

**COMMISSION IMPLEMENTING REGULATION (EU) 2017/94****of 19 January 2017****imposing a definitive anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

**1. PROCEDURE****1.1. Measures in force**

- (1) Following an anti-dumping investigation ('the original investigation'), the Council by Council Implementing Regulation (EU) No 965/2010 <sup>(2)</sup>, imposed a definitive anti-dumping duty on imports of sodium gluconate with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1, currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10) ('sodium gluconate') and originating in the People's Republic of China ('the PRC' or 'the country concerned').
- (2) The original measures took the form of an *ad valorem* duty established at 53,2 % with the exception of Shandong Kaisen Biochemical Co., Ltd (5,6 %) and Qingdao Kehai Biochemistry Co., Ltd (27,1 %).

**1.2. Request for an expiry review**

- (3) Following the publication of a notice of impending expiry <sup>(3)</sup> of the existing measures, the Commission received on 1 July 2015 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 <sup>(4)</sup>.
- (4) The request was lodged by the two Union producers, Jungbunzlauer S.A and Roquette Italia S.p.A. ('the applicants').
- (5) The request was based on the grounds that the expiry of the measures would likely result in a continuation of dumping and a continuation or recurrence of injury to the Union industry.

**1.3. Initiation**

- (6) On 27 October 2015, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports into the Union of sodium gluconate originating in the PRC on the basis of Article 11(2) of Regulation (EC) No 1225/2009. It published a Notice of Initiation in the *Official Journal of the European Union* <sup>(5)</sup> ('the Notice of Initiation').

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Council Implementing Regulation (EU) No 965/2010 of 25 October 2010 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sodium gluconate originating in the People's Republic of China (OJ L 282, 28.10.2010, p. 24).

<sup>(3)</sup> OJ C 47, 10.2.2015, p. 3.

<sup>(4)</sup> Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation has been codified by the basic Regulation.

<sup>(5)</sup> Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of Sodium Gluconate originating in the People's Republic of China (OJ C 355, 27.10.2015, p. 18).

#### 1.4. Analogue country

- (7) The Commission stated in the Notice of Initiation that it envisaged using the United States of America ('USA') as a third market economy country ('analogue market'), as in the original investigation, within the meaning of Article 2(7)(a) of the basic Regulation. The Commission invited parties to make comments on the appropriateness of this choice. None of the parties provided any comments.
- (8) The Commission sought information concerning producers of sodium gluconate in other potential analogue countries and contacted Canada, India, Japan, Pakistan, Serbia, South Africa, South Korea, Switzerland and USA inviting all known producers of sodium gluconate in these countries to provide the necessary information. One Canadian company replied saying that it was not a producer of sodium gluconate but a trader. Only one American producer submitted a questionnaire reply and accepted a verification visit.

#### 1.5. Interested parties

- (9) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed known Union producers, known exporting producers, the Chinese authorities, known importers and users about the initiation of the investigation and invited them to participate.
- (10) Interested parties were given the opportunity to make their views known in writing and request a hearing within the time limits set out in the Notice of Initiation. All interested parties, who requested so and showed that there were particular reasons why they should be heard, were granted a hearing. Interested parties were also granted 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.

##### (a) *Sampling*

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

##### *Sampling of exporting producers in the PRC*

- (12) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (13) Only one exporting producer in the country concerned provided the requested information and agreed to be included in the sample. Therefore, sampling was not necessary.

##### *Sampling of importers*

- (14) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked four known unrelated importers to provide the information specified in the Notice of Initiation.
- (15) Two unrelated importers provided the requested information and agreed to be included in the sample. In view of the low number, the Commission decided that sampling was not necessary.

##### (b) *Replies to the questionnaire*

- (16) The Commission sent questionnaires to two Union producers, two unrelated importers, eight known users, ten wholesalers, the Chinese exporting producer that came forward during the sampling exercise and one producer in the USA that was considered as the analogue market.
- (17) Questionnaire replies were received from two Union producers, two unrelated importers, one user, five wholesalers, the Chinese exporting producer and the producer in the analogue market.

(c) **Verification visits**

- (18) The Commission sought and verified all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers

- Jungbunzlauer SA, Marckolsheim, France and one related company
- Roquette Italy SpA, Cassano Spinola, Italy

Importers

- Ceda Chemicals Limited, Knutsford, United Kingdom
- Norkem Limited, Knutsford, United Kingdom

Exporting producer in the PRC

- Shandong Kaisen Biochemical Co., Ltd ('SKB'), Rizhao City, Shandong Province, the PRC

Producer in the analogue country

- PMP Fermentation Products, Inc, Peoria, United States of America.

**1.6. Investigation period and period considered**

- (19) The investigation of the likelihood of continuation or recurrence of dumping and injury covered the period from 1 October 2014 to 30 September 2015 ('the review investigation period' or 'RIP'). The examination of trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2012 to the end of the review investigation period ('the period considered').

**2. PRODUCT CONCERNED AND LIKE PRODUCT**

**2.1. Product concerned**

- (20) The product subject to this review is dry sodium gluconate, with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1 and originating in the PRC ('the product under review' or 'sodium gluconate'), currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10).
- (21) Dry sodium gluconate is used mainly in the construction industry as a set retarder and concrete plasticiser and in other industries as surface treatment for metals (removal of rust, oxides and fat) and for the cleaning of bottles and industrial equipment. The product can also be used in the food and pharmaceutical industries.
- (22) The product concerned includes several types, defined in the questionnaire as product control numbers ('PCN'). Each PCN takes into account the purity, particle size and packaging, as established in the original investigation.

**2.2. Like product**

- (23) The investigation has shown that dry sodium gluconate produced and sold by the Union industry in the Union, dry sodium gluconate produced and sold on the domestic market in the USA, which was selected as an analogue country as explained in recitals 60 to 62, dry sodium gluconate produced and sold on the domestic market in China and dry sodium gluconate produced in China and sold to the Union have essentially the same basic physical and technical characteristics and uses.

- (24) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

### 3. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

#### 3.1. Preliminary remarks

- (25) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation or recurrence of dumping.
- (26) As mentioned above in recital 13 only one Chinese exporting producer cooperated in the current investigation. This company covered the totality of the exports of sodium gluconate from the PRC into the Union during the RIP. Therefore, the Commission considered that it has sufficient information for the assessment of the export price and the dumping margin during the RIP (section 3.2).
- (27) However, this exporting producer only represented between 2 % and 7 % of the total production capacity and only between 5 % and 10 % of the total production of sodium gluconate in the PRC. Moreover, its exports to third countries ranged only between 23 % and 28 % of total exports from the PRC to third countries during the RIP (the exact weight of the sole cooperating Chinese exporting producer in the total Chinese production capacity, total production and total exports cannot be disclosed for confidentiality reasons). Therefore, and considering that none of the other Chinese producers of sodium gluconate in the PRC cooperated, the Commission considered that it did not have sufficient information for the examination of the likelihood of continuation or recurrence of dumping and use had to be made of facts available in accordance with Article 18 of the basic Regulation in order to assess the development of imports should measures be repealed (section 3.3).
- (28) The Chinese authorities were duly informed that due to the low cooperation of the Chinese exporting producers, the Commission may apply Article 18 of the basic Regulation. No comments were received in this respect.
- (29) The findings in section 3.3 were thus based on facts available. For this purpose, the information provided by the cooperating exporting producer, the request for the expiry review, the submission made by the applicants, Eurostat statistics, the data collected by Member States pursuant to Article 14(6) of the basic Regulation (the 'Article 14(6) database') and publicly available information on internet <sup>(1)</sup> were used. Regarding the Chinese Export Statistics Database, the coding structure for sodium gluconate covered other products not subject to the current investigation and therefore the volume of sodium gluconate in isolation could not be identified in the database. Therefore, this source of information could not be used.

#### 3.2. Dumping in the Union during the review investigation period

##### 3.2.1. Normal value

- (30) In the original investigation Market Economy Treatment ('MET') was granted to the sole Chinese exporting producer cooperating in the current investigation (Shandong Kaison Biochemicals or 'SKB'). Therefore, the determination of the normal value for this exporting producer was based on its own production and sales data.
- (31) The Commission first examined whether the total volume of domestic sales for the 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 of the exporting producer represented at least 5 % of its total export sales volume of the product concerned to the Union during the RIP. The total sales volume of the cooperating exporting producer of the like product on the domestic market was thus representative.
- (32) The Commission subsequently identified the product types sold domestically identical or comparable with the product types sold for export to the Union.

<sup>(1)</sup> <https://www.prlog.org/12459353-sodium-gluconate-producers-in-china-see-sharp-increase-in-exports-in-2014.html>

- (33) The Commission then examined whether the domestic sales by the cooperating exporting producer on its domestic market for each product type as referred to in recital 22, 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 RIP represents at least 5 % of the total volume of export sales to the Union. The Commission established that for one product type there were no domestic sales due to a difference in packaging while for the other product types the domestic sales were representative.
- (34) The Commission next defined the proportion of profitable sales to independent customers on the domestic market for each product type during the RIP 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.
- (35) 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.
- (36) In this case, the normal value is the weighted average of the prices of all domestic sales of that product type during the RIP.
- (37) The normal value is the actual domestic price per product type of only the profitable domestic sales of the product types during the RIP, 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.
- (38) The analysis of domestic sales showed that between 18 % and 23 % of all domestic sales were profitable and that the weighted average sales price was higher than the cost of production. Accordingly, the normal value was calculated as a weighted average of the profitable sales only.
- (39) For the one product type without domestic sales in the ordinary course of trade, the Commission constructed the normal value in accordance with Article 2(3) and (6) of the basic Regulation.
- (40) Normal value was constructed by adding the following to the average cost of production of the like product of the cooperating exporting producer during the RIP:
- (a) the weighted average selling, general and administrative ('SG&A') expenses incurred by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the RIP; and
  - (b) the weighted average profit realised by the cooperating exporting producer on domestic sales of the like product, in the ordinary course of trade, during the RIP.

### 3.2.2. *Export price*

- (41) The sole cooperating exporting producer exported to the Union directly to independent customers. Therefore, 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.

### 3.2.3. *Comparison*

- (42) The Commission compared the normal value and the export price on an ex-works basis.

- (43) 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 handling, loading and ancillary expenses in the country concerned, transport costs (domestic and ocean freight), insurance costs, packaging costs, credit costs and non-refundable VAT.

#### 3.2.4. Dumping margin

- (44) 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.
- (45) On this basis, the weighted average dumping margin established expressed as a percentage of the CIF Union frontier price, duty unpaid, was 2,6 % during the RIP. The level of this dumping margin should be seen in correlation with the fact that during the RIP, exports from the PRC to the Union market were only made by the sole Chinese exporting producer that received MET in the original investigation as explained in recitals 26 and 30.

### 3.3. Development of imports should measures be repealed

- (46) Further to the finding of dumping during the RIP, the Commission analysed whether there was a likelihood of a continuation of dumping should the measures be allowed to lapse. The following elements were analysed: the production capacity and spare capacity in the PRC, the development of demand in the PRC, the exports from the PRC to other third countries, the dumping margin of Chinese exports in other third countries and the attractiveness of the Union market.
- (47) As mentioned in recitals 27 to 29, only one exporting producer in the PRC cooperated. The findings in below sections were therefore based on facts available in accordance with Article 18 of the basic Regulation. In this regard, the Commission used the information provided by the cooperating exporting producer, the request for the expiry review, the submission made by the applicants, Eurostat statistics, the data collected by Member States pursuant to Article 14(6) of the basic Regulation (the 'Article 14(6) database') and publicly available information on internet were used as explained in recital 29.
- (48) It is recalled that during the period considered of the original investigation, import volumes increased by 77 % which in absolute terms corresponded to an increase of 1 774 tonnes (from 2 291 tonnes in 2005 to 4 095 tonnes during the investigation period of the original investigation). The corresponding Chinese market share increased from 12,8 % to a level of 24,9 % at the end of the investigation period of the original investigation before the imposition of measures.

#### 3.3.1. Production capacity, spare capacity and development of demand in the PRC

- (49) The production capacity of the sole cooperating Chinese exporter was three times the Union consumption during the RIP. Its capacity utilisation rate was found to range between 75 % and 80 %. It follows that the spare capacity of this company alone is more than half the Union consumption.
- (50) In addition, based on the information submitted in the request and cross checked with public available information mentioned in recital 29, sodium gluconate is manufactured by 40 producers in the PRC with a total production capacity ranging between 1 000 000 and 1 200 000 tonnes in 2014, which represented an increase of about 50 % as compared to 2010. In 2014, Chinese producers used only about half of their capacity as they produced only around 550 000 tonnes.
- (51) According to the expiry review request, the Chinese demand on the domestic market was estimated to range between 400 000 tonnes to 500 000 tonnes in 2014, which leaves a capacity of around 600 000 to 700 000 tonnes available for exports. The consumption in the Union was between 16 000 and 22 000 tonnes during the RIP meaning that the spare capacity in the PRC is around 30 times the consumption of sodium gluconate in the Union.

- (52) Demand in the PRC for sodium gluconate is largely determined by the construction industry. The construction industry uses it as concrete additive produced from sodium gluconate. It is not excluded that consumption of sodium gluconate in the Chinese domestic market may increase under the perspective of a growing construction industry in the PRC. However, the spare capacity in the PRC exceeds significantly the Union consumption and therefore, even under the perspective of a growing domestic consumption in the PRC, it is likely that spare capacity will still remain significant with a large potential for export to the Union market.

### 3.3.2. *Export volume and prices to other third countries*

- (53) For the reasons set out in recital 29, the Chinese database could not be used to analyse the Chinese exports of sodium gluconate to other third countries.
- (54) Based on the information submitted in the request, adjusted where necessary, and cross checked with public available information as described in recital 29, it was established that the Chinese export volume to other third countries overall increased by about 45 % between 2012 and 2014 reaching around 116 000 tonnes in 2014.
- (55) No public information on the average Chinese export prices to other third country markets was available. The prices to other third countries of the sole Chinese cooperating producer showed a decreasing trend between 2012 and 2014 from between 600 to 660 EUR/tonne in 2012 to between 500 and 550 EUR/tonne in 2014. In the RIP, the export prices of the sole Chinese cooperating producer increased as compared to 2014, slightly exceeding EUR 600/tonne. These prices were in line with the Chinese export prices to other third countries submitted by the applicants, with the exception of the RIP for which the applicants submitted that the Chinese prices to other third countries continued to decrease to a level between EUR 539 and 583/tonne.

### 3.3.3. *Dumping to other third countries*

- (56) For the reasons explained in recital 27, facts available in accordance with Article 18 of the basic Regulation were used with regard to the analysis of the likely continuation of dumping should the measures be allowed to lapse.
- (57) While public information on Chinese export prices to other third country markets were not available, the applicants provided information that showed that the average prices of all other Chinese exporting producers to other third countries were in line with the average export price of the sole cooperating Chinese exporting producer to other third countries, as described in recital 55.
- (58) In order to assess the dumping practices of the Chinese exporting producers to other third countries, the Commission has carried out two dumping margin calculations, one using the average export price of the Chinese exporting producers to other third countries submitted by the applicants and another one using the detailed export transactions submitted by SKB (the only Chinese cooperating exporting producer) in its reply to the anti-dumping questionnaire for its five largest export markets as a benchmark for the exports of the other Chinese exporting producers.
- (59) In this regard, it is recalled that during the original investigation the cooperating exporting producer was the only company that was granted MET. It follows that for the other Chinese exporting producers normal value should be calculated according to Article 2(7)(a) of the basic Regulation, that is on the basis of the price or constructed value in a market economy third country ('the analogue country'). For this purpose, an analogue country had to be selected.
- (60) As mentioned in recital 8, only the producer in the USA cooperated with the investigation by submitting a full questionnaire response and accepting a verification visit.
- (61) The Commission found that the USA met the criteria for an appropriate analogue country since the quantities sold in this market were sufficiently large and there was significant competition on the market between domestic production and imports from other countries, i.e. the PRC, Italy and France. In addition, the USA had no anti-dumping duty on the product concerned.

- (62) In view of the above, it was concluded that the USA constitutes an appropriate analogue country in accordance with Article 2(7)(a) of the basic Regulation and the information received from the sole cooperating producer in the analogue country was used as a basis for the determination of the normal value for the exporting producers not granted MET in the original investigation.
- (63) As regards the first dumping calculation referred to in recital 58, the Commission compared the weighted average normal value of the sole cooperating producer in the analogue country with the average export price of the Chinese exporting producers submitted by the applicants on an ex-works level in accordance with Article 2(11) and (12) of the basic Regulation. 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 costs, handling and ancillary expense, packaging costs, non-refundable VAT, estimated based on the questionnaire reply of the cooperating exporting producer in the PRC.
- (64) On this basis, the Chinese exports to other third countries were found to be dumped at a level higher than 70 %.
- (65) As concerns the other dumping calculation referred to in recital 58 which, for the reasons set out in recital 57, uses the detailed export transactions submitted by SKB in its reply to the anti-dumping questionnaire for its five largest export markets as a benchmark for the exports of the other Chinese exporting producers, the normal value was calculated as explained in recitals 59 to 63.
- (66) The export price was the price actually paid or payable for the product concerned when sold for export to the five largest third countries, in accordance with Article 2(8) of the basic Regulation.
- (67) The Commission compared the weighted average normal value of each type of the like product with the weighted average export price to the five largest other third countries of the corresponding type of the product concerned on an ex-works level in accordance with Article 2(11) and (12) of the basic Regulation. 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.
- (68) Adjustments were made for handling, loading and ancillary expenses in the country concerned, transport costs (domestic and ocean freight), insurance costs, packaging costs, credit costs and non-refundable VAT.
- (69) On this basis, the Chinese exports to other third countries were found to be dumped at a level of around 50 %.
- (70) Moreover, for the sake of completeness and comparison a dumping margin has been calculated also for the exports of SKB to other third country markets using its own data. A dumping margin amounting to around 8,3 % was thus established.
- (71) The difference between the dumping margins from recitals 64 and 69 and those from recitals 45 and 70 is explained by the fact that the former are based on normal value data from the analogue market as explained in recital 59 while the latter, established for the sole cooperating Chinese exporting producer was based on the normal value determined on its own production and sales data as it was granted MET in the original investigation as explained in recitals 30 to 40. In addition the dumping margin calculated for the sole cooperating Chinese exporting producer during the RIP in recital 45 relates to exports to the Union market where higher prices prevailed, whereas all other dumping margins calculated relate to exports to other third country markets.
- (72) The Chinese dumping practises established in other third countries are a strong indication of the likely price behaviour of the Chinese exporting producers in the Union should the measures be allowed to lapse.

#### 3.3.4. *Attractiveness of the Union market*

- (73) To assess the attractiveness of the Union market and the likelihood that exports from the PRC will be directed to the Union market should the measures be allowed to lapse, Chinese exports to other third country markets in terms of volumes and prices have been analysed as well as the prices in the Chinese domestic market in comparison to average prices in the Union market.



- (74) The Chinese export volume to other third countries overall increased by around 45 % between 2012 and 2014 reaching around 116 000 tonnes in 2014.
- (75) As concerns domestic prices, as explained in recitals 27 to 29 above, in the absence of any other information, the domestic prices of the sole cooperating Chinese exporting producer were used as a benchmark. The comparison shows that the average prices in the Union market were between 43 % and 55 % higher than the average domestic prices in the PRC in 2014 and between 27 % and 35 % higher than the average domestic prices in the PRC during the RIP.
- (76) As concerns the Chinese export prices to other third countries, based on the data submitted by the applicants, these were found to be in line with the export prices to other third countries of the sole cooperating Chinese exporting producer as explained in recital 55. The average prices in the Union market were found to be on average between 25 % and 45 % higher than the Chinese export prices to other third country markets in 2014 and between 20 % and 40 % higher than the Chinese export prices to other third country markets in the RIP. Concerning the price levels to other third countries of the sole cooperating Chinese exporter in the RIP these were lower than the Union industry prices by between 20 % and 30 %.
- (77) These significantly higher price levels make the Union market attractive for Chinese exporters should the anti-dumping measures be repealed.
- (78) The interest of Chinese exporting producers to export to the Union market is also confirmed by the constant presence of SKB in the Union market. Despite the measures in place, this company almost doubled its export volumes to the Union and increased its market share by around 50 % between the investigation period of the original investigation and the current RIP.

#### *3.3.5. Conclusion on the likelihood of continuation of dumping*

- (79) In light of the estimated significant spare capacity in the PRC which could be used for exports to the Union at dumped prices, taking into account the attractiveness of the Union market and the price behaviour of the Chinese exporters on other third country markets, the Commission concluded that there is a strong likelihood that the repeal of the anti-dumping measures would result in an increase in significant volumes of dumped imports of sodium gluconate from the PRC to the Union.

### **4. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY**

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

- (80) The cooperating Union producers Jungbunzlauer SA and Roquette Italia S.p.A. accounted for 100 % of the Union production.
- (81) They are therefore deemed to constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (82) As the Union industry is constituted of only two producers, all figures related to sensitive company specific data had to be indexed or given in a range for reasons of confidentiality.

#### **4.2. Union consumption**

- (83) The Commission established the Union consumption on the basis of the total sales volume of the Union industry on the Union market obtained after verification of the questionnaire replies of the two Union producers, on the basis of the total import volume as available in Eurostat and from the verified data of the cooperating Chinese exporting producer.

- (84) The Union consumption developed as follows:

Table 1

**Union consumption**

|                                  | 2012          | 2013          | 2014          | RIP           |
|----------------------------------|---------------|---------------|---------------|---------------|
| Total Union consumption (tonnes) | 13 000-19 000 | 14 000-20 000 | 16 000-22 000 | 16 000-22 000 |
| <i>Index (2012 = 100)</i>        | 100           | 109           | 119           | 122           |

Source: Questionnaire replies and Eurostat.

- (85) The Union consumption increased continuously and overall by 22 % over the period considered.

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

- (86) The Commission established the volume of imports on the basis of Eurostat and the verified questionnaire reply of the cooperating Chinese exporting producer which accounted for 100 % of the total Chinese imports during the RIP.
- (87) Imports into the Union from the country concerned developed as follows:

Table 2

**Import volume and market share**

|                           | 2012      | 2013      | 2014      | RIP       |
|---------------------------|-----------|-----------|-----------|-----------|
| Chinese imports (tonnes)  | 500-2 500 | 500-2 500 | 500-2 500 | 500-2 500 |
| <i>Index (2012 = 100)</i> | 100       | 110       | 122       | 109       |
| Chinese market share (%)  | 4-16      | 4-16      | 4-16      | 3-15      |
| <i>Index (2012 = 100)</i> | 100       | 100       | 103       | 89        |

Source: Questionnaire replies and Eurostat.

- (88) Over the period considered, the Chinese import volume increased overall by 9 %. It increased first between 2012 and 2014 by 22 % and decreased in the RIP by 13 %. However, since the Chinese imports only partially followed the increase in Union consumption, the development of the Chinese market share followed a different trend. Thus, it remained stable between 2012 and 2013, increased slightly in 2014 (i.e. by 3 %) and decreased from 2014 to the RIP by 14 %. Overall, the Chinese market share decreased by 11 % over the period considered. However, as indicated in recital 78, the sole cooperating Chinese exporting producer managed to double its export volume to the Union and to increase its market share by 50 % in comparison to the investigation period of the original investigation and at dumped price levels

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

- (89) The Commission established the trend of the prices of Chinese imports on the basis of Eurostat

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

Table 3

**Import prices (EUR/tonne)**

|                                   | 2012    | 2013    | 2014    | RIP     |
|-----------------------------------|---------|---------|---------|---------|
| Chinese import prices (EUR/tonne) | 680-750 | 600-670 | 600-670 | 670-740 |
| <i>Index (2012 = 100)</i>         | 100     | 89      | 89      | 98      |

Source: Eurostat.

- (91) Overall, average import prices decreased by 2 % over the period considered. Import prices decreased by 11 % between 2012 and 2013, remained at the same level in 2014 and increased by 9 % during the RIP.
- (92) The Commission determined the price undercutting of the cooperating exporting producer during the RIP by comparing:
- the weighted average sales prices per product type of the Union producers charged to unrelated customers on the Union market, adjusted to an ex-works level, and
  - the corresponding weighted average prices per product type of the imports to the first independent customer on the Union market, established on a Cost, insurance, freight ('CIF') basis, with appropriate adjustments for anti-dumping and customs duties and for post-importation.
- (93) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the Union industry average weighted price during the RIP. It showed that for the cooperating exporting producer there was no undercutting during the RIP even when anti-dumping duties are not taken into account. The cooperating exporting producer, however, though it covered 100 % of the Chinese imports in the RIP, represented only between 2 % and 7 % of the total Chinese production capacity.

**4.4. Imports from other third countries**

- (94) Imports into the Union from third countries other than the country concerned developed as follows:

Table 4

**Market share other third countries**

|                           | 2012  | 2013  | 2014  | RIP   |
|---------------------------|-------|-------|-------|-------|
| Imports (tonnes)          | 0-300 | 0-500 | 0-400 | 0-300 |
| <i>Index (2012 = 100)</i> | 100   | 582   | 256   | 132   |
| Market share (%)          | 0-1   | 1-2   | 0-1   | 0-1   |
| <i>Index (2012 = 100)</i> | 100   | 543   | 217   | 109   |

Source: Eurostat.

- (95) The market share of imports from third countries represented at most 2 % during the period considered and less than 1 % during the RIP.

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

##### 4.5.1. General remarks

- (96) 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. The Commission evaluated these indicators on the basis of the verified questionnaire replies of the Union producers.

##### 4.5.2. Injury indicators

##### 4.5.2.1. Production, production capacity and capacity utilisation

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

Table 5

#### Production, production capacity and capacity utilisation

|                              | 2012          | 2013          | 2014          | RIP           |
|------------------------------|---------------|---------------|---------------|---------------|
| Production (tonnes)          | 38 000-58 000 | 33 000-53 000 | 34 000-54 000 | 35 000-55 000 |
| Index (2012 = 100)           | 100           | 90            | 92            | 94            |
| Production capacity (tonnes) | 50 000-70 000 | 50 000-70 000 | 50 000-70 000 | 50 000-70 000 |
| Index (2012 = 100)           | 100           | 100           | 100           | 100           |
| Capacity utilisation (%)     | 70-90         | 65-85         | 65-85         | 65-85         |
| Index (2012 = 100)           | 100           | 90            | 92            | 94            |

Source: Questionnaire replies.

- (98) Production volume decreased between 2012 and 2013 by 10 %, then increased slightly from 2014 to the RIP. Overall, production volume decreased by 6 % during the period considered. This decrease in production is explained by a decrease of between 30 % and 40 % in export volumes over the period considered, which was only partially compensated by the increase in domestic sales reported in table 6.
- (99) The production capacity remained unchanged during the entire period considered.

##### 4.5.2.2. Sales volume, market share and captive use

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

Table 6

#### Sales volume and market share

|   | 2012          | 2013          | 2014          | RIP           |
|---|---------------|---------------|---------------|---------------|
| Sales volume on the Union market (tonnes) | 11 500-17 500 | 12 500-18 500 | 14 000-20 000 | 15 000-21 000 |
| Index (2012 = 100)                        | 100           | 107           | 118           | 123           |

|                                    | 2012  | 2013  | 2014  | RIP   |
|------------------------------------|-------|-------|-------|-------|
| Market share of Union industry (%) | 84-96 | 84-96 | 84-96 | 85-97 |
| <i>Index (2012 = 100)</i>          | 100   | 100   | 100   | 101   |

Source: Questionnaire replies and Eurostat.

- (101) The Union industry managed to follow the increase in Union consumption by increasing its sales volume continuously and overall by 23 % over the period considered.
- (102) Since the sales volume closely followed the trend observed in Union consumption, the market share of the Union industry remained unchanged from 2012 to 2014 and only slightly increased by 1 % during the RIP.
- (103) The captive use which was practically constant throughout the period considered as shown in the table below did not affect the trend observed in respect of production and capacity utilisation.

Table 7

#### Captive use

|                           | 2012         | 2013         | 2014         | RIP          |
|---------------------------|--------------|--------------|--------------|--------------|
| Captive use (tonnes)      | 9 000-19 000 | 9 000-19 000 | 9 000-19 000 | 9 000-19 000 |
| <i>Index (2012 = 100)</i> | 100          | 100          | 100          | 101          |

Source: Questionnaire replies.

#### 4.5.2.3. Growth

- (104) The domestic sales volume of the Union industry followed closely the evolution of the domestic consumption and increased by 23 % over the period considered. As a consequence, the Union industry maintained a stable level of market share throughout the period considered.

#### 4.5.2.4. Employment and productivity

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

Table 8

#### Employment and productivity

|                                | 2012      | 2013      | 2014      | RIP       |
|--------------------------------|-----------|-----------|-----------|-----------|
| Number of employees            | 0-100     | 0-100     | 0-100     | 0-100     |
| <i>Index (2012 = 100)</i>      | 100       | 99        | 101       | 103       |
| Productivity (tonnes/employee) | 500-1 500 | 500-1 500 | 500-1 500 | 500-1 500 |
| <i>Index (2012 = 100)</i>      | 100       | 91        | 91        | 91        |

Source: Questionnaire replies.

- (106) The number of employees in the Union industry remained almost unchanged during the entire period considered. As a result of the decrease in production and the stable employment, productivity decreased over the period considered.
- (107) The investigation showed that due to the high degree of automation it would not be possible for the Union industry to decrease the number of employees in proportion of the decrease in production.

#### 4.5.2.5. Magnitude of the dumping margin and recovery from past dumping

- (108) The investigation established in recital 45 that imports of sodium gluconate from the PRC continued to enter the Union market at dumped prices.
- (109) The Union industry was able to benefit from the anti-dumping measures in force and started to recover from the past dumping. It indeed increased its sale volume by 23 % and its market share by 1 % over the period considered. However the recovery from the past dumping cannot be considered as consolidated in particular in view of the development of the profitability as described in recital 123, which remained negative in 2012 and 2013 and turned positive only during the RIP.

#### 4.5.2.6. Prices and factors affecting prices

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

Table 9

#### Sales prices in the Union and unit cost of production

|   | 2012    | 2013    | 2014    | RIP     |
|---|---------|---------|---------|---------|
| Average unit sales price in the Union (EUR/tonne) | 740-810 | 730-800 | 700-770 | 700-770 |
| Index (2012 = 100)                                | 100     | 99      | 94      | 95      |

Source: Questionnaire replies.

- (111) The average sales prices of the Union industry decreased by 5 % over the period considered. Prices decreased continuously between 2012 and 2014 and only slightly increased during the RIP.
- (112) The cost of production of the Union industry developed over the period considered as follows:

Table 10

#### Unit cost of production

|                                     | 2012 | 2013 | 2014 | RIP |
|-------------------------------------|------|------|------|-----|
| Unit cost of production (EUR/tonne) |      |      |      |     |
| Index (2012 = 100)                  | 100  | 98   | 86   | 80  |

Source: Questionnaire replies.

- (113) Over the period considered the unit cost of production decreased by 20 %. This was in part due to the decrease in price of raw materials, as described in more detail in recital 114 below, and in part to cost savings that resulted in a decrease of various components of the total cost of production, in particular the maintenance expenses were drastically reduced over the period considered.
- (114) Depending on the degree of integration of their manufacturing process, Union producers used either corn or corn-based glucose syrup as their main raw materials. Since these raw materials represent an important component of the cost of production, their decrease in price accounted for between 25 % and 35 % of the decrease in cost of production during the period considered. Any increase in corn price or in corn-based glucose syrup could therefore instantly reverse the improved situation of the Union industry resulting from the decrease in cost of production.
- (115) The decrease in cost of production only led to a slight decrease in the average unit sales prices of 5 % over the period considered due to the fact that the Union industry was still recovering from the losses it incurred in previous periods as a result of past dumping practises.

#### 4.5.2.7. Labour costs

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

Table 11

#### Average labour costs per employee

|                           | 2012 | 2013 | 2014 | RIP |
|---------------------------|------|------|------|-----|
| <i>Index (2012 = 100)</i> | 100  | 93   | 104  | 107 |

Source: Questionnaire replies.

- (117) Average labour costs increased by 7 % during the period considered. In any event, as labour represents only a minor portion of the production cost, this should not be considered a meaningful indicator in the analysis of the economic situation of the Union industry.

#### 4.5.2.8. Inventories

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

Table 12

#### Inventories

|  | 2012        | 2013        | 2014        | RIP         |
|--|-------------|-------------|-------------|-------------|
| Closing stocks (tonnes)                          | 4 000-8 000 | 3 000-7 000 | 1 000-5 000 | 1 000-5 000 |
| <i>Index (2012 = 100)</i>                        | 100         | 89          | 47          | 43          |
| Closing stocks as a percentage of production (%) | 8-16        | 8-16        | 2-11        | 2-10        |
| <i>Index (2012 = 100)</i>                        | 100         | 99          | 51          | 46          |

Source: Questionnaire replies.

(119) The level of inventories decreased by 54 % over the period considered.

(120) Inventories during the RIP were found to be at a normal level.

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

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

Table 13

#### Profitability, cash flow, investments and return on investments

|  | 2012                        | 2013                      | 2014                  | RIP                     |
|--|-----------------------------|---------------------------|-----------------------|-------------------------|
| Profitability of sales in the Union to unrelated customers (% of sales turnover) | – 20-0                      | – 15-+ 5                  | – 10-+ 10             | – 5-+ 15                |
| <i>Index (2012 = 100)</i>  | 100                         | 101                       | 111                   | 118                     |
| Cash flow (EUR)  | – 3 400 000-<br>– 1 400 000 | – 1 600 000-<br>+ 400 000 | 700 000-<br>2 700 000 | 1 200 000-<br>3 200 000 |
| <i>Index (2012 = 100)</i>  | 100                         | 182                       | 284                   | 309                     |
| Investments (EUR)  | 300 000-<br>1 000 000       | 100 000-<br>800 000       | 100 000-<br>700 000   | 0-600 000               |
| <i>Index (2012 = 100)</i>  | 100                         | 66                        | 56                    | 35                      |
| Return on investments (%)  | – 20-0                      | – 20-0                    | – 10-+ 10             | 0-20                    |
| <i>Index (2012 = 100)</i>  | 100                         | 99                        | 111                   | 122                     |

Source: Questionnaire replies.

(122) The Commission established the profitability of the 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.

(123) The Union industry was loss-making during the first two years of the period considered and merely close to break-even in 2014. It is only during the RIP that the profitability eventually reached a level close but still below the target profit used in the original investigation. It must be underlined that this late improvement resulted from a decrease in cost of production that was largely due to the favourable evolution of the prices of corn and corn-based glucose syrup as explained in recital 114. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the recently obtained profitability.



- (124) The cash flow, which is the ability of the Union producers to self-finance their activities, was negative during the first two years and turned positive only during the second half of the period considered.
- (125) The improvement of the cash flow was however in part made at the expense of the investments, which decreased by 65 % over the period considered and were almost negligible compared to the gross value of the capital assets used to manufacture the product concerned. The improvement of the cash flow was also a result of the improvement of the profitability which, as explained in recital 123, was in large part due to the favourable evolution of the price of corn and corn-based glucose syrup. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the improvement of the cash flow situation.
- (126) It must also be noted that the low levels of investment and maintenance expenses (see recital 113), while temporarily improving cash flow and profitability, are not sustainable in the long term as they will eventually result in a degradation of the production facilities. This could ultimately have an impact on the production cost and efficiency of the production process. In any event necessary investments and maintenance expenses can only be postponed to a later period with a deferred negative impact on cash flow and profitability.
- (127) The return on investments is the profit in percentage of the net book value of investments. It was negative during the first two years of the period considered and turned positive only during the RIP. As return on investment and profitability are highly correlated injury indicators, the improvement of return on investment was a direct result of the improvement of profitability. The improvement of the return on investment was therefore also in large part due to the favourable evolution of the price of corn and corn-based glucose syrup described in recital 123. Any price increase of these raw materials which are subject to price fluctuations in function of climate and crops could therefore instantly reverse the recent improvement of the return on investment.
- (128) The Union industry kept its injection of fresh capital in the sodium gluconate activity to a strict minimum by lowering its level of investment to almost negligible amounts as explained in recital 125 and 126. Therefore ability to raise capital could not be analysed.

#### 4.5.3. *Conclusion on injury*

- (129) Sales volume and market share displayed a positive development during the period considered as the Union industry managed to follow the increase in consumption. However this did not prevent production and capacity utilisation to decrease over the period considered.
- (130) The injury indicators related to the financial performance of the Union industry (profitability, cash flow and return on investment) were negative or at best close to zero during the first three years of the period considered and showed positive levels only during the RIP, with the exception of cash flow which became positive already in 2014.
- (131) The positive development of profitability, cash flow and return on investment cannot however be considered as stable as it materialised only towards the end of the period considered (cash flow) and during the RIP (profitability and return on investment). In addition, the positive level of all three indicators in the RIP was in large part due to the decrease in the cost of the main raw materials (corn and corn-based glucose syrup) which are subject to fluctuations as explained in recital 123, 125 and 127 and to savings in capital investment and maintenance expenses that are not sustainable in the long term (see recital 126). Moreover the level of profitability reached in the RIP remained lower than the target profit identified in the original investigation.
- (132) In view of the above, the Commission concluded that the Union industry started to recover from past dumping in the RIP and that it has not suffered material injury during the RIP within the meaning of Article 3(5) of the basic Regulation. However the investigation showed also that the financial performance of the Union industry was insufficient to guarantee long term viability.

#### 4.6. Likelihood of recurrence of injury

- (133) In order to assess the likelihood of recurrence of injury several factors were taken into consideration, namely production capacity and spare capacity in the PRC, the exports volume of Chinese exporting producers to other third markets, the prices of Chinese exports to other third markets and the Chinese domestic prices the attractiveness of the Union market and the findings of the original investigation.
- (134) The Chinese spare capacity was between 600 000 to 700 000 tonnes during the RIP as established in recital 51, representing around 30 times the consumption in the Union which was between 16 000 and 22 000 tonnes. As indicated in recital 52, even if some of this spare capacity was to be used for a potentially increased demand in the PRC or in other third countries, a very large spare capacity would still remain available for exports to the Union.
- (135) As described in recital 54 significant export volumes were exported from China to other third countries increased. The exports to other third countries increased by 45 % from 2012 and 2014 and reached around 116 000 tonnes in 2014. This amount alone represents more than six times the Union consumption in the same period.
- (136) During the RIP, the average price of the Chinese exports to other third countries was found to be between 20 % and 40 % lower than the average Union industry price, as established in recital 76. Depending on the methodology used, as established in recitals 64 and 69 the dumping margins to other third countries of the Chinese exporting producers were exceeding 70 % or at least around 50 %. When considering the data of the sole cooperating exporting producer the dumping margin as explained in recital 70 was 8,3 %.
- (137) As established in recitals 75 and 76, the average price on the Union market was found to be between 27 % and 35 % higher than the average domestic price in the PRC and between 20 % and 40 % higher than the average Chinese export price to other third country markets during the RIP. Concerning the price levels to other third countries of the sole cooperating Chinese exporter in the RIP these were lower than the Union industry prices by between 20 % and 30 %.
- (138) On the basis of this it can be concluded that the Union market is very attractive in terms of prices in comparison to both the Chinese domestic market and third country markets. The attractiveness of the Union market is confirmed by the increasing presence of SKB, which doubled its export volume and increased its market share by 50 % as established in recital 78.
- (139) Should the measures be repealed it is therefore likely that the Chinese exporting producers will resume or start exporting to the Union in significant quantities, at dumped prices, likely to significantly undercut the Union industry prices (between 20 % to 40 % based on the price behaviour observed for the non-cooperating exporting producers in other third countries). Indeed it is likely that the price behaviour would be the same or similar as the one observed in other third countries, as this would allow the Chinese exporting producers to (re)gain market share in the Union market. In particular, sodium gluconate is a commodity product for which price is by far the most important and decisive factor.
- (140) To assess the likely impact on the situation of the Union industry of increased volumes in the Union market of low priced imports from China should the measures be repealed, the development during the period considered of the original investigation was also analysed. It was observed that during the investigation period of the original investigation, the Chinese imports were undercutting the Union industry sales prices by between 13 % and 29 %. The volume of the Chinese imports increased by 77 % over the period considered of the original investigation which in absolute terms corresponded to an increase of 1 774 tonnes (from 2 291 tonnes in 2005 to 4 095 tonnes during the investigation period of the original investigation). This increase was considered substantial and resulted in particular in a decrease of the profitability of the Union industry by 80 % as well as a decrease of its sales volume by 20 %. On this basis, the original investigation concluded that the Union industry suffered material injury.
- (141) In the likely scenario that significant Chinese import volumes at low dumped prices will enter the Union market should the measure be repealed, it is likely that the Union will react in a way similar as the one observed in the

original investigation and that therefore the impact of increased import volumes from China at prices significantly lower than the prices of the Union industry will have a similar effects than in the original investigation. In particular, given the very price sensitive market of this product and the considerably lower price levels in other third country markets, it is likely that the Union will be forced to decrease its sales volumes and production volume and lower its prices, with a negative impact on profitability. In fact, the price sensitivity of this product would exacerbate the impact of any price pressure exerted on the Union market. As a consequence, the improvement of the Union industry that materialised only during the RIP would be erased and the financial situation of the Union industry would likely seriously deteriorate.

- (142) Another indication of the potential impact of an increase in low priced Chinese imports on the Union industry should the measures be repealed, is shown by the situation that the Union industry is facing in respect of its exports to other third countries. In these countries, where no anti-dumping measures are in force and where Chinese imports were found to be dumped, the export volumes of the Union industry decreased by between 30 % and 40 %.
- (143) Based on the above, the Commission concluded that there is a strong likelihood of recurrence of injury should the measures be repealed.

## 5. UNION INTEREST

- (144) In accordance with Article 21 of the basic Regulation, the Commission examined whether the imposition of anti-dumping measures on imports of sodium gluconate originating in the PRC following the findings of the present expiry review would not be in the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all interests involved, including those of the Union industry, importers, users and wholesalers. All interested parties were given the opportunity to make their views known under Article 21(2) of the basic Regulation.

### 5.1. Interest of the Union industry

- (145) The Union industry's economic situation improved further to the imposition of anti-dumping measures in 2010.
- (146) The investigation showed however that the Union industry is still vulnerable as explained in recital 131 and 132.
- (147) As a consequence, should the measures be repealed, the injury is likely to recur as the Union industry will lose customers and experience downward price pressure at the benefit of Chinese exporting producers that are expected to increase import volumes at low dumped prices. A similar situation has been observed in other third countries as described in recital 142.
- (148) Maintaining the measures however, will allow the Union industry to continue its recovery from past dumping and to consolidate its situation.

### 5.2. Interest of unrelated importers

- (149) At initiation four known unrelated importers were contacted. Two replied to the questionnaire. They represented between 30 % and 50 % of the Chinese imports during the RIP and were not in favour of the measures.
- (150) It was found that the share of sodium gluconate in their turnover represented less than 5 %. In addition, both importers were overall profitable as well as in their activity concerning sodium gluconate.
- (151) On this basis the Commission considered that the impact, if any, of the continuation of measures on importers will be limited.

### 5.3. Interest of users

- (152) Questionnaires were sent to eight known users. Only one user who was not in favour of the measures replied.

- (153) During the RIP the cooperating user did not import from the PRC as it sourced sodium gluconate exclusively from one of the Union producers. For this user, sodium gluconate represents less than 5 % of the cost of manufacturing of the finished products incorporating sodium gluconate. In addition its activity incorporating sodium gluconate represented less than 20 % of the total turnover during the RIP. This user was also found to be overall profitable. On the basis of the limited impact any price fluctuation of sodium gluconate can have on its cost of production, it is expected that the impact, if any, of the continuation of measures on this user will be limited.
- (154) In view of the conclusion regarding the cooperating user and the low level of cooperation from the side of the users the Commission concluded that the impact, if any, on users of the continuation of measures will be limited.

#### **5.4. Interest of wholesalers**

- (155) Five wholesalers came forward by providing questionnaire replies. Three were in favour of the measures while the two others did not express any position. All five wholesalers purchased sodium gluconate from a Union producer and did not import the product concerned from China. The activity involving sodium gluconate represented a negligible part of the total turnover for all the companies during the period considered.
- (156) On this basis, the Commission concluded that impact, if any, of the continuation of measures on wholesalers is likely to be negligible.

#### **5.5. Conclusion on Union interest**

- (157) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to maintain measures on imports of sodium gluconate originating in the PRC.

### **6. ANTI-DUMPING MEASURES**

#### **6.1. Measures**

- (158) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to maintain the anti-dumping measures in force. They were also granted a period within which they could submit comments subsequent to this disclosure. No party submitted any comments after the disclosure.
- (159) It follows from the above considerations that, under Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of sodium gluconate in the PRC imposed by Commission Regulation (EU) No 377/2010 <sup>(1)</sup> should be maintained.

#### **6.2. Special monitoring**

- (160) In order to minimise the risks of circumvention due to the high difference in the duty rates, it is considered that special measures are needed in this case to ensure the proper application of the anti-dumping duties.
- (161) 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) hereof. Imports not accompanied by that invoice should be subject to the anti-dumping duty applicable to 'all other companies'.
- (162) Should the exports by the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met, an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rates and the consequent imposition of a countrywide duty.

<sup>(1)</sup> Commission Regulation (EU) No 377/2010 of 3 May 2010 imposing a provisional anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China (OJ L 111, 4.5.2010, p. 5).

(163) This Regulation is in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of sodium gluconate, with a Customs Union and Statistics (CUS) number 0023277-9 and a Chemical Abstracts Service (CAS) registry number 527-07-1, currently falling within CN code ex 2918 16 00 (TARIC code 2918 16 00 10) and originating in the People's Republic of China.

2. The rates of the definitive 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                              | Definitive anti-dumping duty (%) | TARIC additional code |
|--------------------------------------|----------------------------------|-----------------------|
| Shandong Kaison Biochemical Co., Ltd | 5,6                              | A972                  |
| Qingdao Kehai Biochemistry Co. Ltd   | 27,1                             | A973                  |
| All other companies                  | 53,2                             | A999                  |

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

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

#### Article 2

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

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

Done at Brussels, 19 January 2017.

For the Commission  
The President  
Jean-Claude JUNCKER