

Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union (codification)

Article 6

Calculation of benefit to the recipient

As regards the calculation of benefit to the recipient, the following rules shall apply:

- (a) government provision of equity capital shall not be considered to confer a benefit, unless the investment can be regarded as inconsistent with the usual investment practice, including for the provision of risk capital, of private investors in the territory of the country of origin and/or export;
- (b) a loan by a government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the loan pays on the government loan and the amount that the firm would pay for a comparable commercial loan which the firm could actually obtain on the market. In that event the benefit shall be the difference between those two amounts;
- (c) a loan guarantee by a government shall not be considered to confer a benefit, unless there is a difference between the amount that the firm receiving the guarantee pays on a loan guaranteed by the government and the amount that the firm would pay for a comparable commercial loan in the absence of the government guarantee. In that case the benefit shall be the difference between those two amounts, adjusted for any differences in fees;
- (d) the provision of goods or services or purchase of goods by a government shall not be considered to confer a benefit, unless the provision is made for less than adequate remuneration or the purchase is made for more than adequate remuneration. The adequacy of remuneration shall be determined in relation to prevailing market conditions for the product or service in question in the country of provision or purchase, including price, quality, availability, marketability, transportation and other conditions of purchase or sale.

If there are no such prevailing market terms and conditions for the product or service in question in the country of provision or purchase which can be used as appropriate benchmarks, the following rules shall apply:

- (i) the terms and conditions prevailing in the country concerned shall be adjusted, on the basis of actual costs, prices and other factors available in that country, by an appropriate amount which reflects normal market terms and conditions; or
- (ii) when appropriate, the terms and conditions prevailing in the market of another country or on the world market which are available to the recipient shall be used.

Changes to legislation:

There are currently no known outstanding effects for the Regulation (EU) 2016/1037 of the European Parliament and of the Council, Article 6.