several parties claimed that the imposition of duties might cause carbon leakage due to a substitution of Russian birch plywood with Chinese poplar plywood or plywood from other countries farther away from Europe, raising transport emission and the risk that substitute products are less sustainable than Russian birch plywood. The Commission noted that the level at which the measures are to be imposed is not expected to bring a halt to Russian imports. Moreover, it was not demonstrated that should a substitution of imports from Russia by imports from another third country take place it would be from China, nor that other type of wood production would be less sustainable than production of Russian birch. The claim was therefore rejected.
- (203) Parties have claimed that duties would exacerbate the effect of COVID-19 pandemic on users. However, as explained above, the impact of the measures of the main sectors using birch plywood is expected to be limited. In addition, at this point in time, the Commission has no evidence at its disposal showing the impact of the pandemic on the different sectors of users, or that the impact on producers would be different than the impact on users. In the absence of such evidence, the COVID-19 pandemic is considered a neutral factor in the assessment of the Union interest.

7.6. Conclusion on Union interest

- (204) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of birch plywood originating in Russia at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

- (205) On the basis of the conclusions reached by the Commission on dumping, injury, causation and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.
- (206) Provisional anti-dumping measures should be imposed on imports of birch plywood originating in Russia, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the underselling margins and the

dumping margins. The amount of the duties was set at the level of the lower of the dumping and the underselling margins.

- (207) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Provisional anti-dumping duty
Sveza Group	15,9 %
Syktyvkar Plywood Mill Ltd.	15,0 %
Zheshartsky LPK LLC	17,2 %
Other cooperating companies	16,0 %
All other companies	17,2 %

- (208) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the country concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to ‘all other companies’. They should not be subject to any of the individual anti-dumping duty rates.
- (209) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but to the producers which did not have exports to the Union during the investigation period.
- (210) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The companies with individual anti-dumping duties must present a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to ‘all other companies’.
- (211) While presentation of the invoice is necessary for the customs authorities of the Member States to apply the individual rates of anti-dumping duty to imports, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1(3) of this Regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the lower rate of duty is justified, in compliance with customs law.

9. INFORMATION AT PROVISIONAL STAGE

(212) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.

10. FINAL PROVISIONS

(213) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(214) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of plywood consisting solely of sheets of wood, each ply not exceeding 6 mm thickness, with outer plies of wood specified under subheading 4412 33, with at least one outer ply of birch wood, whether or not coated, originating in Russia, currently falling under CN code ex 4412 33 00 (TARIC code 4412 33 00 10).

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

Company	Provisional anti-dumping duty	TARIC additional code
Sveza Group composed of seven exporting producers: JSC «SVEZA Manturovo»; JSC «SVEZA Novator»; Tyumen Plywood Plant Limited; JSC «SVEZA Ust-Izhora»; JSC «SVEZA Uralskiy»; JSC «SVEZA Kostroma»; JSC «SVEZA Verhnaya Sinyachiha»	15,9 %	C659
Syktyvkar Plywood Mill Ltd.	15,0 %	C660
Zheshartsky LPK LLC	17,2 %	C661
Other cooperating companies listed in Annex	16,0 %	
All other companies	17,2 %	C999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (volume) of birch plywood sold for export to the European Union covered by this invoice was manufactured by (company name and address)*

(TARIC additional code) in Russia. I declare that the information provided in this invoice is complete and correct.’ If no such invoice is presented, the duty applicable to all other companies shall apply.

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

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

Article 2

1. Interested parties shall submit their written comments on this Regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.

2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.

3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings are invited to do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer shall examine requests submitted outside this time limit and may decide whether to accept such requests if appropriate.

Article 3

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

Article 1 shall apply for a period of six months.

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

Done at Brussels,

For the Commission
The President
[...]