COMMISSION IMPLEMENTING REGULATION (EU) 2024/1896

of 11 July 2024

imposing a provisional anti-dumping duty on imports of certain polyvinyl chloride ('PVC') originating in Egypt and the United States of America

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic Regulation'), and in particular Article 7 thereof,

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 15 November 2023, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of polyvinyl chloride ('PVC') originating in Egypt and the United States of America ('the countries concerned') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* [2] ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 2 October 2023 by the Polyvinyl Chloride Trade Committee ('the complainants'). The complaint was made on behalf of the Union industry of PVC 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. Registration

(3) 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.

(4) The complainants did not request registration and the Commission found that the requirements under point (d) of Article 10(4) of the basic Regulation were not met. In addition to the level of imports which caused injury during the investigation period ('IP', see recital 32), there was no further substantial rise in imports thereafter.

(5) For the reasons set out in Section 4.4.1 below, the Commission decided to cumulate the imports from the countries concerned for the purpose of the analysis described in the recitals above. An analysis of the data extracted from the Comext Database of Eurostat and the data supplied by the cooperating exporting producers in the countries concerned showed that the cumulative volume of imports from the countries concerned decreased by 41 % in the first three full months (i.e. December 2023 to February 2024) after the initiation of the investigation as compared to the same months during the investigation period. Similarly, the average monthly imports from the countries concerned during the first three months after the initiation of the investigation were 19 148 tonnes compared to the average monthly imports of 27 450 tonnes during the investigation period. Therefore, the Commission did not make the imports of PVC subject to registration under Article 14(5a) of the basic Regulation during the period of pre-disclosure.

[1] OJ L 176, 30.6.2016, p. 21, ELI: http://data.europa.eu/eli/reg/2016/1036/oj.
[2] Notice of initiation of an anti-dumping proceeding concerning imports of certain polyvinyl chloride ('PVC') originating in Egypt and the United States of America (OJ C, C/2023/1033, 15.11.2023, ELI: http://data.europa.eu/eli/C/2023/1033/oj).

1.3. **Interested parties**

(6) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other known Union producers, the known exporting producers, the authorities of Egypt and the United States of America ('the USA'), known importers, suppliers and users, and traders 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.

1.4. **Sampling**

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

1.4.1. *Sampling of Union producers*

(9) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. The Commission selected the sample on the basis of production and sales. This sample consisted of three Union producers. The sampled Union producers accounted for 25 % of estimated production and 26 % of estimated EU sales volume of the like product. The Commission invited interested parties to comment on the provisional sample. The Commission did not receive any comment and the provisional sample was confirmed. The sample is representative of the Union industry.

1.4.2. *Sampling of importers*

(10) No unrelated importers provided the requested information or agreed to be included in the sample. The Commission therefore did not select any sample of importers.

1.4.3. *Sampling of exporting producers in Egypt*

(11) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in Egypt to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the Arab Republic of Egypt to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(12) Only one exporting producer in Egypt, TCI Sanmar Chemicals S.A.E. ('TCI Sanmar'), provided the requested information and agreed to be included in the sample. Accordingly, the Commission decided that sampling was not necessary.

(13) On 7 December 2023, 15 days after the deadline for providing sampling information had expired, a second Egyptian exporting producer, Egyptian Petrochemical Company ('EPC'), came forward and requested the Commission to participate in the proceeding as an interested party. Since it found that the participation of a second exporting producer was not likely to impede the timely completion of the investigation, the Commission responded favourably to the request of EPC.

1.4.4. *Sampling of exporting producers in the United States of America*

(14) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in the United States of America to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the United States of America to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.

(15) Four exporting producers in the United States of America 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 two 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. No comments were received on the selection of the sample.

1.5. **Individual examination**

(16) The two American non-sampled cooperating exporting producers signalled their intention to request individual examination under Article 17(3) of the basic Regulation. However, none of them provided a questionnaire reply and thus actual requests.

1.6. **Comments on initiation**

(17) The Commission received a number of comments from interested parties on initiation and reacting to other parties' submissions.

(18) Following initiation, comments were received from the Government of Egypt, the Egyptian producer TCI Sanmar, the US producers Oxy Vinyls, LP and Westlake Corporation ('Westlake'), a non-sampled Union producer Ercros, and two users, Rehau and Foamalite Ltd. ('Foamalite'). The complainants also submitted comments rebutting the interested parties' submissions.

(19) The Government of Egypt ('the GoE') and TCI Sanmar claimed that the complainants failed to provide a fair comparison between export price and the normal value and that the complaint did not contain sufficient evidence of dumping.

(20) The Commission disagreed. With regard to dumping, the Commission considered that the complaint included sufficient relevant evidence to initiate its investigation as the prima facie evidence pointed at dumping margins of 45,2 % for Egypt and 40,6 % to 59,4 % for the USA. Specifically, the complainants had based the export price on reasonable available information such as the Eurostat CIF average price of imports originating in Egypt into the EU and adjusted this to ex-works level, using reasonable estimates. By the same token, the normal value was established by the complainants on the basis of local prices reported by the market monitoring system ChemOrbis on the Egypt Local Price Index. Therefore, this claim was rejected.

(21) The Government of Egypt, Oxy Vinyls, LP, TCI Sanmar and Westlake questioned the injury analysis in the complaint as the Egyptian and US imports were not entering the Union at injurious volumes or prices and Union industry was healthy and performing well. The parties also considered that the concerns about a threat of injury was baseless.

(22) The complaint contained the evolution of the imports from the countries concerned in terms of quantities prices. The basic Regulation provides that the injury analysis shall take into account both the absolute level and the evolution of market share and prices during the period considered. The Commission considered that whereas the Union industry could have been healthy in the early part of the period considered, the complaint presented arguments why the situation deteriorated from end of 2022 and that no sufficient evidence was provided against the arguments presented in support of a possible threat of injury, in particular considering the structural overcapacity of exporters from the countries concerned.

(23) The Government of Egypt, Oxy Vinyls, LP and TCI Sanmar claimed that the causal link was not demonstrated and that there were other alternative causes of injury. Among other causes of injury, parties mentioned energy costs, *force majeure*, non-subject imports from Mexico and Norway, inflation, and the export performance of the Union industry. Rehau and Foamalite claimed that Union producers may have been responsible for their own injury due to the declaration of *force majeure* events that restricted the supply of the product to Union users below contracted volumes and that resulted in the search of other sources of PVC outside the Union by affected users.

(24) Ercros claimed that the causal link was demonstrated and highlighted that the price depression which affected the Union market and industry was largely and undoubtedly driven by the prices of Egyptian and US PVC, signalling 2021 as a turning point.

(25) The Commission considered that the complaint included sufficient elements to assess the causal link at that stage and that no substantive evidence had been provided to contradict the argumentation included in the complaint.

(26) Oxy Vinyls, LP claimed that Union producers have higher costs related to the high cost of compliance associated with numerous Union environmental and social endeavours.

(27) The Commission considered that this allegation could have some merits if the injury was observed during the whole period concerned, but the arguments failed to explain the sudden emergence of injury during the investigation period when the alleged dumped imports surged.

(28) Oxy Vinyls, LP and Westlake claimed that the complainants did not substantiate why the profit margin for the calculation of the underselling should be 15 %. Ercros by its part, argued that a healthy PVC Union industry requires a profit margin of 15 %. While the complainants, supported by Ercros, defended that a profit margin of 15 % was a normal profitability margin for the chemical sector, the Commission did not get evidence from other parties about which would be a reasonable profit margin that can be expected over the medium term in a cyclical industry such as PVC. The same US exporters also argued that the initiation may have been flawed because the complainants mistakenly used the EBITDA instead of the profit margin. The Commission noted that the 15 % profit margin was used in the calculations and that the complaint merely stated that this was the same percentage as the target% of EBITDA for the complainants. The Commission considered that from the comparison between different ratios in the complaint, it cannot be inferred that the complainants mistakenly used the EBITDA rather than the profit margin ([3]).

(29) Foamalite complained about the possible impact over its competitiveness if the Commission imposes anti-dumping duties as it competes with an entity located in Northern Ireland that would not have to pay these in its imports from the USA. The Commission found that the United Kingdom initiated an anti-dumping investigation on S-PVC from the USA on 8 January 2024 and dismissed the claim.

1.7. Questionnaire replies and verification visits

(30) The Commission sent questionnaires to the sampled Union producers, the two Egyptian exporting producers that had come forward and the sampled exporting producers in the USA. The Commission published a questionnaire for importers and users in the Notice of Initiation. Questionnaires were also made available to unrelated traders outside the Union (see recitals 48 and 73). The same questionnaires were made available online ([4]) on the day of initiation.

(31) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting 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

— INOVYN Manufacturing Belgium SA, Evere, Belgium

([3]) The statement in the complaint reads: 'A *profit margin* of 15 % is considered a normal profitability margin for the chemical industry and on average is the target% of EBITDA for the Complainant companies. This figure represents the level of EBITDA needed to invest and to maintain production capacity'. In the two following paragraphs in the complaint it is explicitly clear that the complainants used the profit margin in their analysis: 'The PVC industry is a capital intensive industry which needs to achieve 15 % *profit margins* to be sustainable. This includes re-investing in existing plans to ensure future operations and to remain competitive against imports from countries that have lower energy costs and less stringent decarbonization requirements' and 'previously, the industry has not made 15 % *profit margin* consistently and this has caused a lot of problems leading to the closure of several PVC units and even whole sites'.

([4]) https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2695.

— Shin-Etsu PVC BV, Hilversum, Netherlands

— Vynova Belgium NV, Tessenderlo, Belgium ([5])

Exporting producers in Egypt

— TCI Sanmar Chemicals S.A.E., Port Said

— Egyptian Petrochemical Company, Alexandria

Exporting producers in the United States of America

— Formosa Plastics Corporation, Livingston, Essex, New Jersey

— Westlake Chemicals, Houston, Texas

Unrelated trader

— Tricon Dry Chemicals, LLC, Houston, Texas.

1.8. Investigation period and period considered

(32) The investigation of dumping and injury covered the period from 1 October 2022 to 30 September 2023 ('the investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2020 to the end of the investigation period ('the period considered').

2. PRODUCT UNDER INVESTIGATION, PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product under investigation

(33) The product under investigation is the suspension polyvinylchloride ('S-PVC'), not mixed with any other substance. The product concerned includes S-PVC only, it does not include emulsion polyvinylchloride ('E-PVC') ('the product under investigation').

(34) PVC is a manmade thermoplastic polymer. The primary raw material used in the production of PVC resins is Vinyl Chlorine Monomer (VCM) which is produced by the reaction of ethylene and chlorine to produce ethylene dichloride (EDC) and then transformed into VCM by thermal cracking. S-PVC is produced through suspension technology.

(35) PVC in its suspension form (S-PVC) is an industrial product used in a wide range of applications, for example in the manufacturing of pipes and fittings, films and foils, injection moulding and blow moulding.

2.2. Product concerned

(36) The product concerned is the product under investigation originating in Egypt and in the United States of America ('USA') ('the countries concerned'), currently classified under CN code ex 3904 10 00 (TARIC codes 3904 10 00 15 and 3904 10 00 80). ('the product concerned').

2.3. Like product

(37) 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 when exported to the Union,

— the product under investigation produced and sold on the domestic market of countries concerned, and

([5]) The Commission was able to access and verify production and financial data of the sampled producer (Vynova Wilhelmshaven GmbH) in the premises of its related company Vynova Belgium NV (entrepreneur in the tolling contract).

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

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

3. DUMPING

3.1. **Egypt**

3.1.1. *Cooperation of exporting producers*

(39) As set out in recitals 12 and 13 above, two Egyptian exporting producers, TCI Sanmar and EPC, came forward in the investigation and provided questionnaire replies. EPC filed an incomplete questionnaire reply with essential parts missing. The Commission therefore informed EPC by letter of 16 January 2024 of its intention to apply Article 18 and base its findings on facts available for the missing information. In the same letter, it invited EPC to submit the missing information. However, EPC failed to do so, also after the Commission reiterated its request on 6 February 2024.

(40) During the on-spot verification at the premises of EPC, which took place from 3 to 6 March 2024, the Commission found further elements that led to the application of Article 18(1) of the basic Regulation.

(41) As EPC had failed to submit necessary information for the assessment of domestic prices, export prices and cost of production, and in accordance with Article 18(4) of the basic Regulation, by letter of 12 April 2024, EPC was informed of the reasons of the Commission's intention to disregard the information provided and it was granted the opportunity to provide further explanations. For confidentiality reasons, the underlying details were sent only to EPC.

(42) On 17 April 2024, EPC opposed to the application of Article 18. EPC argued it was unaware of the antidumping case until 12 December 2023, that subsequently a deadline extension request was rejected by the Commission and that it was hence hindered to participate effectively in the verification process.

(43) EPC added that the Commission should (at least) consider the information related to export prices for the sake of determining dumping, as the Commission team verified the accuracy of all required documents (in relation to export prices) during the on-spot verification.

(44) Moreover, EPC felt that it provided full cooperation within its available capabilities and referred to Article 15 of the WTO Anti-Dumping Agreement, according to which special regard must be given by developed country Members to the special situation of developing country Members.

(45) The Commission disagreed with the comments made by EPC. As to EPC's allegation of having been unaware of the investigation until 12 December 2023, the Commission recalls that the present investigation was initiated on 15 November 2023 by means of publishing a Notice of Initiation in the *Official Journal of the European Union*. On the same day, the Commission notified EPC and the Mission of the Arab Republic of Egypt directly on the initiation of the present investigation and invited EPC to take part in the sampling process.

(46) As regards EPC's allegation it had provided full cooperation within its available capabilities and its reference to Article 15 of the WTO Anti-Dumping Agreement, the Commission noted that limited capabilities of any party cannot justify the absence of information necessary for the purpose of an accurate dumping margin calculation or the impossibility to cross-check the submitted data. Moreover, the Commission recalled that it had exceptionally accepted the participation of EPC in the investigation despite the facts that EPC had not completed the sampling form (see recital 13) and that it initially came forward outside the regular deadline to do so.

(47) Accordingly, the Commission provisionally disregarded the information provided by EPC and confirmed the use of facts available with regard to this exporting producer on the basis of Article 18(1) of the basic Regulation.

3.1.2. *Unrelated traders*

(48) According to information in the complaint, exports to the Union were made via unrelated traders, and the exporting producers were aware of the final destination of sales through these traders. The Commission requested and obtained from the two exporting producers the names and contact details of these traders. Seven unrelated traders, altogether accounting for more than 70 % of the total imports from Egypt during the investigation period, completed at least partly the questionnaire. According to the information provided, these traders re-sold the product concerned either to customers in the Union or to customers in third countries. None of them resold the product concerned to customers in Egypt.

(49) Except to confirm that no resales of the unrelated traders entered the domestic market in Egypt, the information provided by these traders was not necessary for the determination of dumping with regard to Egypt. TCI Sanmar demonstrated the final destination of these exports in their records, in particular based on available shipping documents.

3.1.3. *Normal value*

(50) Due to the application of Article 18(1) of the basic Regulation to EPC, as described in Section 3.1.1 above, the description of the dumping margin calculation below only applied to the remaining Egyptian exporting producer, TCI Sanmar.

(51) The Commission first examined whether the total volume of domestic sales 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. On this basis, the total sales of the like product on the domestic market were representative.

(52) The Commission subsequently identified the product types sold domestically that were identical or comparable with the product types sold for export to the Union with representative domestic sales.

(53) The Commission then examined whether the domestic sales 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. The Commission established that the domestic sales were representative because they represented more than 5 % of the total volume of export sales of the identical product to the Union.

(54) 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.

(55) 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.

(56) 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.

(57) 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.

(58) The analysis of domestic sales showed that, depending on the product type, 5 % to 97 % of the domestic sales of the respective product type 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, in case that the domestic sales represented 80 % or less of the total sales volume of this type.

3.1.4. *Export price*

(59) TCI Sanmar exported to the Union through unrelated traders, who purchased the product concerned from TCI Sanmar and resold it to independent customers in the Union. As noted above in recital 49, TCI Sanmar demonstrated the final destination of the export sales made to unrelated traders in their records.

(60) The export price thus established was the price actually paid or payable for the product concerned when sold to the unrelated trader, in accordance with Article 2(8) of the basic Regulation.

3.1.5. *Comparison*

(61) The Commission compared the normal value and the export price 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.

(63) TCI Sanmar and the Government of Egypt claimed that pursuant to Article 2(10)(k) of the basic Regulation, normal values should be adjusted downwards in view of the effects of a currency crisis on the economy of Egypt during the investigation period. To substantiate the claim, TCI Sanmar pointed to the evolution of a so-called parallel or black market where hard currencies such as the United States dollar ('USD') or the euro were traded at rates significantly higher than the official exchange rates set by the Central Bank of Egypt ('CBE'), which was described for instance described in a Market Intelligence report issued by the US Department of Commerce on 19 September 2023 or in a study published by BNP Paribas. TCI Sanmar added that for domestic sales of the product concerned were paid in Egyptian pounds ('EGP'). For accounting purposes, these payments were converted into USD. Due to the applicable accounting rules, these conversions had to be based on the CBE Rate.

(64) On 22 March 2024, TCI Sanmar reiterated their claim and added that Egypt had secured an important agreement with the International Monetary Fund ('IMF') worth USD 8 billion. A key condition of the agreement, from the IMF's perspective, was that the CBE allowed market forces to set the value of the EGP in order to eliminate the divergence between the official exchange rate and the so-called parallel market rate. After the CBE agreed to this condition, the official exchange rate changed from approx. 31 EGP–1 USD (on 5 March 2024) to approx. 49 EGP–1 USD (on 6 March 2024) (a fall in value of approximately 60 %).

(65) The Commission rejected the initial and the reiterated claim. None of the claiming parties could substantiate the claims, in particular because there were no recorded historic rates of a black or parallel market. In addition, the accounting policy of TCI Sanmar prescribed the use of the official rates set by the CBE and thus confirmed the view of the Commission to use those rates.

(66) Further to the reiterated claim, the Commission clarified that events after the investigation period could normally not be taken into account for the sake of determining dumping. When comparing export and domestic prices, the Commission has to rely solely on official exchange rates. A significant change in an exchange rate as it occurred on 6 March 2024, cannot be accepted as *ex post* evidence showing that such significantly changed exchange rate would indicate that it should be applied for a past period, here the investigation period.

(67) TCI Sanmar further claimed a credit cost allowance. The Commission rejected the claim and considered that the facts invoked by TCI Sanmar warranted a downward instead of the upward adjustment of the export price claimed by TCI Sanmar. For confidentiality reasons, further details were sent only to TCI Sanmar.

(68) Adjustments for freight, insurance, handling, credit costs, bank charges and packing costs were deducted from domestic and/or export sales prices where reported and found justified.

3.1.6. *Dumping margins*

(69) On this basis, TCI Sanmar's provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, is 86,1 %.

(70) As explained in the previous recitals 39 to 47, in accordance with Article 18 of the basic Regulation, for EPC, the Commission made use of the facts available. In this respect, the Commission found it appropriate to establish the dumping margin for EPC based on representative sales of the most representative product type sold to the Union by TCI Sanmar. This product type represented more than 90 % of all exports made by TCI Sanmar to the Union and in the absence of cooperation, the Commission considered that this methodology appropriately reflected the company's potential for dumping behaviour, taking into account the procedural context in which such non-cooperation occurred and the relevant evidence on file. Thus, the calculated dumping margin amounted to 109,5 % and was applied to EPC.

(71) All known exporting producers came forward in this investigation. On this basis, the Commission decided to establish the dumping margin for non-cooperating exporting producers at the level of the company with the highest dumping margin, which is EPC.

(72) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are therefore as follows:

Company	Provisional dumping margin
TCI Sanmar Chemicals S.A.E.	86,1 %
Egyptian Petrochemical Company	109,5 %
All other companies	109,5 %

3.2. **United States of America**

3.2.1. *Unrelated traders*

(73) Like in the case of Egypt (see recital 48), the Commission requested and obtained from the two sampled exporting producers the names and contact details of the unrelated traders through which, according to the information in the complaint, a good part of their export sales to the Union was channelled. The Commission contacted the traders directly and through the sampled exporting producers inviting them to complete a specific questionnaire designed to establish the final destination of Formosa and Westlake PVC sales. Nine unrelated traders submitted to the Commission a partly or complete reply to that questionnaire. That information was covering only a limited volume of EU sales by the sampled parties. However, the sampled parties themselves obtained additional information from their unrelated traders allowing the Commission to assess the final destination of all of Formosa's export sales volumes and 98,5 % of Westlake's export sales volumes. All export sales for which the EU destination could be confirmed were used in the dumping calculation.

3.2.2. *Normal value*

(74) The Commission first examined whether the total volume of domestic sales for each sampled 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. On this basis, the total sales by each sampled exporting producer of the like product on the domestic market were representative.

(75) 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.

(76) 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. The Commission established that the domestic sales made by the sampled exporting producers were representative because they represented more than 5 % of the total volume of export sales of the identical product to the Union.

(77) 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.

(78) 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.

(79) 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.

(80) 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.

(81) The analysis of domestic sales showed that for both exporting producers, with the exception of two product types of Westlake, less than 80 % of all of their domestic sales were profitable. Accordingly, the normal value was calculated as a weighted average of the profitable sales only for those sales. For the two product types at the exporting producer for which more than 80 % of the domestic sales were profitable, normal value was calculated as a weighted average of the prices of all domestic sales during the investigation period.

3.2.3. *Export price*

(82) The sampled exporting producers exported to the Union either directly to independent customers or, as explained in recital 73 through unrelated traders in the USA.

(83) For the direct sales 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. For the indirect sales through unrelated traders in the USA, the export price was established on the basis of the price at which the product concerned was sold to those traders, in accordance with Article 2(8) of the basic Regulation.

(84) The Commission compared the normal value and the export price of the sampled exporting producers on an ex-works basis.

(85) 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, credit costs, packing, discounts and handling and loading when applicable.

3.2.4. *Dumping margins*

(86) For the sampled 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.

(87) 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
Formosa Plastics Corporation	70,3 %
Westlake Chemicals	58,0 %

(88) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin of the sampled parties, in accordance with Article 9(6) of the basic Regulation.

(89) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 63,7 %.

(90) To determine the methodology for calculating the residual dumping margin, i.e. the margin applicable for all other exporting producers in the USA that did not come forward during the investigation, the Commission first considered 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 the statistics from Comext. The four cooperating exporting producers represented 76,5 % ([6]) of exports from the USA to the Union in the investigation period. Therefore, the level of cooperation in this case is considered low. Consequently, for all other exporting producers in the United States of America, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. The Commission decided to establish the residual dumping margin at the level of dumping found for the sampled exporting producer with the highest weighted average dumping margin on the most representative product type.

(91) The provisional dumping margins, expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

([6]) In calculating the representativity, the Commission has compared the EU sales of the product concerned reported by the cooperating US exporting producers with the Eurostat import statistics, duly adjusted by excluding E-PVC.

Company	Provisional dumping margin
Formosa Plastics Corporation	70,3 %
Westlake Chemicals	58,0 %
Other cooperating companies	62,1 %
All other companies	77,0 %

4. INJURY

4.1. Definition of the Union industry and Union production

(92) The like product was manufactured by 12 producers in the Union during the investigation period. They constitute the 'Union industry' within the meaning of Article 4(1) of the basic Regulation. Three of the Union producers are the complainants.

(93) The total Union production during the investigation period was established at 3 842 081 tonnes. The Commission established the figure on the basis of all the available information concerning the Union industry, such as the reply to the macro questionnaire, information gathered during verification visits to sampled producers, questionnaires submitted by other cooperating producers and Eurostat official statistics. As indicated in recital 9, the three sampled Union producers represented 25 % of the total Union production of the like product.

4.2. Determination of the relevant Union market

(94) To establish whether the Union industry suffered injury and to determine consumption and the various economic indicators related to the situation of the Union industry, the Commission examined whether and to what extent the existence of tolling agreements and upstream activities of the Union industry's production of the like product had to be considered in the analysis.

(95) The Commission found that two out of the three producers in the sample operate under tolling agreements. Under each tolling agreement, the entrepreneur was another entity of the group that was responsible for acquiring the input materials and for selling the produced like product with the sampled producer being remunerated via a tolling fee. Therefore, the financial information of two sampled producers was insufficient to carry out the injury analysis as the financial results would be quite stable reflecting the tolling fee and not the economic results of the entrepreneurs. Thus, for these two sampled producers, the Commission obtained access to the records of the entrepreneurs and information about the allocation keys so that it could verify the full financial outcome of the production of the like product in the sampled sites. This meant that the Commission was able to verify the financial results obtained by the entrepreneurs from the manufacturing of PVC in the sampled sites by the tollers.

(96) S-PVC is a manmade thermoplastic polymer that results from the polymerisation of vinyl chloride. Vinyl Chlorine Monomer (VCM) is the primary raw material and is produced by thermally cracking ethylene dichloride (EDC), a product that is made by the direct chlorination or oxychlorination of ethylene. One of the sampled producers buys ethylene, chlorine and/or EDC from third party suppliers. For the other two sampled producers, their respective entrepreneurs may also procure EDC in the market (and regularly do so) but their groups have the capacity to produce EDC using chlorine produced by a joint entity where each group has a 50 % stake. Chlorine is bought at a transfer price which has remained stable during the period considered and that is incorporated into a trading model accepted by different tax authorities within the Union as being at arm's length price.

(97) The Commission received comments from Westlake arguing for the inclusion in the injury analysis the related caustic soda business. Caustic soda and chlorine are produced by electrolysis of salt. Caustic soda is widely utilized in the chemical industry as a fundamental material. The complainants stated that caustic soda is a co-product of the production of chlorine, both produced in close quantities during the Chlor-Alkali process ([7]), contesting that caustic soda may be considered co-product or the by-product of PVC. The Commission noted that to the extent that not all PVC producers are engaged in the production of chlorine, this is a very strong indicator that the two industries, although both associated with the Chlor-Alkali process, must be considered as separated industries ([8]).

(98) Westlake also claimed that there are three different product segments in the S-PVC market ('commodity', 'extender' and 'speciality') and that the investigation did not properly distinguish between them. Westlake alleged that the three segments had been recognised by the Commission before in the context of competition matters. The Commission noted that the document mentioned by Westlake indicated that speciality and extender were niche markets ([9]). By its part, the complainants argued that commodity, extender and speciality S-PVC have the same basic chemical characteristics and that are merely product types and that the Product Control Numbers (PCN) proposed by the Commission were sufficiently precise to account for differences affecting price comparability or injury and causation determination. The complainants also claimed that Westlake did not provide evidence that one or more supposed segments were more likely to be concerned than others by the dumped imports, that no evidence was offered proving that price differences cannot be addressed by the PCN structure and that there was no evidence that the products are not interchangeable. The Commission noted that the sampled Union producers produce the most common general-purpose S-PVC (referred to as commodity by Westlake), that the main determinant of the use of S-PVC was its K-value ([10]); and that the called commodity S-PVC would be captured by PCNs B and C in the investigation. In this regard, the Commission found that the term 'speciality' is more a commercial classification or term and not an industry standard (as a product that would be called 'speciality' by one producer may be considered 'commodity' by another).

(99) The Commission noted that the differences in the production process are minor as it is evident from the fact that one sampled producer can also use the same lines to produce some speciality S-PVC ([11]). The Commission noted that while it was known to Westlake that the three sampled Union producers did not operate in the three alleged segments, it did not make any comment to the proposed Union sample. Moreover, the Commission did not find any evidence of relevance of the alleged segments on prices, costs or market segmentation that was not captured by the PCN structure. The claim made by Westlake about the existence of three segments was, therefore, dismissed.

([7]) The chlor-alkali process is an industrial process for the electrolysis of sodium chloride (NaCl) solutions. It refers to the technology used to produce chlorine and sodium hydroxide (caustic soda), both of which are basic commodity chemicals required by industry.

([8]) The arguments presented by the complainants included five reasons: (i) PVC and caustic soda serve different and distinct market; (ii) not all PVC producers are integrated and produce caustic soda; (iii) PVC and caustic soda are not produced in the same production process; (iv) chlorine and caustic soda are co-products of the electrolysis of salt; and (v) it would be impossible to ascertain which one of the two industries produce the primary product and which industry produces the secondary 'by product'.

([9]) Case M.6905 – INEOS/Solvay/JV which is available at the link (https://ec.europa.eu/competition/mergers/cases/decisions/m6905_8118_2.pdf).

([10]) The K-value is an indicator of the molecular weight and degree of polymerisation and the Commission chose four different PCNs based on K-Value, expanding the proposed three PCN structure proposed in the complaint. Only one sampled Union producer produced a minor proportion of speciality S-PVC using the same lines that produced general purpose S-PVC. This producer used the term speciality S-PVC when the product had been customised to the specific needs of the user (e.g. by including additives, colouring it …).

([11]) The report for Case M.6905 states that 'In fact, extender S-PVC can be produced on production lines used for the production of speciality S-PVC or commodity S-PVC, as long as there is an appropriate drying unit. That is because extender S-PVC particles are far smaller than commodity SPVC particles and, therefore, more sophisticated drying equipment is required. Speciality S-PVC can also be produced on production lines normally used for commodity S-PVC or extender S-PVC production, as long as there are co-monomer injection lines and appropriate monomer recovery units in place'.

4.3. Union consumption

(100) The Commission established the Union consumption on the basis of:

— the verified sales of the sampled Union producers,

— the sales of non-sampled cooperating Union PVC producers, obtained from the complainants,

— the sales of other Union PVC producers, obtained in submissions made to the Commission,

— the sales of the rest of Union PVC producers extrapolated on the basis of their proportion of PVC production in the Union in the last official statistics data (PRODCOM),

— the imports of PVC into the Union as recorded in the Comext database of Eurostat.

(101) Union consumption developed as follows:

Table 1

Union consumption (tonnes)

	2020	2021	2022	IP
Total Union consumption	3 952 433	4 452 620	3 636 723	3 223 419
Index	*100*	*113*	*92*	*82*

Source: Union industry, sampled Union producers, other Union producers, Eurostat.

(102) The Union consumption of the like product was established by combining information on EU sales from Union producers (as described in recital 100) and import data from Eurostat. As the product under investigation includes S-PVC only, the imports of S-PVC were estimated to be 96 % of the imports under CN code 3904 10 00, the rest being imports of E-PVC. The division of imports under CN code 3904 10 00 between the two types of PVC was done based on the market intelligence included in the complaint.

(103) The total Union consumption has a downward trend from 2021, a year that benefited from a strong recovery post COVID-19 pandemic. From 2020, the total Union consumption has decreased by 18 % affected by a current contraction in the construction sector in the Union.

4.4. Imports from the countries concerned

4.4.1. *Cumulative assessment of the effects of imports from the countries concerned*

(104) The Commission examined whether imports of S-PVC originating in the countries concerned should be assessed cumulatively, in accordance with Article 3(4) of the basic Regulation.

(105) The margin of dumping established in relation to the imports from Egypt and the USA were above the *de minimis* threshold laid down in Article 9(3) of the basic Regulation. The volume of imports from each of the countries concerned was not negligible within the meaning of Article 5(7) of the basic Regulation. Market shares in the investigation period were 1,92 % and 8,30 % respectively.

(106) The conditions of competition between the dumped imports from Egypt and the USA and between the dumped imports from the countries concerned and the like product were similar. More specifically, the imported products competed with each other and with the S-PVC produced in the Union because industrial users have access to both Union producers' sales teams and traders in a similar manner and both serve similar categories of customers.

(107) Therefore, all the criteria set out in Article 3(4) of the basic Regulation were met and imports from Egypt and the USA were examined cumulatively for the purposes of the injury determination.

4.4.2. *Volume and market share of the imports from the countries concerned*

(108) The Commission established the volume of imports on the basis of Eurostat data. The market share of the imports was established on the basis of available statistics by product and estimating consumption for the investigation period on the basis of the latest data available (2022).

(109) Imports into the Union from the countries concerned developed as follows:

Table 2

Import volume (tonnes) and market share

	2020	2021	2022	IP
EGYPT				
Volume of imports	7 252	24 566	44 562	62 004
Index (2020 = 100)	*100*	*339*	*614*	*855*
Market share	0,18 %	0,55 %	1,23 %	1,92 %
Index (2020 = 100)	*100*	*300*	*668*	*1 048*
UNITED STATES OF AMERICA (USA)				
Volume of imports	33 737	41 430	127 713	267 390
Index (2020 = 100)	*100*	*123*	*379*	*793*
Market share USA	0,85 %	0,93 %	3,51 %	8,30 %
Index (2020 = 100)	*100*	*109*	*411*	*972*
COUNTRIES CONCERNED				
Volume of imports from the countries concerned	40 989	65 996	172 275	329 394
Index (2020 = 100)	*100*	*161*	*420*	*804*
Market share countries concerned	1,04 %	1,48 %	4,74 %	10,22 %
Index (2020 = 100)	*100*	*143*	*457*	*985*

Source: Eurostat.

(110) In absolute terms the imports from the countries concerned increased during the period considered by 288 405 tonnes. In parallel, the total market share of the imports of the countries concerned increased by 9,18 percentage points (imports in the investigation period were eight times higher than in 2020). Egyptian imports increased by 54 750 tonnes during the period considered and reached a market share of 1,92 %. US imports increased by 233 653 tonnes during the period considered and reached a market share of 8,30 %. Imports from the countries concerned reached a market share of 10,22 % in the investigation period.

4.4.3. *Prices of the imports from the countries concerned and price undercutting / price suppression*

(111) The Commission established the prices of imports on the basis of Eurostat data. Price undercutting of the imports was established on the basis of CIF prices obtained from the sampled exporting producers (see recitals 69 and 87).

(112) The average price of imports into the Union from the countries concerned developed as follows:

Table 3

Import prices (EUR/tonne)

	2020	2021	2022	IP
EGYPT				
Average price	688	1 449	1 353	926
Index	*100*	*211*	*197*	*135*
UNITED STATES OF AMERICA (USA)				
Average price	821	1 525	1 405	903
Index	*100*	*186*	*171*	*110*
COUNTRIES CONSIDERED				
Weighted average price	798	1 497	1 392	907
Index	*100*	*188*	*174*	*114*

Source: Eurostat.

(113) The average price of the Egyptian imports sharply increased in 2021, reaching 1 449 EUR/tonne (from 668 EUR/tonne in 2020) and then slightly decreased to 1 353 EUR/tonne in 2022 and 926 EUR/tonne in the investigation period. The average price of the US imports followed a similar trend with a sharp increase in 2021, reaching 1 525 EUR/tonne (from 821 EUR/tonne in 2020) and then gradually decreased to 1 405 EUR/tonne in 2022 and 903 EUR/tonne in the investigation period.

(114) During the period considered, the average unit price of the dumped imports from the countries concerned increased by 14 %. In 2020 and 2021, imports from the countries concerned were priced above the observed Union sale prices of the sampled producers (by 16 % and 27 % respectively), as shown in Tables 3 and 7. In 2022 and during the investigation period, however, import prices were around 11 % and 20 % lower compared to Union prices.

(115) The Commission determined the price undercutting during the investigation period by comparing:

— the weighted average sales prices per product type of the sampled 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 from the sampled exporting producers to the first independent customer on the Union market, established on a CIF basis, with appropriate adjustments for customs duties and post-importation costs.

(116) 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 sampled Union producers' hypothetical turnover during the investigation period. It showed a weighted average undercutting margin between 25 % and 35 % for Egyptian producers, a weighted average undercutting margin between 30 % and 35 % for the US producers and a cumulative weighted average undercutting between 27 % and 33 % for the sampled producers in the US and Egypt combined.

(117) In any event, regardless of the findings on undercutting, the Commission observed that the dumped imports also lead to significant price suppression (as reflected by the underselling margins) during the IP, when the Union industry sold below its cost of production.

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

4.5.1. *General remarks*

(118) 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.

(119) As mentioned in recital 9, sampling was used for the determination of possible injury suffered by the Union industry.

(120) 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 macro questionnaire submitted by the complainants which the Commission updated with information provided by other producers, information obtained during the verification visits and Eurostat data. The data for the rest of Union's producers was estimated on the basis of market intelligence and other Eurostat statistics by product information as mentioned in recital 100. The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the sampled Union producers. Both sets of data were found to be representative of the economic situation of the Union industry.

(121) 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.

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

4.5.2. *Macroeconomic indicators*

4.5.2.1. Production, production capacity and capacity utilisation

(123) The total EU production is estimated on the basis of Eurostat data for the like product (Prodcom code 2016.30.10). Prodcom statistics are published annually by Eurostat and the last available figure is for 2022. The production of the Union industry for the investigation period was established by adding the production of all sites in the Union of the complainants and other producers which have provided detailed information to the Commission, and assuming the same relative weight as the one observed in 2022 for the rest.

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

Table 4

Production, production capacity and capacity utilisation

	2020	2021	2022	IP
Production volume (tonnes)	4 953 948	4 976 725	4 125 375	3 842 081
Index	*100*	*100*	*83*	*78*
Production capacity (tonnes)	5 455 000	5 455 000	5 555 000	5 555 000
Index	*100*	*100*	*102*	*102*
Capacity utilisation	91 %	91 %	74 %	69 %
Index	*100*	*100*	*82*	*76*

Source: Sampled Union producers, other Union producers, Eurostat, market intelligence about other producers' capacity.

(125) The production in the like product in the Union has a downward trend influenced by the economic impact of higher inflation and interest rates, which have significantly affected the construction sector, which is the main customer of the like product.

(126) Production capacity has remained relatively stable. Capacity increases in the chemical industry takes long time to plan and execute due to environmental and safety concerns. The observed increase in 2022 is largely explained by one sampled producer and results from a reorganisation in search of higher efficiency. A production site was closed in the Union prior to 2020 and one of the three closed production lines was transferred to a remaining site. Due to the time gaps between closure of the site and installation of the new line, the trend shows a capacity increase while in the long run, the sampled producer has reduced its capacity.

(127) Capacity utilisation remained stable in 2020 and 2021 and showed a downward trend from 2022. The capacity utilisation rate of 69 % is low for chemical processes as any utilisation around 50 % per line poses significant risks in terms of asset deterioration and safety. The production lines are not designed, in the Union or in the countries concerned, to fluctuate in their production flows, and producers face obstacles to close and re-start a line to accommodate demand. The Commission received estimates that closing a line for less than six months would likely not be economically viable and the experience during the COVID-19 pandemic shows that chemical lines could not be closed even when there was low demand for the product concerned.

4.5.2.2. Sales volume and market share

(128) The sales of the Union industry were established using a methodology similar to the one applied for the production data. The sales during the investigation period are estimated considering the data known from the complainants and other producers which have provided detailed information to the Commission and considering the representativity of this subgroup in terms of production. This approach has the advantage of following the same principle but omits the impact of possible changes in stock volumes. Given that the Union industry has relatively low levels of stock (about 2-3 weeks), the Commission considered this a reasonable assumption.

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

Table 5

Sales volume and market share

	2020	2021	2022	IP
Total sales volume on the Union market (tonnes)	3 593 662	3 981 285	3 120 959	2 571 820
Index	*100*	*111*	*87*	*72*
Market share	91 %	89 %	86 %	80 %
Index	*100*	*98*	*94*	*88*

Source: Sampled Union producers, other Union producers, Eurostat.

(130) The sales volume on the Union market varied significantly during the period considered due to successive impacts of the pandemic, the strong economic recovery, and the emergence of an energy crisis in 2022. In this context, the analysis of the market share of the Union industry provides a clearer pattern. The overall adverse trend in market share is clearly visible in 2022 when the Union industry experienced a significant loss of market share that duplicated the one experienced the prior year (index went down 2 points in 2021 and 4 points in 2022) and aggravated during the investigation period (index went down by 6 points). Overall, the market share of Union industry decreased by 12 % in the period considered.

(131) The loss of market share in a weak market aggravated the impact of the imports of the like product from the countries concerned, that as described in recital 110 gained market share.

(132) The Commission received comments from users and exporting producers indicating that the loss of market share by the Union industry was an indication of its loss of competitiveness and insufficient attention to customers' needs. The Commission found that the imports from other countries than the countries concerned have not experienced the same increased in market share which seems to indicate that the loss of competitiveness could have been only vis-à-vis producers of the like product located in the countries concerned and that it was part of its investigation to examine whether it derived from unfair trade practices. As regards customers' needs, the Commission noted that users relied on purchases of the like product from both Union's producers and producers from the countries concerned, which is a strong indication that the Union industry continues to serve its customers in a similar and comparable manner.

4.5.2.3. Growth

(133) The Union consumption decreased by 18 % during the period considered, while the sales volume of the Union industry in the Union market decreased by 28 %. However, the consumption was very volatile, with a sharp increase in 2021, as a consequence of the strong post-pandemic economic recovery in the Union, of 11 % in volumes; and a modest reduction vis-à-vis 2020 in 2022 when the situation returned to more usual economic behaviour by users and consumers and consumption was 13 % less than in 2020. As a consequence, the Union industry lost market share, contrary to the market share of the imports from the countries concerned that increased by 885 % during the period considered, reaching 10,22 % in the investigation period (from 1,04 % in 2020).

4.5.2.4. Employment and productivity

(134) The number of employees of the Union industry was established using a methodology similar to the one applied for production and sales data. The data on employment and productivity was established on the basis of information provided by the complainants, responses by other Union's producers and estimations based on Eurostat data.

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

Table 6

Employment and productivity

	2020	2021	2022	IP
Number of employees	4 135	4 068	3 975	4 014
Index	*100*	*98*	*96*	*97*
Productivity (tonnes/ employee)	1 198	1 223	1 038	957
Index	*100*	*102*	*87*	*80*

Source: Sampled Union producers, other Union producers, Eurostat.

(136) The number of employees remained relatively stable during the period considered (– 3 %). This is consistent with a stable capacity of production as the number of employees needed to operate the plants do not fluctuate in line with the capacity utilisation rate. Similarly, the plants are designed to be operated full time in work shift patterns, and producers do not have flexibility to operate less days per week to accommodate production to demand.

(137) The productivity per employee took an adverse negative term in 2022 and that was further aggravated during the investigation period. In a context of rigidity in terms of number of employees, the low levels of sales and thus production, resulted in a context of low productivity. Overall, the productivity in tonnes per employee decreased by 20 %.

(138) As is common in the chemical industry, productivity per employee is best shown by quantities produced per employee. The Commission received comments from a producer located in the USA suggesting that the productivity should be indicated in value per employee. The Commission notes that the proposed ratio is unusual in a context of price volatility created by the concatenation of the COVID pandemic, the strong recovery and the energy crisis. The proposed ratio would provide a measure of productivity that would hide the reality by mixing volumes and prices and would hinder the analysis to determine if there is injury to the Union's producers. The Commission therefore dismissed the proposal.

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

(139) 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 countries concerned.

(140) This is the first anti-dumping investigation regarding the product concerned. Therefore, no data were available to assess the effects of possible past dumping.

4.5.3. *Microeconomic indicators*

4.5.3.1. Prices and factors affecting prices

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

Table 7

Sales prices in the Union

	2020	2021	2022	IP
Average unit sales price in the Union on the total market (EUR/tonne)	690	1 177	1 566	1 134
Index	*100*	*170*	*227*	*164*
Unit cost of production (EUR/tonne)	677	967	1 354	1 162
Index	*100*	*143*	*200*	*172*

Source: Sampled Union producers.

(142) The average unit sales price in the Union was very volatile during the period considered. The strong post-pandemic recovery of 2021 resulted in an increase in prices that exceeded the remarkable increase in costs. The situation did not stay for long as the Russia's war of aggression of Ukraine contributed to an energy crisis in the Union and a subsequent large increase in costs that was largely absorbed by an increase in the sales price. While the situation of the sampled Union producers was still financially sound with sales prices covering the full cost of production, the situation quickly deteriorated at the end of 2022, when the sampled producers were already having difficulties to have all costs absorbed by the sales prices. During the investigation period, the cost of production adjusted once the energy crisis subdued but the sales price decreased even more as shown in Table 7 (in the investigation period, the cost of production went down by 14 % but the average sale price went down even further by 28 %). As a result, the sampled Union producers were operating at a loss during the investigation period, signalling the magnitude of the impact of the dumped imports on the pricing power of the sampled Union producers, who became price takers in a market influenced by large volumes of dumped imports from Egypt and the US.

(143) Overall, during the period considered, sales prices increased by 64 % and costs of production by 72 %.

4.5.3.2. Labour costs

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

Table 8

Average labour costs per employee

	2020	2021	2022	IP
Average labour costs per employee (EUR)	115 266	117 134	119 662	120 571
Index	*100*	*102*	*104*	*105*

Source: Sampled Union producers.

(145) The above table shows that average labour costs were relatively stable during the period considered. The sampled Union producers explained that labour costs are rigid and that most of their labour costs are not controlled by them as they are established by law, labour agreements, or contracts. For example, indexation of salaries is compulsory under Belgian law and the employers do not have the discretion to index or not the salaries or the timing of this indexation. Also, as regards the relatively high level of these costs, the Commission noted that the chemical industry is intrinsically dangerous, subject to shift work cycles and demanding work patterns, all factors that contribute to relatively high labour costs.

(146) The Commission does not consider that the observed limited increase in average labour cost per employee questions the alleged injury stated in the complaint.

4.5.3.3. Inventories

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

Table 9

Inventories

	2020	2021	2022	IP
Closing stocks (tonnes)	61 181	68 986	74 985	58 304
Index	*100*	*113*	*123*	*95*
Closing stocks as a percentage of production	5,20 %	5,92 %	6,77 %	6,06 %
Index	*100*	*114*	*130*	*117*

Source: Sampled Union producers.

(148) The sales of the like product present some seasonal effects common in the construction sector, its main user. Sales during the month of December are generally relatively low and producers commonly prioritise carrying out maintenance during this month. As a result of the seasonal effect in the month of December, the comparison of the level of stocks at the end of the investigation period in September 2023 with the closing stocks in December of the previous three years is not pertinent. The evolution of the closing stocks at year-end from 2020 to 2022 increased by 30 % in two years.

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

(149) 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

	2020	2021	2022	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	3,5	17,7	13,1	– 2,6
Index	*100*	*506*	*374*	*– 74*
Cash flow (EUR)	63 543 946	267 522 792	241 989 149	– 13 993 872
Index	*100*	*421*	*381*	*– 22*
Investments (EUR)	64 616 015	61 243 727	82 005 921	141 483 932
Index	*100*	*95*	*127*	*219*
Return on investments (%)	10	120	93	– 26
Index	*100*	*1 193*	*927*	*– 258*

Source: Sampled Union producers.

(150) 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 during the first two years of the period considered is influenced by the economic circumstances created by the emergence of the COVID-19 pandemic in early 2020 and a subsequent non-ordinary recovery following vaccines rollout in the Union as well as fiscal stimulus. The Commission considers that the profitability levels obtained by 2020 and 2021 are affected by this overall economic context. The profitability obtained in 2022 was also affected by an energy crisis that emerged after the start of Russia's war of aggression against Ukraine. However, in 2022 the sampled Union producers managed to pass the increase in costs to users in the Union, as the observed average EU industry sales price increased by 390 EUR/tonne, an amount even higher than the increase in costs of 387 EUR/tonne. Consequently, the profit in 2021 and 2022 in EUR/tonne was relatively stable (209 and 212 EUR per tonne respectively). The sampled producers experienced a downward trend during 2022 and became loss-making (– 2,6 %) in the investigation period. As indicated in recital 142, the impact of the surged dumped imports meant that the Union producers lost power over the pricing of the product which was influenced by the availability of S-PVC from the countries concerned at very low prices, leading to a situation of price suppression during the investigation period.

(151) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow shows a downward trend from 2021 and a significant break point during the investigation period, when the cash flow is negative for the first time during the period considered. The sampled producers delayed some investments or postpone some non-essential maintenance during the investigation period, but these measures were not sufficient to avoid a negative cash flow.

(152) Investments were relatively stable during 2020 and 2021 and experienced an upward break in 2022. There are different reasons why investments increased from 2022. The investments from 2022 were not triggered by any capacity expansion but rather by the need to reduce the carbon footprint and comply with other environmental and safety regulations, as well as a catching up effect as the sampled producers experienced obstacles to implement planned investments in 2020 due to the pandemic and in 2021 due to the demand that followed a strong economic recovery that stretched the operations. The three sampled producers operate from legacy sites that were designed at a time of laxer regulations and that require significant investments to keep up with new environmental and safety regulations. Also, the investments in operational chemical plants require long planning to the extent that the investments observed from 2022 were largely investments planned before 2020. Finally, the level of investment cannot be adjusted to actual production levels instead of theorical ones. The sampled producers have limited influence to align the investments to the actual capacity utilisation rates.

(153) The return on investments is the profit in percentage of the net book value of investments. It developed negatively from 2021 and it shows a significant return of – 26 % in the investigation period. The sampled producers, as any producer of the like product, require large investments to operate. The sampled producers have legacy sites and the initial plants have been fully depreciated but regularly add new assets due to maintenance and turnover costs in addition to purely new investments. The sampled producers do have limited flexibility to operate with a lower level of assets.

(154) The sampled Union producers' ability to raise capital in the current economic context is doubtful due to the low profitability and regulatory uncertainty. However, this ability in any case would be hypothetical as the sampled producers are part of larger groups and rely more on internal sources rather than on external ones. Thus, the Commission looked into the possibility of attracting resources from their groups. All sampled Union producers confirmed similar difficulties to benefit from reallocation of resources at group level. The three producers explained different impacts of this trend such prioritising investments in other regions of the world, not addressing bottlenecks in the production process, extraordinary ongoing budgetary cuts, and others. The Commission considers that this situation may be associated also with other factors, but noted that the alleged dumped imports from the countries concerned have contributed to this negative investment climate environment and added uncertainty about the future prospects of the industry.

4.5.4. *Conclusion on injury*

(155) The main macro-indicators showed a negative trend during the period considered: Union production volume dropped by 22 %, capacity utilisation by 24 %, Union sales volume by 28 % and productivity by 20 %.

(156) A similar picture can be drawn as the regards the micro-indicators. Profitability of sales in the Union was positive from 2020 to 2022 but the industry became loss-making in the investigation period. Similarly, cash flow that has been positive from 2020 to 2022, became negative in the investigation period. Year-end closing stocks as a percentage of production increased from 2020 to 2022, when the impact from high imports from the countries concerned was already evident.

(157) Egyptian and US exporters' import volumes multiplied eight times over the period considered. In a context of a decrease in annual consumption by 729 110 tonnes in the period considered, annual imports from the countries concerned increased by 288 405 tonnes, which resulted in Egyptian and US exporters increasing their combined market share from 1 % in 2020 to 10 % in the investigation period as their prices significantly undercut the Union industry's prices from 2022 and specially during the investigation period. During the investigation period, the undercutting margin was on average 31,7 % for imports from the USA and 28,9 % for imports from Egypt, as set out above in Section 4.4.3).

(158) The low-priced Egyptian and US dumped imports also caused significant price suppression for the Union industry. As a result, the Union industry was unable to sell at prices covering their cost of production and became loss-making in the investigation period.

(159) While net investments increased by 119 %, the return on investment became negative during the period considered, from 10,1 % in 2020 to – 26,1 % in the investigation period. The cash flow also became negative, which affected the ability of the Union industry to self-finance its operations. Even though the number of employees decreased during the same period by 3 %, the productivity decreased by 20 %, resulting in a higher labour cost per tonne of PVC.

(160) As set out above, financial indicators such as profitability, cash flow and return on investment deteriorated significantly during the period considered. This negatively affected the ability of the Union industry to self-finance operations, to make necessary investments and to raise capital, thus impeding its growth and even threatening its survival.

(161) 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

(162) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the countries 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 countries concerned was not attributed to the dumped imports. These factors are: economic contraction and the weak market dynamics, impact of *force majeure* events and unprofitable export sales.

5.1. **Effects of the dumped imports**

(163) The import quantities from the countries concerned during the period considered increased by 8 times, from 40 989 tonnes in 2020 to 329 904 tonnes in the investigation period. This steep increase, as explained in recital 157, coincided with a relatively weak domestic market that had difficulties to absorb the dumped imports.

(164) As a result, in the period considered, the combined market share of the countries concerned increased from 1 % to 10 %. Meanwhile, the market share of the Union industry decreased continuously from 91 % for 2020 to 80 % for the investigation period.

(165) While 2020 was impacted by the COVID pandemic and 2021 was influenced by a strong economic recovery, the effects of the dumped imports became more noticeable as from 2022 when the imports from the countries concerned increased by 161 % and their market share by 220 % in comparison with 2021.

(166) In 2022, the year when imports from the countries concerned surged, they were prices much below the average sale price of the sampled Union producers.

(167) The increased quantity of imports from the countries concerned combined with their low average sales prices had a negative impact on the Union industry's financial situation.

(168) The impact of the increased quantities of dumped imports from the countries concerned was fully visible during the investigation period when the Union industry's financial situation deteriorated significantly. The Union industry was unable to increase its sales prices in order to pass on to customers the increasing cost of raw materials (in particular energy costs) because it faced unfair competition from imports of the product concerned. The Union industry's strategy was to mitigate losses in production volumes and market share by reducing prices in detriment of its profitability. Indeed, from being profitable in the previous years, the Union industry became loss-making (– 3 %) in the investigation period. Therefore, the low-priced imports from the countries concerned prevented price increases by the Union industry within the meaning of Article 3(3) of the basic Regulation and thus caused price suppression.

(169) Moreover, cash flow and return on investment also became negative. In the investigation period, the sampled Union producers had a negative cash flow of EUR 14 million and a return on investment of – 26,1 %.

(170) In view of the above considerations, the Commission provisionally established that the material injury suffered by the Union industry was caused by the dumped imports from the countries concerned within the meaning of Article 3(6) of the basic Regulation. Such injury had both volume and price effects.

5.2. **Effects of other factors**

5.2.1. *Imports from third countries*

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

Table 11

Imports from third countries

Country		2020	2021	2022	IP
Mexico	Volume (tonnes)	142 867	161 713	160 261	129 496
	Index	*100*	*113*	*112*	*91*
	Market share	4 %	4 %	4 %	4 %
	Average price (EUR/tonne)	703	1 214	1 538	954
	Index	*100*	*173*	*219*	*136*
Norway	Volume (tonnes)	67 067	92 360	54 769	46 300

	Index	*100*	*138*	*82*	*69*
	Market share	2 %	2 %	2 %	1 %
	Average price (EUR/tonne)	839	1 313	1 719	1 356
	Index	*100*	*156*	*205*	*162*
South Korea	Volume (tonnes)	2 335	11 792	23 891	50 703
	Index	*100*	*505*	*1 023*	*2 171*
	Market share	0 %	0 %	1 %	2 %
	Average price (EUR/tonne)	1 278	1 534	1 686	969
	Index	*100*	*120*	*132*	*76*
United Kingdom	Volume (tonnes)	47 801	17 212	14 314	16 309
	Index	*100*	*36*	*30*	*34*
	Market share	1 %	0 %	0 %	1 %
	Average price (EUR/tonne)	836	1 088	1 449	1 224
	Index	*100*	*130*	*173*	*146*
Other third countries	Volume (tonnes)	57 711	122 261	90 254	79 397
	Index	*100*	*212*	*156*	*138*
	Market share	1 %	3 %	2 %	2 %
	Average price (EUR/tonne)	721	1 493	1 452	959
	Index	*100*	*207*	*201*	*133*
Total of all third countries except the countries concerned	Volume (tonnes)	317 781	405 338	343 489	322 205
	Index	*100*	*128*	*108*	*101*
	Market share	8 %	9 %	9 %	10 %
	Average price (EUR/tonne)	759	1 324	1 551	1 029
	Index	*100*	*174*	*204*	*136*

Source: Eurostat.

(172) During the period considered, the only other third countries from which significant volumes of PVC were imported into the Union were Mexico, Norway, South Korea and the United Kingdom.

(173) Overall, all third countries except the countries concerned presented in the investigation period a stable volume with a market share that has remained between 8 % and 10 % over the period considered. In addition, their prices are also more aligned with the prices of the sampled Union producers with an average import price for 2022 of 1 551 EUR/tonne which is practically identical to the one of the sampled Union producers of 1 566 EUR/tonne. In the investigation period, the average import price of 1 029 EUR/tonne is lower than the price per tonne for the sampled Union producers, EUR 1 134. Nevertheless, the volumes imported in the Union decreased by 6 % in the investigation period, which suggests that importers were trying to preserve market share in a contracting market rather than expanding it.

(174) The Commission notes that there has been no surge in imports and that the market share of third countries other than the countries concerned remained relatively stable. The major changes observed have been a reshuffle of the origin of these other imports, with some countries reducing their exports to the Union due to structural or strategic reasons such as Norway, Russia and the United Kingdom, while others such as South Korea occupying the space left.

(175) In light of the above and in view of the large import volumes at low prices from the countries concerned as compared with those from other third countries, the Commission provisionally concluded that imports from other third countries did not attenuate the causal link between the injury suffered by the Union industry and the dumped imports from the countries concerned.

5.2.2. *Export performance of the Union industry*

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

Table 12

Export performance of the Union producers

	2020	2021	2022	IP
Export volume of Union producers (tonnes)	1 494 677	1 227 548	1 120 519	1 101 408
Index	*100*	*82*	*75*	*74*
Average price of Union producers (EUR/tonne)	822	1 414	1 509	1 075
Index	*100*	*172*	*184*	*131*

Source: Eurostat.

(177) The exports of the Union producers in 2020 were at the highest level of the period considered with 1 494 288 tonnes and decreased by 18 % in 2021. In 2022 exports continue to decrease but at a lower rate and then remained relatively stable in the investigation period.

(178) The average export price of the Union's producers was also very volatile with a strong increase in 2021, a limited increase in 2022 and finally a sudden drop in the export price in the investigation period. As a result, in the investigation period the Union industry was exporting at prices that the Commission considered to be below the estimated cost of production.

(179) Following the claims made by Westlake, Oxy Vinyls, LP and TCI Sanmar, the Commission examined the export performance of the sampled Union producers by comparing the price gap between the export price and their domestic price (both with unrelated customers).

(180) During the period considered the Union industry had spare capacity and exported S-PVC but there was no redirection of sales from the Union to export markets. In this regard, during the investigation period, the average export price of the sampled producers was slightly higher than the average export price of the countries concerned to the Union, an indication of some degree of competitiveness. In addition, the sampled Union producers were exporting at prices below full manufacturing cost (due to overheads) but above the variable cost (mainly energy and raw materials). Thus, maintaining exports during the investigation period contributed to the overall margin and helped the Union producers to keep the safety and smooth running of the lines by producing above the technical minimum level.

(181) The Commission noted that the producers from the countries concerned normally make use of traders to sell their product in foreign markets. The same traders that sell dumped S-PVC in the Union are active in the largest Union export markets. In this regard, the traders that are selling the dumped PVC in the Union are also operational in the Union's traditional export markets which also explains the challenges faced by the Union industry from 2022 to maintain export markets.

(182) Union exports to the United Kingdom were down by 106 528 tonnes in the investigation period (from 2022), that is a reduction of 37 %. The comparison of the investigation period with the prior 12-month period shows a reduction of 120 668 tonnes, or 40 %. The United Kingdom announced the opening of an anti-dumping investigation on S-PVC originating in the USA on 8 January 2024 which is a strong indication of a unfair trade practices in the second largest Union exports market. Exports to Switzerland were down by 10 027 tonnes in the investigation period (from 2022), that is a reduction of 22 % (the comparison of the investigation period with the prior 12-month period shows a reduction of 17 460 tonnes or 33 %). The Commission also found that traders have exported US produced S-PVC to Switzerland at a price below normal value.

(183) Notwithstanding the impact of competing in the same markets with dumped imports, the Commission does not consider that the performance in exports markets had an isolated impact *per se* capable of attenuating the causal link between the dumping practices by the countries concerned and the material injury suffered by the Union industry. The Commission found that exports as a percentage of domestic sales were similar in 2020 and in the investigation period at around 42-43 %. Also, exports as a percentage of Union production were also very similar in 2020 and in the investigation period at around 30 %.

(184) The Commission concludes that the decline in exports had an effect on the performance of the Union producers which, however, cannot be isolated from the aggressive pricing to third countries set by traders working with the producers from the countries concerned. Union producers reduced their exports in the period considered, although the main decrease happened in 2021, well before the investigation period. Thus, the export performance of Union producers during the investigation period cannot be explained only by volumes, but rather by prices. This pressure on export prices cannot be isolated from the dumped exports originating in Egypt and the USA which were also competing on those markets.

5.2.3. *Overcapacity in the PVC industry*

(185) PVC is a cyclical industry as recognised by the complainants, sampled Union producers and Egyptian and US exporters in their submissions and comments. The worldwide PVC industry has a significant overcapacity as its capacity has systematically exceeded global demand during the last years on the basis of estimates provided by the complainants and market intelligence.

(186) This overcapacity is structural and explained by the difficulties of escalating capacity to cope with surged demands. Thus, the industry is prepared to absorb demand peaks over the economic cycle with a long-term perspective.

(187) The PVC Union industry has not increased its capacity over the period considered, except for a limited expansion by one Union producer that activated one line of production that had been transferred from a site with three lines that it had closed before the period considered. The Commission concluded that this apparent capacity increase is therefore explained by a timing impact, as the closure was executed before the period considered. The Commission concluded that this Union producer had demonstrated the rationale of such decision that aimed at ensuring greater efficiency by reducing the number of production sites, adjusting downwards its overall capacity and optimising its operations.

(188) The capacity utilisation rate of the Union industry in 2020 and 2021 was above 90 %, and it was only when the dumped imports surged that the capacity utilisation rate dropped to 74 % in 2022 and 69 % in the investigation period.

(189) The Commission concluded that the possible structural overcapacity of the PVC industry, globally and in the Union, may have an influence in the market dynamics and may underline the rationale of dumped exports, but it does not consider that this is a factor that breaks or attenuates the causal link. This is because, during the period concerned, the Union producers have not increased capacity at any meaningful extent. Certainly, overcapacity seems to be the norm in the chemical industry and the Union PVC industry does not deviate from the dynamics existing in other markets, including the ones of the countries concerned. Also, the relatively high level of overcapacity of the Union industry in the investigation period was the direct result of the surge in dumped imports and the temporary economic contraction that is considered separately.

(190) In light of the above, the Commission considered that the current relatively high level of overcapacity of the Union industry was the result of the recent market circumstances and the dumped imports and therefore was not, in itself, an element capable of attenuating the causal link. The recent market circumstances were examined separately.

5.2.4. *Energy crisis in the Union*

(191) A number of interested parties alleged that the Union industry had suffered because of the high energy prices that have eroded the competitiveness of the Union industry. According to these comments, there appeared to be a correlation between the costs of raw materials and energy prices in Europe and the performance of the Union producers, claiming that other countries avoided them as they were explained by conflicts in close proximity to the Union.

(192) The complainants acknowledged that between the period beginning mid-2021 and ending late-2022, Europe experienced an acute energy crisis, but reiterated that this crisis does not attenuate or break the causal link between the dumped imports originating in Egypt and the USA and the injury suffered by the Union industry. The complainants stated that the energy crisis ended in late-2022 and that the fact that despite the significant drop in energy prices, the state of Union industry has not improved since, is a strong indication that the energy crisis did not have a major effect over the injury.

(193) The Commission noted that when the energy prices were at the highest levels in 2021 and 2022 the sampled Union producers were obtaining the largest profits over the period considered. Moreover, the Union industry injury became visible when the energy crisis had already subdued, and the energy prices had decreased. Actually, before the imports at low prices from the countries concerned increased in the investigation period (multiplying by three the quantities of the prior 12 months), the industry was still able to pass on the increased energy costs in its prices. This was no longer possible when the surge of low-priced imports causing price suppression to take place.

(194) Therefore, the Commission concluded that the energy crisis experienced in the Union did not explain the evolution observed in the investigation period and therefore do not break or attenuate the causal link.

5.2.5. *Economic contraction, market dynamics*

(195) The demand on the Union market over the period considered reached its highest level in 2021 and suffered a correction immediately after with the demand dropping 18 % in 2022. Compared with 2020, the demand in 2022 was 8 % lower.

(196) The demand continued to drop during the investigation period, when the estimated demand reached 3 223 316 tonnes, or 18 % less than the demand in 2020.

(197) The main reason for the weak demand of PVC in the Union was neither its price nor the existence of alternative products. Instead, the relatively low demand is explained by the combination of high inflation and borrowing costs which had an impact on the economy in general and constrained the demand of the construction sector, that is, the main market for PVC. This was recognised by complainants but also by exporters from the countries concerned.

(198) The impact of higher inflation and interest rates was transmitted upstream to the PVC industry with some delay due to the long lead times traditionally associated with the construction sector. That meant that it took some time before the effects of higher borrowing costs and construction costs were reflected in construction output volumes, even more in building material production such as the manufacturing of pipes, doors and windows made of PVC. The cyclicality of the construction sector is widely known, and the current low demand is unlikely to continue once inflation and interest rates do down and demand for investment goods go up.

(199) Westlake claimed that this low demand reflected shifting consumption. The Commission considered that this is mere speculation, as there is no evidence that the low demand resulted from shifting consumption and that is not a temporary impact of the high interest rates and inflation. On the contrary, European Green Deal related policies to support energy renovation of existing buildings such as the reviewed Energy Performance of Buildings and Energy Efficiency directives, shall increase the demand for PVC-made windows and doors as PVC is a natural insulator.

(200) Therefore, the Commission concluded that the economic contraction and the associated low market demand experienced in the Union during the investigation period had a limited impact that does not break or attenuate the causal link.

5.2.6. *Force majeure*

(201) The Commission had received comments from certain interested parties on the effect of *force majeure* events over the situation of the Union industry.

(202) The Commission enquired all *force majeure* events declared during the period considered by sampled Union producers and examined the responsibility and the actions taken by the producers.

(203) The Commission found that most of the *force majeure* events took place early in the period considered, that is 2020 and 2021, and thus, cannot explain the injury shown in the investigation period after the surge of dumped imports from the second half of 2022. In this regard, the Commission did not find arguments to sustain that without the relatively high number of *force majeure* events in 2020 and 2021, the industry would be in a better position during the investigation period. It was only when the prices of the imports from the countries concerned significantly undercut Union prices starting in mid-2022 that the Union industry suffered the injury.

(204) The Commission also found evidence that the declaration of *force majeure* events was not coordinated in a systematic manner, as alleged by interested parties. For example, in the year one sampled Union producer declared *force majeure*, its related Union producer increased its production to a level above its theoretical capacity. This instance contradicts the allegation that the declaration sought to avoid serving some customers.

(205) The Commission also found that during the year that Rehau was affected by a *force majeure* event from one of the sampled Union producers, the producer nevertheless managed to serve Rehau more than 100 % of the contracted amount, even though it did not manage to serve all additional quantities demanded. Even if this is anecdotal evidence, the Commission reiterates that it did not find any evidence of the sampled Union producers deliberately using *force majeure* events for avoiding serving the committed amounts or to restrict production seeking to higher domestic prices.

(206) Thus, the Commission concluded that the declaration of *force majeure* events did not have an impact over the injury.

5.3. Conclusion on causation

(207) A causal link was established between the dumped imports from Egypt and the USA on one hand and the injury suffered by the Union industry on the other. There was a coincidence in time between the sharp increase in volume and market share of the dumped imports at lower prices and the worsening of the Union's performance. In a relatively weak market, the increased volume of dumped imports eroded the capacity of the Union industry to set prices that would recover its costs of production, thereby clearly pointing to the existence of price suppression. This resulted in a loss-making situation during the investigation period.

(208) The Commission examined other possible factors that may have had an impact on the situation of the Union industry: export performance, the alleged overcapacity of the Union industry, the energy crisis in the Union, the declaration of *force majeure* events, the economic contraction in the Union and the relatively weak market. The Commission distinguished and separated the effects of these factors on the situation of the Union industry from the injurious effects of the dumped imports.

(209) The export performance of the Union industry cannot explain the observed injury suffered by the Union industry in the investigation period. Firstly, in volumes, the Union exports during the investigation period were equivalent to 29 % of the Union production, virtually the same percentage, 30 %, observed in 2020. Secondly, the main decrease in exports was observed in 2021, when export quantities decreased by 18 %, and 2022 when export quantities further decreased by 9 %. However, the profitability of the Union industry was at the highest level in 2021 and 2022.

(210) The effect of the overcapacity of the PVC industry in the Union was found not to have caused injury during the investigation period as the capacity has remained stable during the period considered. Similarly, the effect of the energy crisis and the associated higher energy prices have not been found to have caused the observed injury in the investigation period as at that time the energy crisis had subdued.

(211) The claim made by interested parties that the injury had also been caused by the declaration of *force majeure* events by the Union industry was not supported by the facts found by the Commission.

(212) Finally, the economic contraction and the resulting weak market demand has affected the Union industry in a limited way but without breaking the causal link. On the contrary, the weak market demand has aggravated the injury caused by the dumped imports as the Union industry did not have margin to absorb larger volumes of dumped imports without reducing prices to preserve some market share.

(213) In summary, the Commission concluded that only the economic contraction and the resulting weak demand during the investigation period had a limited impact on the Union industry. However, this factor could not break the causal link between dumped imports and the material injury found to the Union industry. The dumped imports remained the main cause of injury for the following reasons: as set out in recital 110, the market share of imports from the countries concerned increased by ten times during the period considered, while imports from other countries remained stable.

(214) On the basis of the above, the Commission concluded at this stage that the dumped imports from the countries 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. The injury consists of reduced market share, production, production capacity utilisation, productivity, profitability, closing stocks, cash flow and return on investments. Furthermore, as explained above in recital 117, the Union industry suffered price suppression caused by imports from the countries concerned,

6. LEVEL OF MEASURES

(215) 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

(216) 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.

(217) 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 countries under investigation, 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 %.

(218) As a first step, the Commission established a basic profit covering full costs under normal conditions of competition. The Commission found that the profitability of unrelated sales in the Union in 2021, the year that preceded the surge in imports from the countries concerned, was 17,7 %. This profitability was above the profitability observed in 2020 of 3,5 %. The Commission considers that neither 2020 nor 2021 were ordinary years for the purpose of finding a reference profit margin. 2020 was a year affected by the emergence of the COVID pandemic in the Union which had a strong negative effect over the Union industry. In the same manner, 2021 cannot be considered as an ordinary reference year as the Union benefitted from a strong economic recovery.

(219) For that reason, the Commission found that the best possible reference period would be 2022. Year 2022 was partly affected by the surge of dumped imports at the end of the year, but the effects are relatively small and using it as a reference is therefore a conservative approach. Thus, the Commission considered that a profit margin of 13,1 % should be used for its calculations.

(220) In this basis, the non-injurious price falls within the range of 1 350 to 1 450 EUR/tonne, resulting from applying the above-mentioned profit margin of 13,1 % to the cost of production during the investigation period of the sampled Union producers.

(221) 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 evidence available from sampled Union producers, estimations on expected production utilisation rates and forecasted prices of emission trading allowances, the Commission calculated an additional cost of 16,44 EUR/tonne which was established in addition to the observed costs of compliance during the investigation period. This difference was added to the non-injurious price mentioned in recital 220.

(222) On this basis, the Commission calculated a non-injurious price of 1 405,48 EUR/tonne for the like product of the Union industry by applying the above-mentioned target profit margin (see recital 219) 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.

(223) The Commission then determined the injury margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the countries 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. For EPC, the Commission made use of the facts available and established the injury margin on the basis of the same transactions for TCI Sanmar that it used to determine its dumping margin (similarly to the way the dumping margin was established, see recital 70).

(224) 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 (see recital 71).

6.2. Conclusion on the level of measures

(225) Following the above assessment, provisional anti-dumping duties should be set as below in accordance with Article 7(2) of the basic Regulation:

Country	Company	Dumping margin (%)	Injury margin (%)	Provisional anti-dumping duty (%)
Egypt	Egyptian Petrochemical Company	109,5	100,1	100,1
	TCI Sanmar Chemicals S.A.E.	86,1	74,2	74,2
	All other companies	109,5	100,1	100,1
USA	Formosa Plastics Corporation	70,3	90,6	70,3
	Westlake Chemicals	58,0	87,2	58,0
	Other cooperating companies	62,1	88,3	62,1
	All other companies	77,0	90,6	77,0

7. UNION INTEREST

(226) Having decided to apply Article 7(2) of the basic Regulation, 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

(227) PVC is a basic industrial product that offers many possible applications. Having a healthy PVC industry is essential for the Union due to its linkages with several downstream industries. PVC is used in a wide range of products, from water pipes, windows, credit cards and electric cables.

(228) Imports of PVC cannot replace the Union industry production without collateral effects. As indicated in the complaint, the PVC industry is very important within the wider chemical industry. If the Union industry reduces its production, this would imply less demand for key feedstock such as ethylene and chlorine. PVC represents about 30 % of chlorine use in the Union, any reduction in the production of PVC will thus be translated to the 'Chlor-Alkali process' and may impact the availability of chlorine, caustic soda and hydrogen.

(229) While the Commission dismissed the claim made by Westlake to consider the revenues and profits made from sales of caustic soda in the injury assessment as the two are two stand-alone industries, the Commission recognised the importance of PVC in the wider chemical industry and in particular in the 'Chlor-Alkali process'.

(230) Imposing anti-dumping duties on S-PVC imports from Egypt and the USA would provide certainty to the Union industry that will translate into stable sale volumes in the Union. This certainty would also benefit the wider chemical industry for the reasons stated above. Moreover, it would eliminate the impact in terms of price depression so not only the Union industry would benefit from more stable volumes but it would also have less uncertainty about the chances of covering its costs.

(231) The PVC Union industry provides well-remunerated, qualified jobs in the Union, imposing anti-dumping duties would protect about 4 000 direct jobs and a multiple of indirect jobs in the wider chemical industry.

(232) The Commission concluded that it was in the interest of the Union industry to impose anti-dumping duties.

7.2. **Importers**

(233) The Commission did not receive responses from Union importers with the dedicated questionnaire. There were a number of importers that provided partial information in support of exporters from Egypt and the USA, but this information was not sufficient to assess the interest of these importers.

(234) The Commission nevertheless recognised that by imposing anti-dumping duties in S-PVC originating in Egypt and the USA, importers of this material may be confronted with lower sales of S-PVC at an early stage. However, importers would still be able to trade with other chemical products and with S-PVC produced in other countries which may became more competitive once the dumped imports from the countries concerned stop.

(235) The Commission concluded that it is likely that the imposition of anti-dumping duties on S-PVC originating in Egypt and the USA will not have a permanent impact over the profitability of traders.

7.3. **Users**

(236) Three users of S-PVC in the Union contacted the Commission and provided the required questionnaire reply, Rehau Industries SE & Co (Rehau), Foamalite and Granzplast. Rehau and Foamalite claimed that it was not in the interest of users in the Union to impose anti-dumping duties due to the likely impact in terms of higher prices and greater power for the Union industry.

(237) Granzplast, provided information about its purchases of S-PVC which permitted the Commission to estimate the eventual impact of duties over its full costs.

(238) Rehau requested a hearing with the Commission that was held on 24 April 2024. The hearing was done jointly with the related Swiss trader Meraxis AG.

(239) As regards users' concerns, the Commission noted that the PVC industry in the Union includes twelve producers and that the characteristics of the product make the market extremely competitive. In the same manner that users were able to benefit from the supply at dumped prices of S-PVC from Egypt and the USA, users would still be able to replace one Union supplier by others in order to seek more competitive prices, notably due to the large number of Union producers.

(240) The Commission also estimated that the overall impact over the costs of users would be reasonably limited as their purchases of S-PVC from the countries concerned represent a percentage over their total costs of 5 % to 10 %. This limited impact over their costs should be considered together with the benefits that a healthy Union PVC industry with several suppliers would provide.

(241) Finally, the Commission recognised that the availability of S-PVC from the countries concerned had benefited users due to the price depression effect in the market from 2022. However, this has resulted in a situation in which the Union industry is loss-making which is not in the long-term interest of users as this may curtail competition in the Union market by reducing the number of producers which can continue to operate in these circumstances.

7.4. **Conclusion on Union interest**

(242) 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 S-PVC originating in the Egypt and the USA at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

(243) On the basis of the conclusions reached by the Commission on dumping, injury, causation, level of measures and Union interest, provisional measures should be imposed to prevent further injury being caused to the Union industry by the dumped imports.

(244) Provisional anti-dumping measures should be imposed on imports of S-PVC originating in Egypt and the USA, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins (see recital 225). The amount of the duties was set at the level of the lower of the dumping and the injury margins.

(245) 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:

Country	Company	Provisional anti-dumping duty (%)
Egypt	Egyptian Petrochemical Company	100,1
	TCI Sanmar Chemicals S.A.E.	74,2
	All other companies	100,1
USA	Formosa Plastics Corporation	70,3
	Westlake Chemicals	58,0
	Other cooperating companies	62,1
	All other companies	77,0

(246) 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 countries 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.

(247) 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'.

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

(249) Should the exports by one of 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 rate(s) and the consequent imposition of a country-wide duty.

9. INFORMATION AT PROVISIONAL STAGE

(250) 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.

(251) The Egyptian exporting producer TCI Sanmar claimed that the Commission should use in the relevant calculations a higher CIF EU border price, which would result in a lower underselling margin. In the same context, a trader margin should be added to the ex-works export price to arrive at a correct CIF EU border price.

(252) The Commission examined the claim but considered that it did not concern the accuracy of the calculations. Therefore, the Commission will consider it, together with all other submissions, after the publication of provisional measures.

(253) The US exporting producer Formosa Plastics Corporation submitted comments on the pre-disclosure, where it requested the Commission to revise the methodology to determine the SG&A expenses.

(254) The Commission examined the comments in detail. One of the comments concerned the accuracy of the calculation and the SG&A calculation was therefore amended, whereas the other comments did not relate to the accuracy of the calculation. Those comments will therefore be considered, together with all other submissions, after the publication of provisional measures.

10. FINAL PROVISION

(255) 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 within a fixed deadline.

(256) 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 suspension polyvinylchloride ('S-PVC'), not mixed with any other substance, currently falling under CN code ex 3904 10 00 (TARIC codes 3904 10 00 15 and 3904 10 00 80) and originating in Egypt and the United States of America.

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:

Country of origin	Company	Provisional anti-dumping duty	TARIC additional code
Egypt	Egyptian Petrochemical Company	100,1 %	89BA
	TCI Sanmar Chemicals S.A.E.	74,2 %	89BB
	All other imports originating in Egypt	100,1 %	8999
USA	Formosa Plastics Corporation	70,3 %	89BC

	Westlake Chemicals	58,0 %	89BD
	Oxy Vinyls, LP	62,1 %	89BE
	Shintech Incorporated	62,1 %	89BF
	All other imports originating in the United States of America	77,0 %	8999

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 (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.'* If no such invoice is presented, the duty applicable to all other companies shall apply.

4. 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 may examine requests submitted outside this time limit and may decide whether to accept to 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, 11 July 2024.

For the Commission
The President
Ursula VON DER LEYEN