



**COMMISSION IMPLEMENTING REGULATION (EU) 2025/591**

**of 21 March 2025**

**imposing a provisional duty on imports of glyoxylic acid originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

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

After consulting the Member States,

Whereas:

**1. PROCEDURE**

**1.1. Initiation**

- (1) On 25 July 2024, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of glyoxylic acid originating in the People's Republic of China ('the country concerned') on the basis of Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council ('the basic Regulation'). It published a Notice of Initiation in the Official Journal of the European Union <sup>(2)</sup> ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 10 June 2024 by WeylChem Lamotte SAS ('the complainant'). The complaint was made by the Union industry of glyoxylic acid 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) On 25 October 2024, the Commission made imports of glyoxylic acid originating in the People's Republic of China (the 'PRC' or 'China') subject to registration by Commission Implementing Regulation (EU) 2024/2715 ('the registration Regulation') <sup>(3)</sup>.

**1.3. Interested parties**

- (4) 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 complainant, the known exporting producers and the authorities of the People's Republic of China and known importers and users about the initiation of the investigation and invited them to participate.
- (5) 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.

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

<sup>(2)</sup> Notice of initiation of an anti-dumping proceeding concerning imports of glyoxylic acid originating in the People's Republic of China, OJ C, C/2024/4751, 25.7.2024, ELI: <http://data.europa.eu/eli/C/2024/4751/oj>.

<sup>(3)</sup> Commission Implementing Regulation (EU) 2024/2715 of 24 October 2024 making imports of glyoxylic acid originating in the People's Republic of China subject to registration, OJ L, C/2024/7380, 25.10.2024, ELI: [http://data.europa.eu/eli/reg\\_impl/2024/2715/oj](http://data.europa.eu/eli/reg_impl/2024/2715/oj).

#### 1.4. **Sampling**

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

##### *Sampling of Union producers*

- (7) Given the limited number of Union producers of glyoxylic acid, the Commission announced in the Notice of Initiation that it would make available questionnaires to the sole known Union producer, namely WeylChem Lamotte SAS. This Union producer provided a questionnaire reply and no other Union producers made themselves known following the publication of the Notice of Initiation. Thus, the Commission did not have to resort to sampling.

##### *Sampling of unrelated importers*

- (8) To decide whether sampling would be necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation.
- (9) No unrelated importers provided the requested information.

##### *Sampling of exporting producers*

- (10) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked all exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, the Commission asked the Mission of the People's Republic of China to the European Union to identify and/or contact other exporting producers, if any, that could be interested in participating in the investigation.
- (11) Six exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two cooperating exporting producers that could reasonably be investigated within the time available, on the basis of the largest representative volume of exports to the Union. The sampled exporting producers reported to represent [67% - 72%] of the total exports to the Union of glyoxylic acid reported by the co-operating exporting producers. 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.

#### 1.5. **Questionnaire replies and verification visits**

- (12) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').
- (13) The Commission sent questionnaires to the Union producer, the sampled exporting producers in the PRC, and known importers and users. The same questionnaires were made available online <sup>(4)</sup> on the day of initiation.
- (14) 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 producer*

— WeylChem Lamotte S.A.S. ('WeylChem Lamotte'), Compiègne, France

<sup>(4)</sup> Trade defence investigations – Case AD714 -Glyoxylic acid.

*Exporting producers in PRC*

- Hubei Hongyuan Pharmaceutical Technology Co., Ltd. ('Hubei Hongyuan'), Hubei Province, China
- Xinjiang Guolin New Materials Co., Ltd ('Xinjiang Guolin'), Xinjiang Province, China

(15) The Commission carried out a remote verification of the questionnaire response of the following company:

*User*

- L. Brüggemann GmbH & Co. KG ('L. Brüggemann'), Heilbronn, Germany

**1.6. Investigation period and period considered**

(16) The investigation of dumping and injury covered the period from 1 July 2023 until 30 June 2024 (the 'investigation period' or 'IP'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2021 to the end of the investigation period ('the period considered').

**2. PRODUCT UNDER INVESTIGATION, PRODUCT CONCERNED AND LIKE PRODUCT****2.1. Product under investigation**

- (17) The product under investigation is glyoxylic acid (usually falling under Chemical Abstracts Service (CAS) Number 298-12-4 or 6000-59-5), of a purity of at least 95 % by dry weight, whether in solid form or as an aqueous solution with a concentration by weight higher than 40 % thereof ('the product under investigation').
- (18) Glyoxylic acid is a chemical used in a wide range of applications, notably in the pharma, food, fertiliser and cosmetics sector. It is an intermediate in the industrial synthesis of antibiotics, vanillin, chelated fertilisers, and allantoin. It is used also in personal care products.

**2.2. Product concerned**

(19) The product concerned is the product under investigation originating in the PRC currently falling under CN code ex 2918 30 00 (TARIC code 2918 30 00 13) ('the product concerned').

**2.3. Like product**

- (20) The investigation showed that the following products have the same basic physical, and chemical 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 the country concerned; and
  - the product under investigation produced and sold in the Union by the Union industry.
- (21) The Commission decided at this stage that those products are therefore like products within the meaning of Article 1(4) of the basic Regulation.

**2.4. Claims regarding product scope**

(22) According to the information gathered by users in the Union and the Union industry, the product purchased in China is equivalent to the product purchased from the Union industry. Only one user, L. Brüggemann, reported that they import a specific technical grade of glyoxylic acid from China which they claim is not currently on offer from the Union industry.

- (23) L. Brüggemann claimed that they utilise the glyoxylic acid that they import from China in the production of formaldehyde-free sulphur-based reducing agents ('FFSRAs'), and that their use is different from that of other users. Furthermore, they claimed that glyoxylic acid accounts for a significant part of their production costs and therefore antidumping duties would significantly impact their profitability.
- (24) Based on the explanations above, on 15 January 2025 L. Brüggemann made a request to exempt glyoxylic acid for incorporation into the production of FFSRAs from anti-dumping duties under the end-use procedure, provided for in Article 254 of the Union Customs Code ('UCC')<sup>(7)</sup>.
- (25) To assess L. Brüggemann's request, the Commission investigated (i) the basic physical, chemical and technical characteristics of the imported and Union products, (ii) their end-use and interchangeability, (iii) alternative sources of supply, (iv) impact of exemption on duties, and (v) impact of duties on the user.
- (26) The Commission received comments from the Union industry on 23 January 2025 regarding the claim by L. Brüggemann. The Union industry stated that they provide a wide range of grades including technical grades but cannot respond whether they can provide this particular technical grade because the pertinent information has been redacted in the open version. L. Brüggemann responded on 29 January 2025, that the information is confidential and cannot be shared but did not provide any further evidence substantiating that the Union industry are not in a position to supply the technical grade in question.
- (27) L. Brüggemann submitted information regarding the above with their submission of 15 January 2025 and also during the Commission's remote verification visit on 24 January 2025. The Commission verified that the company imports a technical grade of glyoxylic acid from China, but also that it purchases glyoxylic acid from the Union industry. The Commission also found that the company use both the EU and the imported product for the production of formaldehyde free sulphur reducing agents (FFSRAs), which fall under a category separate from the other users and under a different CN code. The Commission noted that the glyoxylic acid supplied from PRC and the EU is interchangeable for the manufacturing of L. Brüggemann's product. The Commission also found that the company's consumption of glyoxylic acid accounts for less than 3% of the total EU consumption.
- (28) On the basis of the above exchanges and the information supplied and reviewed, the Commission could not validate the claim that the product imported by L. Brüggemann differs in the basic physical, chemical and technical characteristics from the product produced by the Union. The Commission found no evidence that the product cannot be sourced from the Union Industry. Therefore, the Commission provisionally rejected the request for end-use exemption. The impact of the duties on the user is discussed below in Section 5.

### 3. DUMPING

#### 3.1. Procedure for the determination of the normal value under Article 2(6a) of the basic Regulation

- (29) In view of the sufficient evidence available at the initiation of the investigation pointing to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation with regard to the PRC, the Commission considered it appropriate to initiate the investigation with regard to the exporting producers from this country having regard to Article 2(6a) of the basic Regulation.
- (30) Consequently, in order to collect the necessary data for the eventual application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in the PRC to provide information regarding the inputs used for producing glyoxylic acid. Six exporting producers submitted the relevant information.

<sup>(7)</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (31) In order to obtain information it deemed necessary for its investigation with regard to the alleged significant distortions, the Commission sent a questionnaire to the GOC. In addition, in point 5.3.2 of the Notice of Initiation, the Commission invited all interested parties to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation within 37 days of the date of publication of the Notice of Initiation in the Official Journal of the European Union. No questionnaire reply was received from the GOC. Subsequently, the Commission informed the GOC that it would use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC.
- (32) In the Notice of Initiation, the Commission also specified that, in view of the evidence available, it may need to select an appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks.
- (33) On 7 October 2024, the Commission informed by a note ('the First Note') interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of glyoxylic acid. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified two possible representative countries, namely Colombia and Türkiye as an appropriate representative country.
- (34) The Commission had found that there was no production of glyoxylic acid outside China and the Union. However, the investigation revealed that in the production of acetic acid, a product in the same sector as glyoxylic acid (C2 carboxylic acids), some of the key input materials (acetaldehyde and oxygen) and consumables are used. Moreover, both products have a similar production process. The Commission therefore informed interested parties that it intended to continue its investigation with a view to identify an undistorted value in a representative country with a similar level of economic development as China with production of acetic acid. The Commission received comments on the First Note from the complainant, from an exporting producer (Xinjiang Guolin) and a user (L. Brüggemann). The comments are addressed in the relevant sections below.
- (35) On 21 January 2025, the Commission addressed the comments received from interested parties on the First Note in a Second Note to the file ('the Second Note') and it informed interested parties on the relevant sources it intended to use for the determination of the normal value, with Colombia as the representative country. It also informed interested parties that it would establish selling, general and administrative ('SG&A') costs and profits based on available information for the company Sucroal S.A. ('Sucroal'), a producer of acetic acid in the representative country.
- (36) The Commission received comments to the Second Note from Xinjiang Guolin and WeylChem Lamotte. These have been addressed under respective heading in section 3.2. below.
- (37) After having analysed the comments and information received, the Commission concluded that Colombia was an appropriate representative country from which undistorted prices and costs would be sourced for the determination of the normal value. When no representative import prices were available for a given factor of production, the Commission resorted to an appropriate international benchmark. The underlying reasons for the Commission's approach are developed in detail in section 3.2.4 below.

### 3.2. Normal value

- (38) According to Article 2(1) of the basic Regulation, "*the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country*".
- (39) However, according to Article 2(6a)(a) of the basic Regulation, "*in case it is determined ... that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks*", and "*shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits*" ("administrative, selling and general costs" is referred hereinafter as 'SG&A').

- (40) As further explained below, the Commission concluded in the present investigation that, based on the evidence available, and in view of the lack of cooperation of the GOC, the application of Article 2(6a) of the basic Regulation was appropriate.

### 3.2.1. Existence of significant distortions

- (41) In recent investigations concerning the chemical sector<sup>(6)</sup> in the PRC<sup>(7)</sup>, the Commission found that significant distortions in the sense of Article 2(6a)(b) of the basic Regulation were present.
- (42) In those investigations, the Commission found that there is substantial government intervention in the People's Republic of China ('PRC') resulting in a distortion of the effective allocation of resources in line with market principles<sup>(8)</sup>. In particular, the Commission concluded that in the chemical sector not only does a substantial degree of ownership by the Government of China ('GOC') persist in the sense of Article 2(6a)(b), first indent of the basic Regulation<sup>(9)</sup>, but the GOC is also in a position to interfere with prices and costs through state presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation<sup>(10)</sup>. The Commission further found that the state's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces<sup>(11)</sup>. Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC<sup>(12)</sup>. In the same vein, the Commission found distortions of wage costs in the chemical sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation<sup>(13)</sup>, as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC<sup>(14)</sup>.

<sup>(6)</sup> In particular the subsector of food additives which is the focus of the present investigation.

<sup>(7)</sup> Commission Implementing Regulation (EU) 2024/1959 of 17 July 2024 imposing a provisional anti-dumping duty on imports of erythritol originating in the People's Republic of China, [http://data.europa.eu/eli/reg\\_impl/2024/1959/oj](http://data.europa.eu/eli/reg_impl/2024/1959/oj); Commission Implementing Regulation (EU) 2023/2180 of 16 October 2023 amending Implementing Regulation (EU) 2021/607 imposing a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China as extended to imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, following a new exporter review pursuant to Article 11(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, [http://data.europa.eu/eli/reg\\_impl/2023/2180/oj](http://data.europa.eu/eli/reg_impl/2023/2180/oj); Commission Implementing Regulation (EU) 2023/752 of 12 April 2023 imposing a definitive anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, [http://data.europa.eu/eli/reg\\_impl/2023/752/oj](http://data.europa.eu/eli/reg_impl/2023/752/oj).

<sup>(8)</sup> Commission Implementing Regulation (EU) 2024/1959, recitals 161-162; Commission Implementing Regulation (EU) 2023/2180, recitals 89-90; Commission Implementing Regulation (EU) 2023/752, recital 70.

<sup>(9)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 103-113; Commission Implementing Regulation (EU) 2023/2180, recitals 46-50; Commission Implementing Regulation (EU) 2023/752, recital 49.

<sup>(10)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 114-122; Commission Implementing Regulation (EU) 2023/2180, recitals 51-55; Commission Implementing Regulation (EU) 2023/752, recitals 50-54. While the right to appoint and to remove key management personnel in SOEs by the relevant state authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the state can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70% of some 1.86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

<sup>(11)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 123-133; Commission Implementing Regulation (EU) 2023/2180, recitals 65-65; Commission Implementing Regulation (EU) 2023/752, recitals 55-63.

<sup>(12)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 134-138; Commission Implementing Regulation (EU) 2023/2180, recitals 66-69; Commission Implementing Regulation (EU) 2023/752, recital 64.

<sup>(13)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 139-142; Commission Implementing Regulation (EU) 2023/2180, recitals 71-72; Commission Implementing Regulation (EU) 2023/752, recital 65.

<sup>(14)</sup> Commission Implementing Regulation (EU) 2024/1959 recitals 143-152; Commission Implementing Regulation (EU) 2023/2180, recitals 72-81; Commission Implementing Regulation (EU) 2023/752, recital 66.

- (43) Like in previous investigations concerning the chemical sector in the PRC, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the complaint, and in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations<sup>(15)</sup> (*Report*), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under investigation. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.
- (44) The complainant alleged that the Chinese economic model is based on certain basic axioms, which provide for and encourage manifold government interventions. Such substantial government interventions are at odds with the free play of market forces, resulting in distorting the effective allocation of resources in line with market principles<sup>(16)</sup>. The complainant maintained that these distortions exist not only at national level, but also at the regional and provincial levels inside China as well.
- (45) To support this position, the complaint referred to the evidence contained in the Report, to findings in several recent Commission investigations, particularly those concerning acesulfame potassium and aspartame<sup>(17)</sup>.
- (46) Moreover, the complainant pointed out that involvement of the GOC and state-owned enterprises ('SOEs') in the chemical intermediates sector is present throughout the production chain, from basic raw materials to production of the product concerned itself, creating significant distortions in prices and production volumes of basic intermediate chemicals.
- (47) The overall effect of continued credit support, either in the form of government or local bank guarantees for inefficient SOEs is also a key factor in the development and continuation of over-capacity<sup>(18)</sup>.
- (48) In addition, the production of glyoxylic acid requires a considerable amount of electrical energy, and the state provides preferential energy prices to local chemical producers enabling them to lower production costs. The Complainant argued that electricity and transportation price controls result in some of the most significant distortions in China's economy. These factors influence costs of production and the final prices of industrial goods, particularly in resource-intensive industries where significant amounts of raw materials are required, such as the production of glyoxylic acid<sup>(19)</sup>.
- (49) In addition, the complainant recalled the following elements pointing to the existence of significant distortions.

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<sup>(15)</sup> Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 10 April 2024, SWD(2024) 91 final, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2024\)91&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2024)91&lang=en), including the previous version of the document: Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the purposes of Trade Defence Investigations, 20 December 2017, SWD(2017) 483 final/2, available at: [https://ec.europa.eu/transparency/documents-register/detail?ref=SWD\(2017\)483&lang=en](https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2017)483&lang=en).

<sup>(16)</sup> See Commission Implementing Regulation (EU) 2022/116 of 27 January 2022 imposing a definitive anti-dumping duty on imports of acesulfame potassium originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, rec. 88, [http://data.europa.eu/eli/reg\\_impl/2022/116/oj](http://data.europa.eu/eli/reg_impl/2022/116/oj).

<sup>(17)</sup> See Commission Implementing Regulation (EU) 2022/2001 of 21 October 2022 imposing a definitive anti-dumping duty on imports of aspartame originating in the People's Republic of China, following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, [http://data.europa.eu/eli/reg\\_impl/2022/2001/oj](http://data.europa.eu/eli/reg_impl/2022/2001/oj).

<sup>(18)</sup> See the Economist, p .8., available at: <https://www.andrewleunginternationalconsultants.com/files/chinas-supply-side-structural-reform.pdf>, (accessed on 6 December 2024).

<sup>(19)</sup> See International Trade Administration Non-Market Economy ('ITA NME') Memorandum, p.163.

- (50) First, the glyoxylic acid sector is being served to a significant extent by enterprises that operate under the ownership, control or policy supervision or guidance of state authorities:
- As established in the acesulfame potassium investigation, Cangzhou Goldlion Chemicals Ltd. followed China's 13th FYP on the development of petrochemical industry. It was adhering to national industrial policies that control the sector entry conditions and new production capacity <sup>(20)</sup>.
  - Hubei Hongyuan Pharmaceutical Technology Co. Ltd, identifies itself as a national high-tech enterprise' <sup>(21)</sup>, qualifying for China's High and New Technology Enterprise ('HNTE') programme. This status offers a reduced corporate tax rate of 15% (versus the standard 25%) for qualified company locations, including facilities in Hubei <sup>(22)</sup>. Established almost 15 years ago, the company made its first tax payment in 2019, indicating significant tax exemptions and benefits in the prior period. The HNTE status also makes the company eligible for substantial central and provincial support <sup>(23)</sup>.
  - Another exporting producer, Sinochem Agro Co. Ltd, is a spin-off of the Sinochem Group, formed through internal restructuring of the group's agrochemical business <sup>(24)</sup>. The Sinochem Group is a State-owned Assets Supervision and Administration Commission ('SASAC') entity, fully controlled by the government which also appoints the company's board of directors.
- (51) Second, the state presence in glyoxylic acid companies also allows the authorities to interfere with prices and/or costs:
- According to the PRC's company law, every private company must establish a Chinese Communist Party ('CCP' or 'Party') organisation and provide the necessary conditions for the activities of the Party organisation <sup>(25)</sup>. In 2017, it was reported that Party cells existed in 70% of approximately 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies <sup>(26)</sup>. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of glyoxylic acid and the suppliers of their inputs <sup>(27)</sup>.
  - Hubei Hongyuan Pharmaceutical Technology Co. Ltd is listed on the Shenzhen Stock Exchange Growth Enterprise Market. However, its Chairman and General Manager are referred to as "comrades" in the company's news reports suggesting close links with the Party <sup>(28)</sup>.
  - In addition, in 2020, a document titled General Office of CCP Central Committee's Guidelines on stepping up the United Front work in the private sector for the new era (*the Guidelines*) was released <sup>(29)</sup>, aiming to further expand the role of the Party committees in private enterprises.

<sup>(20)</sup> Ibid., rec. 98.

<sup>(21)</sup> See Hubei Hongyuan Pharmaceutical Technology Co. Ltd website, available at: [https://en.hbhypharm.com/about\\_index.html](https://en.hbhypharm.com/about_index.html) (accessed on 5 December 2024).

<sup>(22)</sup> Regarding the conditions for entitlement to the lower corporate tax rate under this programme, see: US-China Business Council, Report on China's HNTE Programme, June 2013, pp. 1-2.

<sup>(23)</sup> See Commission Implementing Regulation (EU) 2022/2001, rec. 100.

<sup>(24)</sup> See Sinochem Agro Co. Ltd website, available at: <https://www.sinochem.com.cn/10360.html> (accessed on 5 December 2024).

<sup>(25)</sup> Report, p. 47.

<sup>(26)</sup> See Reuters Report, available at: <https://www.reuters.com/article/business/exclusive-in-china-the-partys-push-for-influence-inside-foreign-firms-stirs-f-idUSKCN1B40JU/>, (accessed on 6 December 2024).

<sup>(27)</sup> See Commission Implementing Regulation (EU) 2022/1924, rec. 47, [http://data.europa.eu/eli/reg\\_impl/2022/1924/oj](http://data.europa.eu/eli/reg_impl/2022/1924/oj).

<sup>(28)</sup> See Hubei Hongyuan Pharmaceutical Technology Co. Ltd. website.

<sup>(29)</sup> See The General Office of the Central Committee of the Communist Party of China, "Opinions on Strengthening the United Front Work of the Private Economy in the New Era".

(52) Third, the GOC pursues public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces:

- The direction of the Chinese economy is to a significant degree determined by an elaborate planning system which sets priorities and goals for central and local governments across all economic sectors. These objectives are of binding nature, and authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the PRC's planning system channels resources to strategic or politically important sectors, rather than allocating them in line with market forces <sup>(30)</sup>.
- Other distortions arise from the benefits conferred under central and local government programmes for industrial or chemical parks and so-called Hi-Tech Industrial Development Areas. Chemical producers located in these parks are eligible for governmental support, such as according to the Notice on Standardized Management of Chemical Industry Concentration Areas, in order to Strengthen the Chemical Industry Parks in provinces like Hubei, Guangdong or Xinjiang <sup>(31)</sup>.

(53) Fourth, much like in other sectors of the Chinese economy, the glyoxylic acid sector is subject to distortions resulting from the discriminatory application or inadequate enforcement of bankruptcy, corporate and property laws:

- due to the systematic under-enforcement, the Chinese bankruptcy system fails to effectively settle fair claims, debts, and safeguard the lawful rights and interests of creditors and debtors <sup>(32)</sup>. The very low number of bankruptcy cases for an economy of China's size highlights the issues with law enforcement and implementation. Moreover, the role of the state in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings <sup>(33)</sup>.
- The Chinese property law reflects the supremacy of public ownership over the private one, rooted in the principle of socialism. It designates the state as responsible for upholding the dominant role of public ownership, while other forms of ownership are merely tolerated to coexist with state ownership <sup>(34)</sup>.
- Since Chinese producers of glyoxylic acid are subject to the ordinary rules and above-mentioned laws, companies in the sector are subject to the resulting distortions as well <sup>(35)</sup>.

(54) Fifth, wage costs are distorted in the glyoxylic acid sector as well:

- China has not ratified some of the fundamental conventions of the International Labour Organisation, particularly those on freedom of association and collective bargaining. Under national law, only one trade union organisation is active. However, this organisation lacks independence from the state authorities and its engagement in collective bargaining and protection of workers' rights remains rudimentary <sup>(36)</sup>.
- Moreover, the Chinese workforce mobility is restricted by the household registration system, limiting access to social security and other benefits to local residents of a given administrative area <sup>(37)</sup>.

<sup>(30)</sup> See Commission Implementing Regulation (EU) 2022/1116, rec. 97.

<sup>(31)</sup> See Commission Implementing Regulation (EU) 2022/2001, rec. 100.

<sup>(32)</sup> Report, pp. 173-179.

<sup>(33)</sup> See Commission Implementing Regulation (EU) 2022/1116, rec. 101.

<sup>(34)</sup> See Commission Implementing Regulation 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China, rec. 124, [http://data.europa.eu/eli/reg\\_impl/2020/1336/oj](http://data.europa.eu/eli/reg_impl/2020/1336/oj).

<sup>(35)</sup> See Commission Implementing Regulation (EU) 2022/1116, rec. 103.

<sup>(36)</sup> Ibid., rec. 105.

<sup>(37)</sup> See Commission Implementing Regulation (EU) 2020/1336, rec. 156.

- (55) Sixth, glyoxylic acid producers have access to finance granted by institutions which implement public policy objectives or otherwise are not acting independently from the state:
- When setting up and implementing the lending policy, the state-owned commercial banks, dominating the PRC system, need to align with the government’s industrial policy objectives rather than primarily assessing the economic merits of a given project <sup>(38)</sup>. Hubei Hongyuan Pharmaceutical Technology Co., Ltd. reports that when the company was short of liquidity, the Huanggang Branch of Wuhan Rural Commercial Bank promptly processed and approved an RMB 70 million loan, solving the company’s capital needs for the full resumption of work and production <sup>(39)</sup>.
  - The state-owned banks offer loans at below market interest rates for Chinese enterprises despite the companies’ poor financial standing, credit ratings and return on investment. Various legal provisions requiring normal banking behaviour and prudential rules, such as creditworthiness assessments, are only secondary in the legal instruments’ application.
  - The GOC has also clarified that even private commercial banking decisions must be overseen by the CCP and remain in line with national policies. One of the state’s three overarching goals in relation to banking governance is to strengthen the Party’s leadership in the banking and insurance sector. The China Banking and Insurance Regulatory Commission (CBIRC) issued on 28 August 2020, a three-year action plan that instructs to “further implement the spirit embodied in General Secretary Xi Jinping’s keynote speech on advancing the reform of corporate governance of the financial sector”. Moreover, the plan’s section II aims at promoting the organic integration of the Party’s leadership into corporate governance: “Major operational and management issues must have been discussed by the Party Committee before being decided upon by the board of Directors or the senior management” <sup>(40)</sup>. Finally, the performance evaluation criteria have to take into account how entities “serve the national development objectives and the real economy”, and in particular how they “serve strategic and emerging industries” <sup>(41)</sup>.
  - In addition, bond and credit ratings are often distorted due to the firm’s strategic importance to the GOC and implicit government guarantees. The Chinese credit ratings systematically correspond to lower international ratings <sup>(42)</sup>. Additionally, rules directing finance to government-prioritized sectors create a bias toward SOEs, large well-connected private firms and key industries, resulting in unequal access to capital <sup>(43)</sup>.
  - Finally, overall credit growth in the PRC indicates a worsening efficiency of capital allocation without any signs of credit tightening that would be expected in an undistorted market environment. As a result, non-performing loans have increased rapidly in recent years. Artificially low borrowing costs, especially for large Chinese SOEs, which are not proportionate in comparison with actual returns and risk, have also led to excessive capital investment in the Chinese chemical sector <sup>(44)</sup>.
- (56) In addition, the complainant emphasized the systemic nature of the distortions. State interventions are found throughout the country and across all sectors of the economy, in relation to the allocation of capital, land, labour, energy and raw materials, among others.

<sup>(38)</sup> See Commission Implementing Regulation (EU)2022/1116, rec. 86.

<sup>(39)</sup> See Hubei Hongyuan Pharmaceutical Technology Co. Ltd. website.

<sup>(40)</sup> See CBIRC, “Three-year action plan for improving corporate governance of the banking and insurance sectors (2020-2022)” issued on 28 August 2020, available at: <http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=925393&itemId=928> (accessed on 5 December 2024).

<sup>(41)</sup> See CBIRC, “Performance evaluation criteria”, available at: <http://www.cbirc.gov.cn/cn/view/pages/ItemDetail.html?docId=925393&itemId=928> (accessed on 5 December 2024).

<sup>(42)</sup> See IMF Working Paper, pp. 7-8, available at: <https://www.imf.org/external/pubs/ft/wp/2016/wp16203.pdf>, (accessed on 6 December 2024).

<sup>(43)</sup> See Commission Implementing Regulation (EU) 2022/1116, rec. 112.

<sup>(44)</sup> Report, Chapter 16.5 and p. 496.

- (57) In conclusion, the complainant took the position that prices or costs, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation. On that basis, according to the complaint, it is not appropriate to use domestic prices and costs to establish normal value in the present investigation.
- (58) The Commission also examined whether it was appropriate or not to use domestic prices and costs in China, due to the existence of further significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. That analysis covered the examination of the substantial government interventions in China's economy in general, but also the specific market situation in the relevant sector including the product concerned.
- (59) The sector of the product concerned is mainly served by private companies, such as Hubei Hongyuan Pharmaceutical Technology Co., Ltd<sup>(45)</sup>, Xinjiang Guolin New Materials Co. Ltd, wholly owned by Qingdao Guolin Technology Group Co. Ltd<sup>(46)</sup>, Cangzhou Goldlion Chemicals Co. Ltd<sup>(47)</sup> or Guangdong Joy Chemical Ltd.<sup>(48)</sup> but also, to some extent, by SOEs like Sinopec Group<sup>(49)</sup> and Sinochem Group<sup>(50)</sup>, both central enterprises controlled by SASAC, supplying Mono Ethylene Glycol, an input used to produce glyoxylic acid<sup>(51)</sup>.
- (60) Moreover, the investigation found that the industry national association representing the producers of chemical and petrochemical products, such as the product concerned, the China Petroleum and Chemical Industry Federation ('CPCIF'), established a special committee on high-end specialty chemicals<sup>(52)</sup>, covering glyoxylic acid. The CPCIF adheres to the overall leadership of the CCP, carries out Party activities, and provides necessary conditions for the activities of Party organizations<sup>(53)</sup>. Moreover, the "registration and management authority of the Association is the Ministry of Civil Affairs<sup>(54)</sup>" and the conditions to be eligible as a CPCIF representative include to "adhere to the leadership of the CCP, support socialism with Chinese characteristics, resolutely implement the Party's line, principles, and policies, and possess good political qualities"<sup>(55)</sup>.
- (61) The investigation confirmed that Sinopec Group and Sinochem Group are both members of CPCIF<sup>(56)</sup>.
- (62) Furthermore, to provide an example at provincial level, Guangdong Joy Chemical Ltd. is member of the Guangdong Council for the Development and Promotion of Small and Medium Enterprises<sup>(57)</sup> which defines its purpose as "actively play[ing] a bridging role and assist[ing] government departments in strengthening services, guidance, coordination and supervision for small and medium-sized enterprises in the province"<sup>(58)</sup>. It also "adheres to the leadership of the CCP"<sup>(59)</sup>.

<sup>(45)</sup> See annual report 2023, available at: [http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ\\_STOCK/2024/2024-4/2024-04-23/10031746.PDF](http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ_STOCK/2024/2024-4/2024-04-23/10031746.PDF) (accessed on 16 December 2024).

<sup>(46)</sup> See annual report 2023, available at : [http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ\\_STOCK/2024/2024-8/2024-08-30/10451429.PDF](http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESZ_STOCK/2024/2024-8/2024-08-30/10451429.PDF) (accessed on 16 December 2024).

<sup>(47)</sup> See: <http://www.goldlionchem.com/> and <https://m.zhipin.com/gongsi/109057384.html> (accessed on 16 December 2024).

<sup>(48)</sup> See: <http://www.gdjoychem.com/about/> (accessed on 18 December 2024).

<sup>(49)</sup> See: <http://www.sinopec.com/listco/000/000/042/42065.shtml> (accessed on 16 December 2024).

<sup>(50)</sup> See: <http://www.sinochemhx.com/en/14661.html> (accessed on 16 December 2024).

<sup>(51)</sup> See: <http://wap.sasac.gov.cn/n2588045/n27271785/n27271792/c14159097/content.html> (accessed on 16 December 2024).

<sup>(52)</sup> See: <http://www.cpcif.org.cn/detail/39747711-f959-4eb8-8a59-0f3f776ae8e0> (accessed on 17 December 2024).

<sup>(53)</sup> See CPCIF Articles of Association, Article 3, available at: <http://www.cpcif.org.cn/detail/40288043661e27fb01661e386a3f0001?e=1> (accessed on 17 December 2024).

<sup>(54)</sup> Ibid.

<sup>(55)</sup> Ibid., Article 36.

<sup>(56)</sup> See: <http://www.cpcif.org.cn/list/40288043661dc14701661ddb0980010> (accessed 18 December 2024).

<sup>(57)</sup> See: <http://www.gdjoychem.com/about/> (accessed on 18 December 2024).

<sup>(58)</sup> See Guangdong Council for the Development and Promotion of Small and Medium Enterprises Articles of Association, Article 3, available at: [http://www.gdsme.org/xhgk/xhzc/content/post\\_180509.html](http://www.gdsme.org/xhgk/xhzc/content/post_180509.html) (accessed on 18 December 2024).

<sup>(59)</sup> Ibid., Article 4.

- (63) The investigation found that Guangdong Joy Chemical Ltd. is a member of the Guangdong Council for the Development and Promotion of Small and Medium Enterprises
- (64) Both public and privately owned enterprises in the chemical sector are subject to policy supervision and guidance. The latest Chinese policy documents concerning the chemical sector confirm the continued importance which GOC attributes to the sector, including the intention to intervene in the sector in order to shape it in line with the government policies.
- (65) This is exemplified by the 14th FYP on Economic and Social Development and 2035 Perspectives, according to which the GOC intends to “[t]ransform and upgrade traditional industries, promote the optimization of the layout and structural adjustment of raw material industries [and] accelerate the transformation and upgrading of key industries such as chemicals and papermaking <sup>(60)</sup>”.
- (66) Also, the 14th FYP on Developing the Raw Materials Industry requires that “[k]ey industries such as petrochemicals, chemical industry and steel shall focus on the plan’s goals and tasks <sup>(61)</sup>”.
- (67) Additionally, the Guiding Opinion on Promoting the High-Quality Development of the Petrochemical and Chemical Industries during the 14th FYP (‘the Guiding Opinion’) stipulates that the GOC will “[p]romote industrial structure adjustment: strengthen specific measures and scientifically regulate the scale of the industry” and “[v]igorously develop new chemical materials and fine chemicals.” <sup>(62)</sup>
- (68) Similar examples of the intention by the Chinese authorities to supervise and guide the developments of the sector can be seen at the provincial level, such as in Hubei where Hubei Hongyuan Pharmaceutical Technology Co., Ltd is located. The provincial authorities plan to “[a]djust and optimize the manufacturing industry structure: [a]ccelerate the structural adjustment of key industries [and] [c]onsolidate the results of the supply-side structural reform of raw material industries such as steel, nonferrous metals, chemicals, and building materials, accelerate safe, green and efficient development, and cultivate a RMB trillion worth modern chemical industry cluster.” <sup>(63)</sup>
- (69) As to the GOC being in a position to interfere with prices and costs through state presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the investigation found that the wholly-owned subsidiary Xinjiang Guolin New Materials Co. Ltd. <sup>(64)</sup> is under the supervision of the deputy chairman of the board of directors of Qingdao Guolin Technology Group Co. Ltd who also serves as the secretary of the company’s Party organisation.
- (70) Moreover, the chairman of the board of directors of Hubei Hongyuan Pharmaceuticals Technology Co., Ltd also serves as the secretary of the Party committee. <sup>(65)</sup>
- (71) Sinochem Group’s chairman of the board of directors serves as the secretary of the Party committee and several members of the board of directors serve as deputy secretaries of the Party committee <sup>(66)</sup>. Also, Sinochem Group presents itself as a company that “*adheres to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, effectively strengthens the Party’s overall leadership over the enterprise, deepens Party building, [and] gives full play to the role of Party organizations at all levels*” <sup>(67)</sup>.

<sup>(60)</sup> See Section III.8.3, available at: [https://www.gov.cn/xinwen/2021-03/13/content\\_5592681.htm](https://www.gov.cn/xinwen/2021-03/13/content_5592681.htm) (accessed on 18 December 2024).

<sup>(61)</sup> See Section VIII.1, available at: <https://www.gov.cn/zhengce/zhengceku/2021-12/29/5665166/files/90c1c79a00b44c67b59c29392476c862.pdf> (accessed on 19 December 2024).

<sup>(62)</sup> See Section III.4 and I.1, available at: [https://www.gov.cn/zhengce/zhengceku/2022-04/08/content\\_5683972.htm#msdyntrid=WRmyf07ph0z74SHmXoOLKjRWl09BdZ4lGdYp9fi9xU](https://www.gov.cn/zhengce/zhengceku/2022-04/08/content_5683972.htm#msdyntrid=WRmyf07ph0z74SHmXoOLKjRWl09BdZ4lGdYp9fi9xU) (accessed on 18 December 2024).

<sup>(63)</sup> See Hubei Province 14<sup>th</sup> FYP on Economic and Social Development and 2035 perspectives, Section III.1.2 available at: <https://www.ndrc.gov.cn/fggz/fzzlgh/dffzgh/202104/P020210427315108290779.pdf> (accessed on 18 December 2024).

<sup>(64)</sup> See: [https://www.china-guolin.com/news\\_detail.html?id=651&pid=41](https://www.china-guolin.com/news_detail.html?id=651&pid=41) and also [https://vip.stock.finance.sina.com.cn/corp/view/vCI\\_CorpManagerInfo.php?stockid=300786&Pcode=30341759&Name=%D5%C5%CO%DA](https://vip.stock.finance.sina.com.cn/corp/view/vCI_CorpManagerInfo.php?stockid=300786&Pcode=30341759&Name=%D5%C5%CO%DA) (accessed on 17 December 2024).

<sup>(65)</sup> See: [https://epaper.hubeidaily.net/pad/content/202303/28/content\\_217824.html](https://epaper.hubeidaily.net/pad/content/202303/28/content_217824.html) (accessed on 19 December 2024).

<sup>(66)</sup> See at: <https://www.sinochem.com/sinochem/guwm/zlzz/ds/A031002002002Gone1.html>, (accessed on 10 December 2024).

<sup>(67)</sup> See at: <https://www.sinochem.com/sinochem/dzyj/dj11/A031007001Gone1.html> (accessed on 9 December 2024).

- (72) Similarly, Sinopec Group's chairman of the board of directors is the secretary of the Party committee and several members of the board serve as deputy secretaries of the Party committee<sup>(68)</sup>. Sinopec Group stated that it intends to *"focus on the company's new mission and new tasks on the new journey, carry forward the party's self-revolutionary spirit, strengthen the party's leadership and party building in an all-round and integrated manner, and systematically promote comprehensive and strict party governance, so as to provide a strong guarantee for writing a new chapter of China's modern petrochemical industry"*<sup>(69)</sup>.
- (73) It was impossible to systematically establish existence of personal connections between producers of the product concerned and the CCP. However, given that the product concerned represents a subsector of the chemical sector, information established in the recent investigations concerning the chemical sector, as indicated in recital (42), is relevant also to glyoxylic acid.
- (74) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation are in place in the sector of the product concerned. The investigation identified documents showing that the industry benefits from governmental guidance and intervention into the chemical sector, given that the product concerned represents one of its subsectors.
- (75) The chemical industry keeps being regarded as a key industry by the GOC<sup>(70)</sup>. This is confirmed in the numerous plans, directives and other documents focused on chemicals, which are issued at national, regional, and municipal level. Under the 14<sup>th</sup> FYP, the GOC earmarked the chemical industry for optimization and upgrade<sup>(71)</sup>.
- (76) Similarly, the 14<sup>th</sup> FYP on Developing the Raw Materials Industry stipulates that the GOC will *"[p]romote standardized cluster development. Formulate the conditions for the identification of chemical parks, guide local governments to identify a number of chemical parks, and guide the clustering and standardized development of chemical enterprises. [...] Promote the construction of national new industrialization industry demonstration bases in the field of raw materials, promote the transformation and upgrading of industrial agglomerations into clusters. [...] [C]reate a number of chemical, petrochemical [...] and new materials industry clusters. Optimize the organizational structure: Make leading enterprises bigger and stronger. [...] [S]upport enterprises to accelerate cross-regional and cross-ownership mergers and reorganizations, increase industrial concentration, and conduct international operations. In the chemical, petrochemical, steel, non-ferrous metals, building materials and other industries, cultivate a group of leading enterprises in the industrial chain with ecological dominance and core competitiveness"*<sup>(72)</sup>.
- (77) Furthermore, at provincial level, the Guangdong Province, foresees in its 14<sup>th</sup> FYP on the High Quality Development of the Manufacturing Industry, that the Huizhou Municipality, where Guangdong Joy Chemical Ltd. is located, will *"focus on promoting the development of refining and chemical deep processing, high-end chemicals, and new chemical materials, and accelerate the planning and construction of Huizhou New Materials Industrial Park"*<sup>(73)</sup>.
- (78) Moreover, the investigation found that Xinjiang Guolin New Materials Co. Ltd is located in the Shihezi Economic and Technological Development Zone<sup>(74)</sup>. This zone is recognised by the State Council as a state-level development zone<sup>(75)</sup> and is funded by the Xinjiang Production and Construction Corps ('XPCC'), an entity wholly owned by the state. Xinjiang Guolin New Materials Co. Ltd's deputy general manager acknowledged that *"[f]rom investment promotion to implementation, every step of the project has received strong support from the XPCC, the XPCC's Eighth Division in Shihezi City and from the Shihezi Economic Development Zone Management Committee"*<sup>(76)</sup>.

<sup>(68)</sup> See at: <http://www.sinopecgroup.com/group/gsglc/index.shtml>, (accessed on 10 December 2024).

<sup>(69)</sup> See at: <http://www.sinopecgroup.com/group/000/000/041/41878.shtml> (accessed on 10 December 2024).

<sup>(70)</sup> Report, Chapter 16.

<sup>(71)</sup> Ibid., Section 16.3.

<sup>(72)</sup> See Section IV.1.3, available at: [https://www.gov.cn/zhengce/zhengceku/2021-12/29/content\\_5665166.htm](https://www.gov.cn/zhengce/zhengceku/2021-12/29/content_5665166.htm) (accessed on 6 December 2024).

<sup>(73)</sup> See page 23, available at: <https://www.gd.gov.cn/attachment/0/438/438152/3458462.pdf> (accessed on 18 December 2024).

<sup>(74)</sup> See: <http://xj.people.com.cn/n2/2024/1010/c394722-41003265.html> (accessed on 19 December 2024).

<sup>(75)</sup> See: [https://www.gov.cn/xxgk/pub/govpublic/mrlm/201011/t20101112\\_62560.html](https://www.gov.cn/xxgk/pub/govpublic/mrlm/201011/t20101112_62560.html) (accessed on 19 December 2024).

<sup>(76)</sup> See: <http://xj.people.com.cn/n2/2024/1010/c394722-41003265.html> (accessed on 19 December 2024).

- (79) The product concerned is also affected by the distortions of wage costs referred to in recital (43) in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as also referred to above in recital (42). Those distortions affect the sector both directly (when producing the product under investigation or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in the PRC) <sup>(77)</sup>.
- (80) In addition, the Commission recalls that XPCC is subject to EU restrictive measures <sup>(78)</sup>, not least due to use of forced labour.
- (81) No evidence was submitted in the present investigation demonstrating that the glyoxylic acid sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation. The abovementioned Guiding Opinion requiring to “*improve supporting policies, strengthen the coordination between fiscal, financial, regional, investment, import and export [...] policies with the industry policies [to] give full play to the national cooperation platform between industry and finance and [to] foster the connection between enterprises and banks*” <sup>(79)</sup> also exemplifies this type of government intervention very well. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.
- (82) Finally, the Commission recalls that in order to produce the product concerned, a number of inputs is needed. When the producers of the product concerned purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.
- (83) As a consequence, not only the domestic sales prices of the product concerned are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.
- (84) In sum, the evidence available showed that prices or costs of the product concerned, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein.

#### 3.2.1.1. Arguments raised by interested parties

- (85) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, on the existence of significant distortions and/or appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand. No other interested party provided any comments at this stage of the investigation.

#### 3.2.1.2. Conclusion

- (86) In view of the above, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case. Consequently, the Commission proceeded to construct the normal value exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks, that is, in this case, on the basis of corresponding costs of production and sale in an appropriate representative country, in accordance with Article 2(6a)(a) of the basic Regulation, as described in the following section.

<sup>(77)</sup> Commission Implementing Regulation (EU) 2024/1959, rec. 153-157, Commission Implementing Regulation (EU) 2023/2180, rec. 82-84 and Commission Implementing Regulation (EU) 2023/752, rec. 67.

<sup>(78)</sup> See Council Implementing Regulation (EU) 2021/478 of 22 March 2021, implementing Regulation (EU) 2020/1998 concerning restrictive measures against serious human rights violations and abuses; [http://data.europa.eu/eli/reg\\_impl/2021/478/oj](http://data.europa.eu/eli/reg_impl/2021/478/oj).

<sup>(79)</sup> See Section VIII.16 of the Guiding Opinion.

### 3.2.2. *Representative country*

#### 3.2.2.1. *General remarks*

(87) The choice of the representative country was based on the following criteria pursuant to Article 2(6a) of the basic Regulation:

- A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank <sup>(80)</sup>;
- Production of the product under investigation in that country;
- Existence of relevant readily available data in the representative country.
- Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(88) As explained in recitals (33) to (35), the Commission issued two notes for the file on the sources for the determination of the normal value. These notes described the facts and evidence underlying the relevant criteria, and also addressed the comments received by the parties on these elements and on the relevant sources. In the Second Note on production factors, the Commission informed interested parties of its intention to consider Colombia as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

#### 3.2.2.1.1. *A level of economic development similar to the PRC*

(89) The product under investigation is produced only in the Union and in the PRC. Therefore, in the First Note on production factors, the Commission searched for countries with a level of economic development similar to the PRC where production of acetic acid, a product in the same category of products using the key input materials, took place (see section 3.2.4.2. hereunder). On that basis, it identified Argentina, Brazil, Colombia, Malaysia, Mexico, Thailand, and Türkiye as countries with a similar level of economic development as the PRC.

(90) Comments on the selection of a representative country were submitted by Xinjiang Guolin. Xinjiang Guolin disagreed with the rejection of Thailand, Malaysia, Brazil and Argentina from the selection of the representative country. Xinjiang Guolin further submitted that Colombia and Türkiye are not appropriate representative countries as the import of nitric acid to Türkiye, and the import of glyoxal to Colombia come both predominantly from China. The comments are addressed in section 3.2.3.1.

#### 3.2.2.1.2. *Production of products in the same general category and/or sector in the representative country*

(91) In the absence of production of glyoxylic acid outside of the PRC and the Union, the Commission, in the First Note, identified that acetic acid was an appropriate proxy product in the same general category and/or sector as the product under investigation with a view to identify an undistorted value in a representative country with a similar level of economic development as the PRC, as it involved several of the factors of production used in the production of glyoxylic acid.

<sup>(80)</sup> World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

- (92) To arrive at that conclusion, the Commission had first analysed other products in the group of C2 carboxylic acids (the same general category as the product under investigation), and identified three similar chemical products, i.e. acetic acid, glycolic acid, and oxalic acid. The Commission noted that oxalic acid has a similar chemical profile to glyoxylic acid and is often used as a by-product during the manufacturing process of glyoxylic acid. However, it is only manufactured in the Union, China and India. India is classified as a lower middle-income country and being in a different income-level group, is therefore not suitable as a representative country. Glycolic acid, another product of the same general category, is produced only in the EU and China and, therefore, could not be used as a similar product.
- (93) Subsequently, the Commission had analysed the production process of acetic acid and found that the production process for acetic acid and glyoxylic acid were similar, as both are produced through homogenous and heterogenous catalytic methods.
- (94) Xinjiang Guolin contested the selection of acetic acid as an appropriate proxy product in the same general category and/or sector as the product under investigation and claimed that using the SG&A costs and profit of a producer in the business of manufacturing acetic acid is not appropriate as acetic acid is not an appropriate proxy for the product concerned as the production process for acetic acid and glyoxylic acid are not similar in the case of Xinjiang Guolin. The exporting producer claimed that the way that it produces glyoxylic acid, using maleic anhydride as a raw material, is incomparable to that of acetic acid, and the SG&A costs and profit of an acetic acid producer is therefore not representative and cannot be used as a proxy for constructing the normal value.
- (95) With regard to the comment concerning diverging manufacturing processes, the Commission recognised that the production process of Xinjiang Guolin is different from other exporting producers of glyoxylic acid, i.e. using different raw materials and different chemical processes to obtain the product under investigation. As such, acetic acid has similar manufacturing process with the mainstream glyoxylic acid manufacturers, but not with the one used by Xinjiang Guolin. However, Xinjiang Guolin did not demonstrate how that difference would materially impact SG&A costs and profit, rendering the relevant amounts not “appropriate” within the meaning of Article 2(6a) of the basic Regulation. Moreover, Xinjiang Guolin did not provide any alternative proposal of another similar product to glyoxylic acid using the same, or similar, raw materials and method to obtain products similar to the manufacturing method of Xinjiang Guolin. In the absence of demonstrable impact on the appropriateness of the amounts used and of alternative proposal by the exporting producer, the Commission rejected the claim and maintained that acetic acid is the most suitable proxy to establish the SG&A costs and profit for the entire industry.
- (96) In the First Note, the Commission analysed imports of the main factors of production, namely glyoxal, monoethylene glycol (‘MEG’), maleic anhydride and nitric acid, in the above mentioned seven countries. The Commission noted that there are significant volumes of imports of glyoxal, under HS 291219, and maleic anhydride from China into Thailand, Malaysia, Brazil, and Argentina and it therefore considered import prices of those raw materials potentially distorted.
- (97) The Commission therefore excluded Thailand, Malaysia, Brazil, and Argentina from the selection of an appropriate representative country.
- (98) In comments on the First Note, Xinjiang Guolin stated that a high share of a given factor of production imported from China is not one of the factors that the Commission can use to disregard a representative third country under Article 2(6a) of the basic Regulation. Xinjiang Guolin therefore considered that the Commission had used an arbitrary criterion to exclude countries that could certainly be appropriate representative third countries.
- (99) Xinjiang Guolin further submitted that if the Commission would consider the level of Chinese imports a relevant factor, then Colombia and Türkiye should also be excluded on that basis. With regard to Colombia, Xinjiang Guolin noted that Colombia has a high dependency on China and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755<sup>31</sup>, for all imports under HS code 2912 19 (glyoxal) with Chinese imports representing 45 % of all imports by quantity. With regard to Türkiye, Xinjiang Guolin noted that Türkiye’s imports from China of nitric acid are very high (50 % in terms of value, 90 % in terms of volume) and that the Commission itself had qualified nitric acid as one of the main factors of production for acetic acid in the First Note.

- (100) With regard to the comment concerning the imports of glyoxal to the seven potential representative countries, the Commission initially analysed the imports using HS code 291219. While all potential representative countries registered imports under HS code 291219, the Commission noted that the code covers a variety of chemicals such as glyoxal, citral, butanal, propanal, acrolein etc. Glyoxal is a significant input material as it represents [50-80 %] in the cost of production for the product concerned for Hubei Hongyuan, the exporting producer using this raw material. Therefore, after issuing the First Note, the Commission attempted to analyse the import prices of glyoxal in the seven potential representative countries under 8-digit commodity code 2912 19 11 and noted that glyoxal was imported only into Brazil. Brazil, however, as mentioned above was already excluded as a potential representative country by the Commission on the First Note as both main raw materials (glyoxal and maleic anhydride) are predominantly imported from China.
- (101) Therefore, with regard to the comment concerning the imports of glyoxal to Colombia, the Commission concluded that there are no imports of this raw material and the Commission resorted to an international benchmark described in recital (127).
- (102) With regard to imports of nitric acid to Türkiye, the Commission noted that Türkiye predominantly imports this raw material from China and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755<sup>(81)</sup>. This raw material however constitutes about 5 % of the cost of production of only one of the two sampled exporting producers. In any event, the Commission informed in the Second Note that it intends to use Colombia as a representative country and intends to apply an international benchmark price of nitric acid to allow for an objective construction of the normal value. The Commission explains further why it resorted to an international benchmark for nitric acid in recital (129).
- (103) In the First Note, the Commission therefore considered Colombia and Türkiye as appropriate representative countries as it considered that in these two countries the import prices of the raw materials used in the construction of the normal value are undistorted.
- (104) In comments on the First Note, the complainant agreed with the Commission's assessment that the production process for obtaining acetic acid is highly comparable to that for the manufacturing of the product concerned, not considering it relevant that glyoxylic acid is a stronger acid than acetic acid. It rather pointed at the similarity of the respective production processes, core raw materials and relevant consumables and also submitted that both production processes are energy intensive to a highly similar extent.
- (105) Furthermore, the complainant agreed with exclusion of Thailand, Malaysia, Brazil, and Argentina from the selection of possible representative countries due to the high proportion of Chinese imports of key raw materials into those countries. The complainant selected Türkiye as a representative country in the complaint due to higher import volumes of glyoxal.

#### 3.2.2.1.3. Existence of relevant readily available data in the representative country

- (106) In the First Note, the Commission investigated which financial data are readily available for the countries referred to in recital (89). The Commission noted that there was not sufficiently relevant available financial information for the producing companies in Argentina, Brazil Malaysia, and Thailand. The Commission found data in Orbis<sup>(82)</sup> for one company in Colombia, one company in Mexico and one company in Türkiye. However, the last available financial information of the Mexican manufacturer of acetic acid (Industrias Monfel S.A. DE C.V.) was from 2018 and the Commission considered it as obsolete. As a consequence, the Commission excluded Argentina, Brazil, Malaysia, Mexico, and Thailand from the selection of a representative country.

<sup>(81)</sup> Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries (OJ L 123, 19.5.2015, p. 33). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

<sup>(82)</sup> <https://www.moody's.com/web/en/us/capabilities/company-reference-data/orbis.html>.

- (107) The Commission then analysed the following two possible representative countries with a similar level of economic development to the PRC in which acetic acid is produced and for which financial statements showing profits were available: Colombia and Türkiye. The Commission noted the existence, at that point in time, of readily available financial data from Orbis for the year 2023 for one acetic acid manufacturer in Colombia (Sucroal S.A.) and one acetic acid manufacturer in Türkiye (Akkim Kimya Sanayi ve Ticaret A.S.). With regard to Akkim Kimya Sanayi ve Ticaret A.S., the Commission noted that that company was under investigation of the Turkish Anti-monopoly Office for restriction of competition and price manipulation since 21 November 2023 and that this investigation was still ongoing <sup>(83)</sup>.
- (108) Interested parties were invited to comment on the appropriateness of Colombia and Türkiye as a representative country and of Sucroal S.A. and Akkim Kimya Sanayi ve Ticaret A.S. as producers in the representative countries.
- (109) In comments on the First Note, Xinjiang Guolin contested the exclusion of Argentina, Brazil, Malaysia, Mexico and Thailand from the selection of a representative country and invited the Commission to investigate the financial data of Asian PVS Chemicals Ltd in Thailand, Dovechem Chemical Industries in Malaysia, Abaquim SA in Mexico, Droquimar SRL in Argentina.
- (110) With regard to the manufacturers proposed by Xinjiang Guolin and mentioned in recital (109) above, the Commission has analysed the financial data of those companies and noted that there was no readily available financial data for Asian PVS Chemicals Ltd in Thailand, Droquimar SRL in Argentina, or Abaquim SA in Mexico. There was readily available financial data for Dovechem Chemical Industries in Malaysia. However, the Commission noted that Dovechem Chemical Industries does not manufacture acetic acid and, as explained in recital (96), due to the absence of imports of glyoxal and high dependency on China and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755 for the import maleic anhydride, Malaysia was excluded from the selection of the representative country.
- (111) In comments on the First Note and the Second Note, the complainant acknowledged that, next to Türkiye, Colombia is also a reasonable representative country with readily available financial information for Sucroal S.A.
- (112) In light of the above considerations, and taking account of the ongoing investigation of the Turkish Anti-monopoly office into Akkim Kimya Sanayi ve Ticaret A.S., the Commission informed the interested parties with the Second Note that it intended to use Colombia as an appropriate representative country and the Sucroal S.A., in accordance with Article 2(6a)(a), first indent of the basic Regulation in order to source undistorted prices or benchmarks for the calculation of normal value.
- (113) Interested parties were invited to comment on the appropriateness of Colombia as a representative country and of Sucroal S.A. as producers in the representative country.
- (114) In the Second Note, the Commission further investigated which financial data is readily available for the countries identified in the Note of 7 October 2024, namely Colombia and Türkiye. The information available to the Commission at that stage was the same as the one described in the First Note (see recital (111)), except for the fact that the Commission obtained more detailed and readily available information for 2023 for the Colombian acetic acid producer Sucroal S.A. (from Supersociedades, as explained in recital (154). No such level of detail was available for the other companies in the other potential representative countries.
- (115) In view of the above, the Commission considered that the financial information available for the Colombian company Sucroal S.A. was the most appropriate to be used.
- (116) In reply to the Second Note, Xinjiang Guolin contested the calculation of the SG&A costs. Xinjiang Guolin submitted that the category 'other operating expense' contains an amount of distribution cost, which would not result in an SG&A costs calculation at the level of ex-works. In this respect, Xinjiang Guolin quoted the judgment of the General Court in the Case T-762/20 Sinopec Chongqing SVW Chemical and Others vs Commission. These comments are addressed and rebutted in recitals (169) to (171) and do not alter the conclusion in the recital above.

<sup>(83)</sup> [https://www.rekabet.gov.tr/Guncel/turkiye-de-yapi-kimyasallari-pazarlarind-8fcb58b749eee118eca00505\\_685da39?utm\\_source=-chatgpt.com](https://www.rekabet.gov.tr/Guncel/turkiye-de-yapi-kimyasallari-pazarlarind-8fcb58b749eee118eca00505_685da39?utm_source=-chatgpt.com).

(117) In reply to the Second Note, the complainant stated that given the impediments found by the Commission preventing Türkiye being selected as the most appropriate representative country, the complainant agrees with the Commission's proposal to use Colombia as the representative country for the establishment of the constructed normal value.

#### 3.2.2.1.4. Level of social and environmental protection

(118) Having established that Colombia was the only available appropriate representative country, based on all of the above elements, there was no need to carry out an assessment of the level of social and environmental protection in accordance with the last sentence of Article 2(6a)(a) first indent of the basic Regulation.

#### 3.2.2.1.5. Conclusion

(119) In view of the above analysis, Colombia met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country.

#### 3.2.3. Sources used to establish undistorted costs

(120) In the First Note, the Commission listed the factors of production such as materials, energy and labour used in the production of the product under investigation by the exporting producers and invited the interested parties to comment and propose publicly available information on undistorted values for each of the factors of production mentioned in that note.

(121) Subsequently, in the Second Note, the Commission stated that in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use Global Trade Atlas <sup>(84)</sup> ('GTA') to establish the undistorted cost of raw materials and of coal. The Commission also stated that it would use publicly available electricity prices from Colombia <sup>(85)</sup> for determining prices of electricity as well as for gas and steam (using conversion factor from kWh of gas to tonnes of steam), and ILO Statistics <sup>(86)</sup> for determining labour costs.

(122) In the Second Note, the Commission also informed the interested parties that due to the large number of factors of production of the sampled exporting producers that provided complete information and the negligible weight (less than 2 %) of some of the raw materials in the total cost of production, these negligible items were grouped under 'consumables'. Furthermore, the Commission informed that it would calculate the percentage of the consumables on the total cost of raw materials and apply this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks in the appropriate representative country.

#### 3.2.3.1. Factors of production

(123) Considering all the information submitted by the interested parties and collected during the verification visits, the following factors of production and their sources have been identified in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

<sup>(84)</sup> Global Trade Atlas, Available at <https://connect.ihsmarket.com/gta/home>.

<sup>(85)</sup> See <https://www.enel.com.co/es/personas/tarifas-energia-enel-distribucion.html>. For each month, prices are reported for Tarifas de energía eléctrica (\$/kWh)/ Sector no residencial/Nivel 2/Industrial sin contribucion/Doble horario (day and the night).

<sup>(86)</sup> [https://www.ilo.org/shinyapps/bulkexplorer51/?lang=en&segment=indicator&id=EAR\\_XEES\\_SEX\\_ECO\\_NB\\_Q](https://www.ilo.org/shinyapps/bulkexplorer51/?lang=en&segment=indicator&id=EAR_XEES_SEX_ECO_NB_Q).

Table 1

**Factors of production of glyoxylic acid**

Factor of Production	Commodity Code	Source of data	Value (CNY)	Unit of measurement
<b>Raw materials</b>				
Maleic anhydride	2917140000	GTA	12,58	kg
Mono Ethylene Glycol	2905310000	GTA	4,39	kg
Glyoxal	2912190001	GTA	9,81	kg
Nitric acid	28080010	GTA	4,19	kg
<b>Consumables</b>				
Hydrochloric acid	2806100000	GTA	26,87	kg
Liquid oxygen	2804400000	GTA	59,96	kg
Liquid alkali	2815120000	GTA	1,84	kg
<b>Labour</b>				
Labour	[N/A]	ILO	19,99	Labour hour
<b>Energy</b>				
Electricity	2716 00	Electricity consumption tariffs of Colombian provider Enel.co <sup>(1)</sup>	1,43	kWh
Natural gas	2711 21	International prices of energy at globalprices.com <sup>(2)</sup>	CNY 3,80/m <sup>3</sup>	Cubic meter
Steam at 13 bar	[N/A]	International prices of energy at globalprices.com <sup>(3)</sup>	323,30 CNY/tonne	Price of 897,8 kWh (quantity of gas in kWh required to produce 1 tonne of steam at 13 bar)
Water	[N/A]	Water tariffs of Colombian provider Aqueducto <sup>(4)</sup>	8,39	Cubic meter
<b>By-product</b>				
Oxalic acid	2917111000	GTA	45,78	kg
Formic acid	2915110000	GTA	5,35	kg

<sup>(1)</sup> <https://www.enel.com.co/es/personas/tarifas-energia-enel-distribucion.html/>  
<sup>(2)</sup> [https://www.globalpetrolprices.com/natural\\_gas\\_prices/prices.com/natural\\_gas\\_prices/](https://www.globalpetrolprices.com/natural_gas_prices/prices.com/natural_gas_prices/)  
<sup>(3)</sup> [https://www.globalpetrolprices.com/natural\\_gas\\_prices/prices.com/natural\\_gas\\_prices/](https://www.globalpetrolprices.com/natural_gas_prices/prices.com/natural_gas_prices/)  
<sup>(4)</sup> <https://www.acueducto.com.co>

- (124) The Commission included a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount, the Commission used the sampled exporting producers' reported costs of manufacturing that had not been included in the individual FOP above, such as depreciation, cost for quality control, and costs for maintenance. The methodology is explained in section 3.2.3.9.
- (125) The amounts thereof were taken from the exporting producers questionnaire replies. The new amount for manufacturing overheads was expressed as a percentage of the reported manufacturing costs and has been applied to the recalculated manufacturing costs.

### 3.2.3.2. Raw materials

- (126) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to Colombia as reported in the GTA to which import duties and transport costs were added. The import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and countries which are not members of the WTO, listed in Annex 1 of Regulation (EU) 2015/755. The remaining quantities were considered representative. The Commission decided to exclude imports from the PRC into Colombia as it concluded in recitals (41) to (84) that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices.
- (127) Concerning glyoxal, as explained in the recitals (100) and (101), the Commission clarified that in comparison with the First Note, the Commission initially analysed a broader HS code 2912 19 in the seven potential representative countries. While all potential representative countries registered imports under HS code 2912 19 (glyoxal), the Commission noted that the code covers a variety of chemicals and that glyoxal, under the 8-digit commodity code 2912 19 11, was imported only in Brazil. However, as explained in recital (96), Brazil was already excluded as a potential representative country by the Commission in the First Note as both main raw materials (glyoxal and maleic anhydride) are predominantly imported from China. This conclusion was also confirmed in the Second Note when the analysis was done at 8-digit commodity code level. Therefore, the Commission concluded that the import prices of glyoxal in the seven potential representative countries cannot be used in the construction of normal value.
- (128) Consequently, the Commission analysed global data for all countries extracted from Global Trade Atlas (GTA) under 8-digit commodity code 2912 19 11 and noted the average import price in GTA from all countries excluding China and countries listed in Annex 1 of Regulation 2015/755, i.e. Azerbaijan, Belarus, North Korea, Turkmenistan and Uzbekistan. The Commission considered the comment raised by Xinjiang Guolin in recital (99) as not substantiated. Furthermore, the Commission informed in the Second Note that it intended to use the average import price of glyoxal from all countries excluding China and countries listed in Annex 1 of Regulation 2015/755, extracted from GTA, to allow for an objective construction of the normal value.
- (129) With regard to nitric acid, the Commission clarified that nitric acid constitutes a mere 5-10 % of the cost of production of the product under investigation for Hubei Hongyuan, one of the two sampled Chinese exporting producers, and it is therefore of minor importance in the production process as compared to glyoxal. The Commission analysed the import prices of nitric acid in Colombia and observed a discrepancy in unit import prices with substantial price fluctuation in Colombia, with price spread at level of transactions between 3,15 CNY/kg and 5 895,72 CNY/kg. Similar discrepancies in unit import prices were identified in all other potential candidate countries. The import statistics of nitric acid to the seven potential representative countries were therefore considered as unsuitable.

- (130) Subsequently, the Commission analysed the global import statistics extracted from the Global Trade Atlas and noted that, equally, the global import benchmark includes substantial discrepancies in unit import prices. The Commission identified that the significant price spread might have been caused by different measurement of quantities (e.g. kg, tonnes, pounds etc.) reported in GTA. The international import benchmark was therefore also considered unreliable. Thereafter, the Commission analysed the appropriateness of the international export price to be used as a benchmark. The Commission noted that there were no discrepancies in the units of measurements. The Commission therefore found the global import price of nitric acid reliable. The Commission informed in the Second Note that it intended to use the international export benchmark for nitric acid, extracted from GTA.
- (131) Xinjiang Guolin argued that the Commission should distinguish between solid and liquid maleic anhydride (classified under HS code 2917 14) in the factors of production. The exporting producer claimed that solid maleic anhydride is easier to transport than liquid maleic anhydride, it is far more commonly used on the international market than liquid maleic anhydride. The exporting producer also noted that the price of solid maleic anhydride is typically much higher than that of liquid maleic anhydride. Xinjiang Guolin claimed that it primarily uses liquid maleic anhydride because the production facilities are located close to liquid maleic anhydride producers and, as a result, is able to take advantage of the lower prices of liquid maleic anhydride compared to solid maleic.
- (132) With regard to the claim concerning division between solid and liquid maleic anhydride, the Commission noted that the HS code 2917 14 covers all forms of maleic anhydride without differentiation between physical states (solid or liquid). The Commission further noted that the exporting producer itself did not report solid or liquid maleic anhydride separately in the questionnaire reply, neither in their accounting system. Without division of HS codes per form of factor of production, it is therefore not possible to establish a reliable import data of solid maleic anhydride and liquid maleic anhydride. The claim is therefore rejected.
- (133) With regard to the comment concerning diverging manufacturing processes set out in recital (93) and (95), the Commission recognised that the production process of Xinjiang Guolin is different from at least one other exporting producer of glyoxylic acid, i.e. using different raw materials and different chemical processes to obtain the product under investigation. As such, acetic acid has a very similar manufacturing process as the mainstream glyoxylic acid manufacturers, but less so in comparison with Xinjiang Guolin. However, in the absence of companies found by the Commission or proposed by the exporting producer using the same, or similar, raw materials and method to obtain products similar to glyoxylic acid, the Commission maintained that acetic acid is the most suitable manufacturing process to establish the SG&A and profit for the entire industry, including Xinjiang Guolin.
- (134) In reply to the Second Note, Xinjiang Guolin claimed to observe inconsistencies in the analysis of the import data among different factors of production and requested that the Commission establishes the normal value for each material consistently. Xinjiang Guolin noted that the unit import prices into Colombia for nitric acid fluctuated substantially, which led the Commission to first check the average import price in GTA from all countries, which was found to be similarly subject to a large price spread. It then led the Commission to resort to using the average export price in GTA from all countries. Xinjiang Guolin submitted that the Commission should follow the same approach with regard to maleic anhydride, as the unit import prices into Colombia for maleic anhydride fluctuated just as much as those for nitric acid. Furthermore, Xinjiang Guolin requested the Commission to use the unit import price into Colombia for nitric acid (i.e. 15,51 USD/kg) and refrain from using the average export price in GTA from all countries, as this could lead to a discriminatory determination of the constructed normal value for the two sampled exporting producers because export prices reported by GTA are at the FOB level and not the CIF level.
- (135) In order to ensure consistency between the methodology and datasets used to establish the undistorted prices for each raw material, Xinjiang Guolin requested the Commission to use an international price for all direct raw materials, including for maleic anhydride, MEG and nitric acid, rather than only for glyoxal. Xinjiang Guolin requested the Commission to remove the outliers from the weighted average import price into Colombia for each raw material. For maleic anhydride, it submitted that the Commission should remove the US and German import prices.

- (136) The Commission explained in the Second Note that the international import benchmark of nitric acid included different measurement of quantities (e.g. kg, tonnes, pounds etc.), which might have caused a major price spread as referenced in recital (129). As the international import data were presented in different units of measurements (kg, tonnes, pounds etc.), and it was therefore impossible to calculate an average international import price of nitric acid without manipulation of measurement conversion, these prices were considered unreliable, and the Commission resorted to the international export price excluding China and countries listed in Annex 1 of Regulation (EU) 2015/755 as explained in recital (130) above.
- (137) Concerning the price fluctuation of imports of nitric acid into Colombia, the Commission noted that average unit import prices per country fluctuated from 3,68 CNY/kg (the Netherlands) to 339,54 CNY/kg (Spain). At transaction level, the import price fluctuated from 3,15 CNY/kg to 5 895,72 CNY/kg, demonstrating a clear unreliability of the data. The Commission clarified that the import price spread of maleic anhydride to Colombia at transaction level was much smaller, i.e. between 6,8 CNY/kg and 14,6 CNY/kg, with 5 outlier transactions of 1 kg at a price between 127,61-543,14 CNY/kg. The Commission therefore rejected the claim that import prices of maleic anhydride should not be used.
- (138) Concerning the claim on discriminatory determination of the constructed normal value due to nitric acid benchmark established at the FOB level, the Commission explained in recitals (129) and (136) why it considered the import statistics of nitric acid to Colombia and the international import benchmark as unreliable. In the same recitals, the Commission further set out argument why the international export benchmark is the most reliable source of data. The Commission considers that the applied approach is in line with Article 2(6a) of the basic Regulation. If import prices of a factor of production in the representative country could be considered representative, such import price was used; if not, the Commission resorted to an alternative approach to establish a suitable benchmark price.
- (139) For three factors of production, namely hydrochloric acid, liquid oxygen and liquid alkali, the actual costs incurred by the cooperating exporting producers represented a negligible share of total raw material costs in the review investigation period. As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission decided to include those costs into consumables.
- (140) The Commission expressed the transport costs incurred by the cooperating exporting producers for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost. The Commission considered that, in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

### 3.2.3.3. By-products

- (141) The Commission analysed the accounting practices of the sampled Chinese exporting producers pertaining to by-products and waste. As a result, the Commission has used the quantities of waste products sold and reduced the cost of production, using Colombian prices of the HS code if available.
- (142) For those waste products for which only a price for the primary product was available, in the absence of any other data available, the Commission has taken the ratio between the price in the PRC for the waste product compared to the price in the PRC for the primary product reported by the exporting producers. The ratio there between has thereafter been applied to the price for the primary product in Colombia, as derived from the GTA.

#### 3.2.3.4. Labour

- (143) The Commission used the last publicly available data from ILO statistics <sup>(87)</sup> to determine the wages in the industry sector in Colombia. The average monthly value in the investigation period has been duly adjusted for other contributions by adding the social security paid by the employer including pension and professional risk tax: 12 % as employer contribution to the pension fund, 8,5 % for health insurance, and 6,5 % for payroll taxes <sup>(88)</sup> <sup>(89)</sup>. The average hourly labour cost per FTE amounts to 19,99 CNY/man-hour.
- (144) In reply to the Second Note, the complainant claimed that the constructed labour cost by the Commission, including extra charges of 27 % for pension contributions, health insurance and payroll taxes, that converts to USD 2,0166/man-hour as a basic salary costs, is very low. The complainant referred to the constructed labour cost in the complaint, which was 7,56 EUR/man-hour.
- (145) The Commission noted that the complainant has not challenged the methodology applied by the Commission but rather the resulting amount. It also noted that the complainant failed to submit an alternative proposal for labour costs. The claim was therefore rejected, and the Commission applied the constructed labour cost as set out in recital (143).

#### 3.2.3.5. Electricity

- (146) The price of electricity for companies (industrial users) in Colombia is published by Enel <sup>(90)</sup>. The Commission used the industrial electricity prices in the investigation period. The price per kWh taken from this source amounted to CNY 1,43.
- (147) In reply to the Second Note, Xinjiang Guolin observed that the exact source information and the underlying calculations for electricity and water have not been provided in the Second Note.
- (148) The Commission disclosed the source information for electricity in recital (146) and water in recital (152).

#### 3.2.3.6. Natural gas

- (149) The Commission used the price of gas for businesses in Colombia as published by GlobalPetroPrices <sup>(91)</sup> on its website. The Commission used the average price of natural gas for businesses in Colombia during the investigation period (i.e. 46 Euro per MWh or CNY 360 per MWh). These rates include all taxes, fees, and other components of the gas bill. It is noted that 1 m<sup>3</sup> of natural gas ≈ 10,55 kWh. Therefore, the nominal cost of natural gas is CNY 3,8 per cubic meter.

#### 3.2.3.7. Steam

- (150) The cost of steam has been determined by using the cost of natural gas expressed as kWh and the quantity of gas expressed as kWh needed to produce 1 tonne steam. The Commission took account of generally recognized energy conversion rates to calculate that 879,8 kWh are needed to convert 1 tonne of water to steam at 13 bar. This is equal to 83,33 m<sup>3</sup> of natural gas required to produce 1 tonne of steam.
- (151) The complainant, based on data from its own production processes, asserted that 1 025 kWh are needed to produce 1 tonne of steam, and not 879,8 kW as stipulated by the Commission. This claim was not substantiated by evidence; therefore the Commission rejected the claim.

<sup>(87)</sup> ILOSTAT Data Explorer: Mean nominal monthly earnings of employees by sex and economic activity – Sector Industry.

<sup>(88)</sup> <https://www.dlapiperintelligence.com/goingglobal/tax/index.html?t=19-employment-taxes>.

<sup>(89)</sup> <https://actualicese.com/cuanto-le-cuesta-a-un-empleador-la-contratacion-de-un-trabajador-que-devengue-un-salario-minimo/>.

<sup>(90)</sup> See <https://www.enel.com.co/es/personas/tarifas-energia-enel-distribucion.html>. For each month, prices are reported for Tarifas de energía eléctrica (\$/kWh)/ Sector no residencial/Nivel 3/Industrial sin contribucion/Doble horario (day and the night).

<sup>(91)</sup> [https://www.globalpetrolprices.com/natural\\_gas\\_prices/](https://www.globalpetrolprices.com/natural_gas_prices/)

### 3.2.3.8. Water

(152) The cost of water was determined on the basis of the cost of water from a Colombian water supplier <sup>(92)</sup>, taking into account variable costs per m<sup>3</sup> and fixed costs distributed between the quantities of consumption of water.

### 3.2.3.9. Manufacturing overhead costs, SG&A costs and profits

(153) According to Article 2(6a)(a) of the basic Regulation, “*the constructed normal value shall include an undistorted and reasonable amount for administrative, selling and general costs and for profits*”. In addition, a value for manufacturing overhead costs needs to be established to cover costs not included in the factors of production referred to above.

(154) The Commission used the latest available 2023 data for the Colombian company Sucroal S.A. as a basis for the establishment of the SG&A costs and profit rates to construct normal value. As the data extracted from Supersociedades and reported in the Second Note had been updated, and in order to ensure that the calculations were based on the latest available data, the Commission obtained the latest financial data from the Colombian authorities <sup>(93)</sup> and used these data for the calculations.

(155) The Commission considered that the rates so established would lead to reasonable amounts for SG&A costs and for profit within the meaning of Article 2(6a) of the basic Regulation at the ex-works level.

(156) Xinjiang Guolin noted that the data provided by Sucroal S.A. include “other operating costs” and requested that more detailed data is provided to ensure that these do not include expenses such as freight, handling, insurance and banking costs that are excluded during the calculation of the ex-works export price. No further breakdown was readily available for the SG&A costs of Sucroal S.A. taken from the Supersociedades or Orbis database.

(157) In reply to the First Note, L. Brüggemann submitted a comment concerning the calculation of the SG&A costs and profit of the selected producers in Colombia and Türkiye claiming that the Commission used a negative integer for the financial profit/loss data, instead of a positive integer. As a result of erroneously using the negative integer, SG&A expenses were presumed to be higher than the “Other operating expenses & income (P/L)”.

(158) With regard to the comments of L. Brüggemann, the Commission concluded that the SG&A costs percentage had been calculated correctly, applying the methodological approach used by the Commission. The SG&A percentage was calculated by first subtracting financial revenues from other operating expenses, then adding financial expenses, and finally dividing the result by the cost of goods sold. This calculation resulted in SG&A costs rate of 17,72 % for Turkish producers and 23,34 % for Colombian producers, rather than the revised rates proposed by L. Brüggemann. Therefore, the claim was rejected. For the Second Note, the Commission collected readily available financial data directly from the Colombian authorities and updated the calculation of the SG&A costs.

(159) The manufacturing overheads incurred by the sampled exporting producers were expressed as a share of the costs of manufacturing actually incurred by these exporting producers. This percentage was applied to the undistorted costs of manufacturing. The Commission applied the sampled exporting producers’ reported costs of depreciation and costs for maintenance.

### 3.2.4. Calculation

(160) On the basis of the above, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6a)(a) of the basic Regulation.

<sup>(92)</sup> <https://www.acueducto.com.co/>

<sup>(93)</sup> Supersociedades is an official body linked to the Colombian Ministry of Commerce, Industry and Tourism, as noted in <https://www.supersociedades.gov.co/web/nuestra-entidad>.

- (161) First, the Commission established the undistorted manufacturing costs. The Commission applied the undistorted unit costs to the actual consumption of the individual factors of production of the cooperating exporting producer. These consumption rates provided by the applicant were verified during the verification visit. The Commission multiplied the usage factors by the undistorted costs per unit observed in Colombia, as described in recital (123). Once the undistorted manufacturing cost established, the Commission applied the manufacturing overheads as noted in recitals (153), (155) and (159). To the undistorted costs of production thus established, the Commission applied SG&A costs and profit of Sucroal S.A. SG&A expressed as a percentage of the Costs of Goods Sold ('COGS') and applied to the undistorted costs of production, amounted to 23,3 %. The profit expressed as a percentage of the COGS and applied to the undistorted costs of production, amounted to 9,5 %.
- (162) On that basis, the Commission constructed the normal value per product type on an ex-works basis in accordance with Article 2(6)(a) of the basic Regulation.

### 3.3. Export price

- (163) The sampled exporting producers exported the product concerned either directly or, in the case of Xinjiang, through a related company in the PRC to independent customers in the Union. For the exports of the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.
- (164) For the exporting producer that exported the product concerned to the Union through a related company, the export price was established on the basis of the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation. The adjustment for SG&A expenses was made based on the SG&A of the related trader. Considering the lack of information on profit from cooperating independent importers, the Commission relied provisionally on the profit at the level of 6,89 % considered reasonable in a previous investigation concerning imports of certain polyvinyl alcohols originating in the PRC. <sup>(94)</sup>

### 3.4. Comparison

- (165) Article 2(10) of the basic Regulation requires the Commission to make a fair comparison between the normal value and the export price at the same level of trade and to make allowances for differences in factors which affect prices and price comparability. In the case at hand the Commission chose to compare the normal value and the export price of the sampled exporting producers at the ex-works level of trade. As further explained below, where appropriate, the normal value and the export price were adjusted in order to: (i) net them back to the ex-works level; and (ii) make allowances for differences in factors which were claimed, and demonstrated, to affect prices and price comparability

#### 3.4.1. Adjustments made to the normal value

- (166) As explained in recital (160), the normal value was established at the ex-works level of trade by using costs of production together with amounts for SG&A costs and for profit, which were considered to be reasonable for that level of trade. Therefore, no adjustments were necessary to net the normal value back to the ex-works level.
- (167) The Commission found no reasons for making any allowances to the normal value, nor were such allowances claimed by any of the sampled exporting producers.
- (168) Xinjiang Guolin requested, by referring to a ruling of the General Court <sup>(95)</sup>('Sinopec'), that the SG&A ratio of Sucroal S.A. should be adjusted in order to exclude certain selling, general and administrative category of expenses that may be included within its own export price, when the comparison is carried out on an ex-works basis. Xinjiang Guolin requested the Commission not take any distribution costs into account for calculating the amount for SG&A so that the constructed normal value can be compared with the export price at the ex-works level.

<sup>(94)</sup> Commission Implementing Regulation (EU) 2020/ of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China.

<sup>(95)</sup> Judgment of 21 February 2024, *Sinopec Chongqing SVW Chemical Co. Ltd and Others v European Commission*, T-762/20, ECLI:EU:T:2024:113.

- (169) The Commission noted that no further breakdown was readily available for the SG&A costs of Sucroal S.A. taken from the Colombian or Orbis database. The Commission also noted that, in its judgement in ‘CCCME’ <sup>(96)</sup>, which was subsequent to the judgement in Sinopec, the General Court first recalled that in accordance with the case-law, if a party claims adjustments under Article 2(10) of the basic Regulation in order to make the normal value and the export price comparable for the purpose of determining the dumping margin, that party must prove that its claim is justified. The burden of proving that the specific adjustments listed in Article 2(10)(a) to (k) of the basic regulation must be made lies with those who wish to rely on them. <sup>(97)</sup> It follows that, in that case, as in this investigation, it was for the interested parties, in accordance with that case-law, to demonstrate the need for the adjustment requested in support of evidence which they adduced during the investigation. <sup>(98)</sup>
- (170) The General Court then held that it should be noted that although the practice of making adjustments may prove to be necessary, under Article 2(10) of the basic Regulation, to take account of differences between the export price and the normal value which affect their comparability, such deductions cannot be made with respect to a value which has been constructed and which is not, therefore, genuine. That value is not generally affected by factors which might damage its comparability, because it has been artificially established. <sup>(99)</sup> Moreover, as in the case of CCCME, in the case at hand the construction of the normal value per product type on an ‘ex-works’ basis included a reasonable amount for SG&A costs and there was no information available showing that the SG&A costs of Sucroal S.A. concerned included the expenses at issue. Consequently, in view of the Commission’s discretion in the application of Article 2(10) of the basic Regulation <sup>(100)</sup>, the Commission’s approach adhered to the most recent case-law concerning unsubstantiated claims that amounts for SG&A costs used in the construction of the normal value under article 2(6a)(a), which are considered by the Commission to be reasonable for the ex-works level of trade, contain transport costs.
- (171) Furthermore, and independently from the judgment in CCCME, the proposed solution that the relevant cost items are maintained in the export-price would not address the issue identified by the exporting producer. Even if SG&A costs of Sucroal S.A. contained the relevant cost items (and this has not been demonstrated) it is virtually impossible that the value of these items would be comparable to those of the sampled exporting producers. Such values would not be similar in the domestic and export sales of one company. This is more so when data from two different companies are being compared. Removing them would therefore not address the claimed asymmetry between the normal value and the export price. The claim was therefore rejected.

#### 3.4.2. *Adjustments made to the export price*

- (172) In order to net the export price back to the ex-works level of trade, adjustments were made on the account of: inland transportation, ocean freight and insurance, and handling and loading.
- (173) Allowances were made for the following factors affecting prices and price comparability: credit cost and bank charges.
- (174) Finally, in those cases where sales for export to the Union were made through a related trader, adjustments were made, pursuant to Article 2(10)(i) of the basic Regulation for the mark-up received by the related trader, as it performed functions similar to those of an agent working on a commission basis. The mark-up was calculated as the addition of SG&A expenses and of accruing profits. The SG&A expenses were based on the data provided by the related trader. The profit 6,89 % was used as it had been considered reasonable in a previous investigation concerning imports of certain polyvinyl alcohols originating in the PRC. <sup>(101)</sup>

<sup>(96)</sup> Judgement of 2 October 2024, CCCME and Others v Commission, T-263/22, EU:T:2024:663, .

<sup>(97)</sup> Judgement of 2 October 2024, CCCME and Others v Commission, T-263/22, EU:T:2024:663, para. 183.

<sup>(98)</sup> Judgement of 2 October 2024, CCCME and Others v Commission, T-263/22, EU:T:2024:663, para. 185.

<sup>(99)</sup> Judgement of 2 October 2024, CCCME and Others v Commission, T-263/22, EU:T:2024:663, para. 188.

<sup>(100)</sup> Judgement of 2 October 2024, CCCME and Others v Commission, T-263/22, EU:T:2024:663, para. 184.

<sup>(101)</sup> Commission Implementing Regulation (EU) 2020/ of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People’s Republic of China.

### 3.5. Dumping margins

(175) For the sampled cooperating exporting producers, the Commission compared the weighted average normal value of each type of the like product with the weighted average export price of the corresponding type of the product concerned, in accordance with Article 2(11) and (12) of the basic Regulation.

(176) 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
Hubei Hongyuan Pharmaceutical Technology Co., Ltd.	27,2 %
Xinjiang Guolin New Materials Co., Ltd.	175,8 %

(177) For the cooperating exporting producers outside the sample, the Commission calculated the weighted average dumping margin, in accordance with Article 9(6) of the basic Regulation. Therefore, that margin was established on the basis of the margins of the sampled exporting producers.

(178) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 78,4 %.

(179) For all other exporting producers in the PRC, the Commission established the dumping margin on the basis of the facts available, in accordance with Article 18 of the basic Regulation. To this end, the Commission determined the level of cooperation of the exporting producers. The level of cooperation is the volume of exports of the cooperating exporting producers to the Union expressed as proportion of the total imports from the country concerned to the Union in the investigation period, that was established on data of specialised market intelligence providers of Chinese trade statistics (see recital (198)).

(180) The level of cooperation in this case is low because the imports of the cooperating exporting producers constituted around 47 % of the total exports to the Union during the investigation period.

(181) The Commission recalled that the Notice of Initiation <sup>(102)</sup> had informed interested parties that failure to cooperate, or only partial cooperation, could lead to findings based on facts available under Article 18 of the basic Regulation, potentially resulting in less favourable outcomes for those parties. Given that the interested parties were clearly warned of the consequences of non-cooperation, and that the level of cooperation in this case was particularly low, the Commission deemed it appropriate to determine the residual dumping duty based on a representative volume of sales by Xinjiang Guolin to the Union, during the investigation period. These sales were considered an appropriate proxy for reflecting the dumping behaviour of companies that chose not to cooperate.

(182) The residual dumping margin was therefore set at 280,3%.

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

Company	Provisional dumping margin
Hubei Hongyuan Pharmaceutical Technology Co., Ltd.	27,2 %
Xinjiang Guolin New Materials Co., Ltd.	175,8 %
Other cooperating companies	78,5 %
All other imports originating in country concerned	280,3 %

<sup>(102)</sup> Notice of initiation of an anti-dumping proceeding concerning imports of glyoxylic acid originating in the People's Republic of China, OJ C, C/2024/4751, 25.7.2024, ELI: <http://data.europa.eu/eli/C/2024/4751/oj>.

#### 4. INJURY

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

- (184) The like product was manufactured by one producer in the Union during the investigation period. It constitutes the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (185) As the data relating to the injury assessment was derived from only one Union producer, the figures for the injury analysis are given in ranges for reasons of confidentiality. However, the indexes are based on actual data and not on the ranges.
- (186) The total Union production during the investigation period was in the range of 10 000 to 12 000 tonnes. The Commission established the actual figure on the basis of a verification of the audited reports of the only known Union producer, namely WeylChem Lamotte SAS.

##### 4.2. Determination of the relevant Union market

- (187) 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 subsequent use of the Union industry's production of the like product had to be taken into account in the analysis.
- (188) The Commission found that certain part of the sampled Union producer's production was destined for captive use. The Union industry uses part of their glyoxylic acid production as an intermediate material to produce 2-coumaranone and to a lesser degree allantoin. The product was delivered within the same company at transfer prices in its accounts at the level of the manufacturing cost per unit for further downstream processing. The distinction between captive and free market is relevant for the injury analysis because products destined for captive use are not exposed to direct competition from imports. By contrast, production destined for free market sale is in direct competition with imports of the product concerned.
- (189) To provide a picture of the Union industry that is as complete as possible, the Commission obtained data for the entire product activity and determined whether the production was destined for captive use or for the free market.
- (190) The Commission examined certain economic indicators relating to the Union industry on the basis of data for the free market of glyoxylic acid. These indicators are: sales volume and sales prices on the Union market; market share; growth; export volume and prices; profitability; return on investment; and cash flow. Where possible and justified, the findings of the examination were compared with the data for the captive market in order to provide a clear picture of the situation of the Union industry.
- (191) However, other economic indicators could meaningfully be examined only by referring to the whole activity, including the captive use of the Union industry. These are: production; capacity, capacity utilisation, investments, stocks, employment, productivity, wages, and ability to raise capital. They depend on the whole activity, whether the production is captive or sold on the free market.

##### 4.3. Union consumption

- (192) The Commission established the Union consumption on the basis of (i) the verified sales of the only known Union producer, the captive use of the only known Union producer and (ii) the imports from the country concerned and from all other third countries.

(193) Union consumption developed as follows:

Table 2

**Union consumption (tonnes)**

	2021	2022	2023	Investigation period
Total Union consumption	[32 800 – 34 800]	[30 600 – 32 600]	[23 600 – 25 600]	[23 900 – 25 900]
<i>Index</i>	100	93	71	72
Captive use	[5 300 – 6 300]	[5 300 – 6 300]	[4 200 – 5 200]	[3 000 – 4 000]
<i>Index</i>	100	101	78	63
Free market	[27 500 – 29 500]	[25 300 – 27 300]	[19 400 – 21 400]	[20 900 – 22 900]
<i>Index</i>	100	92	69	74

Source: Questionnaire reply of the known Union producer, information provided by the complainant.

- (194) Glyoxylic acid is sold as two preparations, either a 50% solution of glyoxylic acid or crystals of glyoxylic acid monohydrate. To compare the different types of glyoxylic acid, the Commission noted that one tonne of glyoxylic acid typically contains 78,8 % of glyoxylic acid, whereas one tonne of glyoxylic acid solution typically contains 50 % glyoxylic acid. The Commission therefore considers that one tonne of glyoxylic acid crystals is equivalent to 1,576 tonnes of glyoxylic acid solution. Since, the only known producer of glyoxylic acid crystals is Xinjiang Guolin, the conversion has only been applied to their quantity of crystals exported to the EU.
- (195) Based on this analysis, after a slight decline in 2022 and a more substantial one in 2023—likely due to the energy crisis affecting the chemical industry <sup>(103)</sup> <sup>(104)</sup>— free market consumption in the investigation period increased but was still 26% lower than 2021 levels. Total EU consumption followed a similar pattern and was 28 % lower than the 2021 levels.
- (196) The Union producer utilises a part of its glyoxylic acid production internally for the production of downstream products. The captive market showed a gradual decrease over the period considered, resulting in a 37 % decrease in volume, in line with the general decrease in chemical industry output in the period considered, see recital (195).

#### 4.4. Imports from the country concerned

##### 4.4.1. Volume and market share of the imports from China

- (197) As glyoxylic acid currently falls under a 'basket' CN code 2918 30 00, that is a CN code that includes a multitude of chemicals, it was not possible to assess import statistics from Eurostat. Instead, import statistics were based on data of specialised market intelligence providers of Chinese trade statistics to which the complainant has a subscription, China being the only country outside the EU producing glyoxylic acid, which is a fact also validated by users in the Union.
- (198) The source of the data concerning the Chinese imports could not be disclosed at the request of the data provider. However, the Commission validated the data provided by the complainant with other available statistical sources (Eurostat and Surveillance) and with the sampling and questionnaire replies of the cooperating Chinese exporting producers. [

<sup>(103)</sup> Chemicals production and consumption statistics - Statistics Explained.

<sup>(104)</sup> 2024 Facts and Figures of the European Chemical Industry - cefic.org.

- (199) The market share of the Chinese imports was established by comparing import volumes with the Union market consumption (see Table 2 above).
- (200) Imports into the Union from the country concerned developed as follows:

Table 3

**Import quantity and market share**

	2021	2022	2023	Investigation period
Volume of imports from the PRC (tonnes)	17 978	18 640	15 744	15 705
<i>Index</i>	100	104	88	87
Market share (%) on free market	[60 % – 65 %]	[68 % – 73 %]	[76 % – 81 %]	[71 % – 76 %]
<i>Index</i>	100	113	126	118

*Source:* Specialised market intelligence, Sampling and Questionnaire replies of cooperating exporting producers

- (201) Table 3 shows a temporary decline in imports from China in 2023, linked to the overall decline in Union consumption, as clarified in section 4.3. Despite the decrease in volumes, Chinese imports increased their share in the market by 26 % in the same period. It also shows that while during the period considered imports from the PRC decreased by 2 273 tonnes, or 13 %, due to the contracting market, this translated into an increase of 18 % in the total market share (by 11 percentage points) of the Chinese imports into the Union during the same period.

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

- (202) The Commission established the prices of imports on the basis of the specialised market intelligence indicated in recital (197). Price undercutting of the imports was established on the basis of verified questionnaire replies of the sampled exporting producers in the PRC.
- (203) The weighted average price of imports into the Union from China developed as follows:

Table 4

**Import prices (EUR/tonne)**

	2021	2022	2023	Investigation period
Price of imports from the PRC	1 259	1 376	1 218	1 146
<i>Index</i>	100	109	97	91

*Source:* Specialised market intelligence, Sampling and Questionnaire replies of cooperating exporting producers

- (204) The weighted average price of Chinese imports increased in 2022, a year that was characterised by exceptionally high ocean freight costs. With the return to normal transport conditions, the price in 2023 returned to pre-container crisis levels, and in the investigation period it decreased even further. During the period considered, the decrease of the average unit price of the Chinese imports amounted to 9 %. Chinese import prices were constantly below the Union industry's sales prices, as shown in Tables 4 and 8.

- (205) The Commission further considered other price effects, in particular the existence of significant price suppression. As mentioned in recital (226), in the period considered the Union industry saw a marked increase in its unit production costs, driven both by indirect costs on a per unit basis and the prices of energy and raw materials. Given that in the same period the price of imports from the PRC decreased significantly (recital (204)), the Union industry was unable to increase its selling price to cover its cost of production. This price suppression, described in recital (227), further confirmed that the dumped imports from the PRC resulted in loss of profitability to the Union industry.
- (206) The Commission determined the price undercutting during the investigation period by comparing:
- (1) 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
  - (2) the corresponding weighted average prices per product type of the imports from the sampled cooperating country name producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs.
- (207) 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. In particular, the solid form quantity exported by Xinjiang Guolin was converted to the equivalent quantity of glyoxylic solution by applying the glyoxylic acid content of the solution. The result of the comparison was expressed as a percentage of the sampled Union producers' theoretical turnover during the investigation period. It showed a weighted average undercutting margin of between 13 % and 30 % by the imports from China on the Union market. Undercutting was found for 100 % of the imported volumes of the sampled companies.

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

##### 4.5.1. *General remarks*

- (208) 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.
- (209) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the macroeconomic and the microeconomic indicators on the basis of data contained in the complaint and the questionnaire reply of the known Union producer. As no other Union producers are known to the Commission, both sets of data were found to be representative of the economic situation of the Union industry.
- (210) 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.
- (211) 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**

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

Table 5

**Production, production capacity and capacity utilisation**

	2021	2022	2023	Investigation period
Production quantity (tonnes)	[23 000 – 26 000]	[19 000 – 22 000]	[8 000 – 11 000]	[9 000 – 12 000]
<i>Index</i>	100	83	41	47
Production capacity (tonnes)	[25 000 – 28 000]	[25 000 – 28 000]	[25 000 – 28 000]	[25 000 – 28 000]
<i>Index</i>	100	100	100	100
Capacity utilisation	93 %	77 %	38 %	43 %
<i>Index</i>	100	83	41	47

Source: WeylChem Lamotte SAS questionnaire reply

(213) During the period considered, the free market showed a steep contraction in 2023 followed by a stabilisation at levels 26% lower than 2021 in the investigation period (See Table 2). Union production had fallen significantly in 2022 and even more in 2023, whereas dumped imports rose in 2022 and during 2023 they were not as significantly impacted by the market contraction, gaining market at the expense of the Union industry. In the investigation period, the Union industry's production volume increased only marginally, despite their lowering the price by 28 percentage points (see Table 8). Even at that level of prices, the Union industry was in competition against dumped imports from the PRC, which as from 2021, and through the investigation period, came in at prices significantly below the Union industry's cost of production. As the product cannot be stored for long periods of time and storage capacity is limited, the Union industry had to adjust the reduced production to lower volumes. This in turn significantly reduced the capacity utilisation.

(214) The reported production capacity refers to installed capacity for glyoxylic acid. The same production procedure also produces oxalic acid as a by-product of glyoxylic acid production. Oxalic acid production reduced at the same rate as the glyoxylic acid production. As the price is much lower, the impact of this reduction is not significant.

#### 4.5.2.2. Sales quantity and market share

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

Table 6

**Sales quantity and market share**

	2021	2022	2023	Investigation period
Free market sales	[10 000 – 11 000]	[7 000 – 8 000]	[3 500 – 4 500]	[5 000 – 6 000]
<i>Index</i>	100	71	38	52
Market share of free market sales %	[30 – 40]	[25 – 35]	[12 – 22]	[20 – 30]
<i>Index</i>	100	78	54	70

Source: WeylChem Lamotte SAS questionnaire reply

- (216) The Union industry's sales volumes on the Union market show a marked decrease in 2022, followed by an even more considerable contraction in 2023. In the investigation period, the sales on the free market expanded compared to 2023 but were only slightly above half of its sales volumes in 2021.
- (217) During the period considered, the Union industry's market share in terms of Union free market consumption decreased significantly in 2022 and 2023. By offering prices 20 % lower than the cost of production in the investigation period (Table 8), the Union industry was able to regain 5% of the market in the investigation period, resulting in a 30 % loss of market share over the period considered.

#### 4.5.2.3. Growth

- (218) Union free market consumption decreased by 26 % during the period considered (see Table 2), while the sales volume of the Union industry in the Union market decreased by 48 % (see Table 6) . As a result, Union industry experienced a significant 30 % loss of market share. Conversely, the market share of the dumped imports from the PRC increased by 18 % during the period considered (see Tables 3 and 6).

#### 4.5.2.4. Employment and productivity

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

Table 7

#### Employment and productivity

	2021	2022	2023	Investigation period
Number of employees	[130 – 140]	[130 – 140]	[125 – 135]	[120 – 130]
Index	100	98	94	92
Productivity (tonnes/ employee)	[155 – 190]	[131 – 160]	[67 – 82]	[78 – 96]
Index	100	84	44	50

Source: WeylChem Lamotte SAS questionnaire reply

- (220) The Union industry decreased its workforce throughout the period considered, as its production and sales volumes decreased. It should be noted though that while production volumes were significantly lower during the investigation period as a result of very low sales volume caused by dumped imports, the known Union producer chose to retain all employees related to the production procedure, as they are the bare minimum of employees required, and only reduced the administration and management staff. However, under the pressure of the dumped imports the company announced in December 2024 that employment at the plant will be dramatically decreased due to the decrease in glyoxylic acid sales, resulting in about 100 job cuts out of the total 400 employees at the plant.
- (221) Productivity during the period considered follows closely the trend observed for production: significant decrease in 2022, even more severe in 2023 and stabilisation in the investigation period. The decision of the known Union producer not to lay off employees despite the decline in production, impacts the indicator observed during this period.

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

- (222) All dumping margins were significantly above the de minimis level. The impact of the magnitude of the actual margins of dumping on the Union industry was substantial, given the volume and prices of imports from the country concerned.
- (223) 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

- (224) 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 8

**Sales prices in the Union**

	2021	2022	2023	Investigation period
Average unit sales price on the free market (EUR/tonne)	[1 700 – 2 000]	[2 700 – 3 000]	[2 400 – 2 700]	[1 900 – 2 200]
<i>Index</i>	100	157	140	112
Average unit price for captive use (EUR/tonne)	[1 100 – 1 400]	[1 900 – 2 200]	[1 800 – 2 100]	[1 600 – 1 900]
<i>Index</i>	100	162	153	138
Unit full cost of production (EUR/tonne)	[1 600 – 1 900]	[2 700 – 3 000]	[2 850 – 3 150]	[2 350 – 2 650]
<i>Index</i>	100	164	171	145

Source: WeylChem Lamotte SAS questionnaire reply

- (225) Sales prices both in the captive and in the free market increased significantly in 2022 in line with the increase in cost per unit. In 2023, and despite the further increase in cost, sales prices in the free market decreased in relation to 2022, but remained much higher than in 2021, thus leading to the significant loss of market share to Chinese competitors, whose products were much cheaper throughout the period considered, as shown in Tables 4 and 8. In the face of this competition, the Union industry further decreased the free market price in the investigation period, arriving at a sales price that was much lower than the unit cost and only 12 % higher than the 2021 price. On the other hand, the captive price was 38 % higher than in 2021, reflecting the 45 % increase in costs over the same period.
- (226) The unit production cost rose significantly in 2022 and further increased in 2023 and it then decreased in the investigation period. For 2022, major drivers were the increase in energy costs and raw materials and the decrease in production due to the reduction in sales volumes as seen in Table 6. In 2023, this effect was very pronounced, as the same labour force and facilities produced approximately half the quantity, due to the reduction of the market and the competition by the dumped imports. In the investigation period, the pressure from raw materials and energy receded and the sales and production somewhat increased in comparison to 2023, leading to a slight reduction in cost, however the cost per unit was still 45 % higher than in 2021.
- (227) During the entire period considered, the margin between the average unit sales price and the unit cost of production, which was initially at a profitable level, first declined to zero and then increasingly turned negative. This occurred because the Union industry was unable to raise prices to offset rising costs in view of the surge of dumped imports.

## 4.5.3.2. Labour costs

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

Table 9

**Average labour costs per employee**

	2021	2022	2023	Investigation period
Average labour costs per employee (EUR)	[69 000 – 74 000]	[73 000 – 78 000]	[76 000 – 81 000]	[81 000 – 86 000]
<i>Index</i>	100	106	110	116

Source: WeylChem Lamotte SAS questionnaire reply

- (229) During the period considered, the average wage per employee increased by 16 %, in line with the yearly increases in labour cost in France <sup>(105)</sup>.

#### 4.5.3.3. Inventories

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

Table 10

**Stocks**

	2021	2022	2023	Investigation period
Closing stock (tonnes)	[310 – 380]	[310 – 370]	[270 – 330]	[170 – 210]
<i>Index</i>	100	99	88	56
Closing stock as a percentage of production (%)	[1 % – 2 %]	[1 % – 2 %]	[2,5 % – 3,5 %]	[1,5 % – 2,5 %]
<i>Index</i>	100	121	214	121

Source: WeylChem Lamotte SAS questionnaire reply

- (231) The production is made in batches and glyoxylic acid may not be stored for a long time. As the storage capacity is limited, the level of stocks is relatively stable as a ratio of production. However, in 2023, due to sharp decline in free market sales, there was a doubling of the closing stocks, that returned to previous levels once the Union industry reduced their prices to cost level.

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

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

<sup>(105)</sup> Labour cost index - recent trends - Statistics Explained.

Table 11

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

	2021	2022	2023	Investigation period
Profitability of sales in the Union to unrelated customers (% of sales turnover)	[9 % – 11 %]	[6 % – 8 %]	[- 11% to - 14%]	[- 20 % to - 24 %]
<i>Index</i>	100	69	- 119	- 213
Cash flow (000 EUR)	[500 – 1 500]	[- 900 to 100]	[- 2 000 to - 3 000]	[- 4 500 to - 5 500]
<i>Index</i>	100	- 55	- 265	- 411
Investments (000 EUR)	-	[ 500 – 2 000]	[7 000 – 9 000]	[4 000 – 6 000]
<i>Index</i>	-	100	860	480
Return on investments (%)	[6 % – 8 %]	[2 % – 3 %]	[- 18 to - 22 %]	[- 10 to - 15 %]
<i>Index</i>	100	33	- 277	- 160

Source: WeylChem Lamotte SAS questionnaire reply

- (233) Profitability was at a healthy level for the first two years of the period considered but turned into very high losses in the investigation period in view of the continued increase in the dumped imports and lower prices, leading to lost sales and a severe decrease in production.
- (234) The net cash flow is the ability of the Union producers to self-finance their activities. The trend in net cash flow followed a similar pattern to that of profitability throughout the period considered, notably a sharp decrease in 2022 and significant negative values in 2023 and in the investigation period.
- (235) No investments were recorded in 2021, but in 2022 the green transition and the need to reduce energy costs prompted the Union industry to upgrade plant and machinery to improve its efficiency, and thus ramp up its productivity level. The resources created by the investment have not been utilised and the expected increased profitability due to lower production costs did not materialise due to the reduced demand.
- (236) The return on investments is the profit in percentage of the net book value of investments. Consistent with the profitability, it was at a healthy level in 2021 but took a sharp downward turn in 2022 and reached a significant negative level in the investigation period.
- (237) The known Union producer's ability to raise capital was severely hampered as its cash flow and profitability reached significant negative levels in the investigation period following the 53% decrease in production.

#### 4.6. Conclusion on injury

- (238) The Union industry performed well at the beginning of the period considered, with injury indicators generally at healthy levels in 2021. Until 2022, it utilised the production capacity and enjoyed a healthy level of profitability.

- (239) However, 2022 with the increase of Chinese imports at low prices, saw a decrease in sales, market share and profitability as well as a correlated decrease in productivity. In 2023, the entry of severely dumped imports from China in the EU market and a decrease in demand, resulted in a sharp deterioration of the situation on the market for the Union industry, with a marked reversal in profitability and cash flow. In the investigation period, despite a slight increase in sales and production due to the increase in demand, this deterioration was further accentuated when all injury indicators (in particular profitability, cash flow and return on investments) reached significant negative levels.
- (240) The Union industry faced increasing costs of production that it was unable to pass on in the form of price increases given undercutting by imports from the PRC, (224) to (227). It started losing sales volumes towards the end of 2022, which was reflected also in loss of market share of 11 percentage points or 30 % decrease, during the period considered. In reaction, it had to reduce its production by 53 %.
- (241) While the absolute volume of imports from the PRC decreased by 13 % during the period considered, in view in the fall of consumption by a larger rate (-26 %), they gained 18% or 11 percentage points in market share. Prices of imports from the PRC initially increased by 9 % in 2022. However, in 2023 prices of imports from the PRC decreased to levels 3 % lower than in 2021, and further decreased in the investigation period to a level 9 % lower than in 2021. In view of the low prices of the Chinese imports, the Union industry resorted to selling at prices much lower than the cost of production(which increased due to higher raw material and energy prices), leading to losses and to a 53 % decrease in production.
- (242) The only injury indicators which did not see significant deterioration during the period considered were production capacity, sales prices of the Union industry and total investment. Capacity remained stable, as no changes were implemented to the production procedure in the investigation period. Sales prices increased in 2022 and then decreased in 2023 and in the investigation period, resulting in an overall 12 % increase in the period considered. Due to the dumped imports, the 12 % increase in price was far lower than the 45 % increase in unit cost resulting in the price in the investigation period being approximately 20 % lower than the production cost. The decreasing and then increasingly negative margin between the sales price and the cost per unit resulted in sharp reversal in profitability and cashflow. Total investment was positive, due to an energy savings project designed and initiated before the significant downturn in the industry's outlook. However, due to the market's situation, this project did not result in the expected improvement in profitability.
- (243) In summary, a 35 % increase in imports from PRC at prices that decreased by 10 % during the period considered and significantly undercut Union sales prices coincided with the Union industry seeing a dramatic reversal of its performance across the injury indicators, culminating in significant losses and a halving of production quantity over the period considered.
- (244) 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

- (245) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are: contraction in demand, export performance of the Union industry, captive use, and cost increases in raw materials and energy prices.

### 5.1. Effects of the dumped imports

- (246) As set out in section 4.4.1, the market share of dumped imports of glyoxylic acid increased by 18 % (or 11 percentage points) in the period considered. During the same period, as set out in recitals (215) to (217), the Union industry saw its sales volume decrease by 48 % and its market share by 30 %(or 11 percentage points).

- (247) As shown in section 4.4.2, the Chinese imports were significantly undercutting the Union industry prices throughout the period considered, leading to an increasing deterioration of the situation of the Union industry. Chinese imports also led to price suppression during the investigation period, when the Union industry was incapable of selling above its costs in view of the pressure derived from the dumped imports (section 4.5.3.1).
- (248) Therefore, the Commission concluded that a significant increase in market share for dumped imports from the PRC at prices that were significantly undercutting Union prices, caused material injury to the Union industry.

## 5.2. Effects of other factors

### 5.2.1. Imports from third countries

- (249) There are no other producers of the product concerned in any third countries, see recital (197). Neither import volumes nor import prices from other third countries are therefore a cause of injury being inflicted on the Union industry.

### 5.2.2. Export performance of the Union industry

- (250) The volume of exports of the known Union producer developed over the period considered as follows:

Table 12

#### Export performance of the Union producer

	2021	2022	2023	Investigation period
Export volume (tonnes)	[7 000 – 8 000]	[6 000 – 7 000]	[1 500 – 2 500]	[2 500 – 3 500]
<i>Index</i>	100	79	28	40
Average price (EUR/tonne)	[1 500 – 1 800]	[2 400 – 2 700]	[1 800 – 2 100]	[1 600 – 1 900]
<i>Index</i>	100	160	127	116

Source: WeylChem Lamotte SAS questionnaire reply

- (251) The export volume of the Union industry was 72-82 % of its domestic sales on the Union market in 2021-22, and 85% to 95% of its domestic sales price. It followed a decreasing trend and later in 2023 and in the investigation period, it represented 55-56 % to its sales on the Union market. The average sales price for exports also followed a similar trend than that of domestic sales, increasing as a result of higher cost of production and then decreasing due to competition with Chinese exporters on these markets.
- (252) The United States and the UK have been by far the most important export markets of the Union industry, and the main reason for the decrease in exports was an increase in imports from the PRC resulting for example in the loss of significant client in the UK. The investigation found that Chinese exports to third country markets, including the United States, are also sold below the normal value. The Union industry could, thus not compete against such sales on these markets.
- (253) The loss of export sales volume had a negative effect on the production volume and capacity utilisation of the Union producer, thus further contributing to a significant increase in its fixed costs per unit produced.
- (254) Therefore, the Commission provisionally concluded that the export performance of the Union industry did not attenuate the causal link between the dumped imports from the country concerned and the material injury found.

5.2.3. *Cost increases in raw materials and energy prices*

(255) As set out in recital (226), the Union industry’s cost of production increased mainly due to price increases of energy. Until 2022 the Union industry could to some extent increase its prices in reaction to the increase in the cost of production. However, during 2023 and in the investigation period, when the energy prices had begun to normalise, it was still not possible to set a profitable sales price, given decreasing prices of imports from the PRC, as set out in recitals (201) and (204). Furthermore, the project to improve efficiency and thus reduce costs, had not become operational during the investigation period. In that context, in order to keep selling, the Union industry would have had to lower its selling prices to below the cost of production. Therefore, the cost increase did not attenuate the causal link found.

5.2.4. *Consumption*

5.2.4.1. *Contraction in demand*

(256) As noted in section 4.5.2, the EU market fluctuated in the period considered with a contraction of 28 % in the investigation period in relation to 2021. Regardless of the fluctuations in the market, the share of Chinese imports continued to increase even in periods of contraction and, furthermore, the EU industry was not able to maintain market share. A decline in the Union industry sales volumes proportionate to the decline in demand would have been in the order of 2 000 to 3 000 tonnes, whereas now, due to the opposite development of Chinese imports, it amounted to 5 000 to 6 000 tonnes. Therefore, the contraction in demand in the market did not attenuate the causal link.

5.2.4.2. *Captive use*

(257) The quantities dedicated to captive use and the weighted average unit sales prices for captive use of the sampled Union producer developed over the period considered as follows:

Table 13

**Captive use**

	2021	2022	2023	Investigation period
Captive use (tonnes)	[5 300 – 6 300]	[5 300 – 6 300]	[4 200 – 5 200]	[3 000 – 4 000]
<i>Index</i>	100	101	78	63
Average captive use value (EUR/tonne)	[1 100 – 1 400]	[1 900 – 2 200]	[1 800 – 2 100]	[1 600 – 1 900]
<i>Index</i>	100	162	153	138

(258) The captive market experienced a gradual contraction in quantity, resulting in a 37% decrease in the period considered. The decrease in volume was however smaller than the 47% decrease in the much larger free market which was under the direct pressure of the Chinese imports. The faster decline of sales thus resulted in the captive market increasing its share of the EU industry production. The price decrease of the captive use was also less steep. Therefore, the decline in the captive market did not attenuate the causal link between dumped imports and injury.

(259) The effect of other factors can be seen as accentuating the impact of the injury that dumped imports to the Union. The severe loss in the Union industry’s profitability was not due to the cost of production itself or the fluctuation of the market but rather to their inability to increase prices or sales in the Union free market (their most significant outlet by far) in order to match their costs.

### 5.3. Conclusion on causation

- (260) As set out in recitals (232) to (237), starting from 2022 the Union industry saw deterioration of its performance, that dramatically accentuated in 2023 and in the investigation period as evidenced across practically all injury indicators and in particular profitability, cash flow and return on investments that reached significant negative levels.
- (261) This coincided with an 18 % increase in market share of imports from the PRC at prices that decreased by 9 % during the period considered and significantly undercut Union industry's sales prices. Chinese imports also suppressed the prices of the Union industry during the investigation period.
- (262) The Commission distinguished and separated the effects of factors -such as imports from other countries, exports performance, cost increases, contraction in demand and captive use, which were capable of affecting the situation of the Union industry from the injurious effects of the dumped imports. The effect of these factors on the Union industry's negative developments were however only limited, if any.
- (263) On the basis of the above, the Commission concluded at this stage of the investigation that the dumped imports from the country concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury found. The injury consists notably of reduced sales volume, profits, production, market share, productivity, return on investments and utilisation of production capacity.

## 6. LEVEL OF MEASURES

- (264) In the present case, the complainant claimed the existence of raw material distortions within the meaning of Article 7(2a) of the basic Regulation.
- (265) Thus, in order to conduct the assessment on the appropriate level of measures, the Commission first established the amount of duty necessary to eliminate the injury suffered by the Union industry in the absence of distortions under Article 7(2a) of the basic Regulation.
- (266) Then it examined whether the dumping margin of sampled exporting producers would be higher than their underselling margin.

### 6.1. Underselling margin

- (267) 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.
- (268) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country 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 %.
- (269) As a first step, the Commission established a basic profit covering full costs under normal conditions of competition. As the Union industry suffered loss during 2023 and even more so in the investigation period, the Commission set a target profit of 8,7 %, which is the average of the industry's profit margin for sales of the like product in the Union market for 2021 and 2022, the last two years the industry showed a profit.
- (270) On this basis, the non-injurious price is in the range of 2 500 to 3 800 EUR per tonne, resulting from applying the above-mentioned profit margin of 8,7 % to the cost of production during the investigation period of the sampled Union producer on a type-by-type basis. The export prices were duly adjusted by the customs duty (6,5 %) and by post-importation costs reported in questionnaire replies.

- (271) No claims were made by the Union Industry in accordance with article 7(2d) of the basic Regulation, regarding 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). Therefore, no adjustments were made to the non-injurious price mentioned in the previous recital.
- (272) The Commission then determined the underselling margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the PRC, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the Union producer 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. The Commission did not need to calculate the underselling margins as regards non-cooperating companies because of the findings of significant distortions under Article 7(2a).

Company	Dumping margin (%)	Underselling margin (%)
Hubei Hongyuan	27,2	112,9
Xinjiang Guolin	175,8	68,0
Other cooperating companies	78,5	97,3

## 6.2. Examination of the margin adequate to remove the injury to the Union industry

- (273) As explained in the Notice of Initiation, the complainant provided the Commission sufficient evidence that there are raw material distortions in the country concerned regarding the product under investigation. Therefore, in accordance with Article 7(2a) of the basic Regulation, in examining whether a duty lower than the margin of dumping would be sufficient to remove injury, the Commission took into account whether there are distortions on raw materials with regard to the product concerned.
- (274) According to the evidence in the complaint acetaldehyde and mono-ethylene glycol (MEG), accounting for between 20% and 30 % and between 30 % and 40 % of the cost of production of glyoxylic acid, respectively, are subject to value added tax (VAT) refund reduction or withdrawal in China.
- (275) Therefore, as announced in the Notice of Initiation, in accordance with Article 7(2a) of the basic Regulation, the Commission examined the impact of the raw material distortions on the production of glyoxylic acid in China.
- (276) The Commission first identified the main raw materials used in the production of the product concerned by each of the sampled exporting producers. As main raw materials were considered those raw materials which are likely to represent at least 17 % of the cost of production of the product concerned. The Commission established that the exporting producer Hubei Hongyuan uses MEG as a main raw material to produce glyoxal. Hubei Hongyuan does not use acetaldehyde in their manufacturing process. The Commission also noted that the exporting producer Xinjiang Guolin uses a different manufacturing method, as described in the recital (133), and uses maleic anhydride as a main raw material. The complaint has not differentiated between the manufacturing methods used by the two sampled exporting producers. However, as maleic anhydride is the main raw material used in the manufacturing process of Xinjiang Guolin, the Commission also analysed the potential distortion of this raw material in accordance with Article 7(2a) of the basic Regulation.
- (277) The Commission then examined whether any of the main raw materials used in the production of the product concerned is distorted by at least one of the measures listed in Article 7(2a) of the basic Regulation: dual pricing schemes, export taxes, export surtax, export quota, export prohibition, fiscal tax on exports, licensing requirements, minimum export price, value added tax (VAT) refund reduction or withdrawal, restriction on customs clearance point for exporters, qualified exporters list, domestic market obligation, captive mining. For this purpose, the Commission used TransCustoms Database <sup>(106)</sup>.

<sup>(106)</sup> <https://www.transcustoms.com/>

- (278) The Commission established that distortions on raw materials consist of, *inter alia*, export value added tax (VAT) refund reductions or withdrawals. The Commission has identified two key raw materials, representing more than 17% of undistorted production costs, where the Chinese VAT is only partially reimbursed. For maleic anhydride and mono ethylene glycol (MEG) the export VAT rate is 13% while the rate of the export VAT rebate is only 10%. Therefore, 3% of the export VAT for these raw materials is non-reimbursable and therefore subject to export VAT refund reductions.
- (279) Next the Commission compared the price of MEG and maleic anhydride to prices in the representative international market. The unit prices for maleic anhydride and MEG reported by the exporting producers were substantially lower (by 50-60% and 10-20%, respectively) compared to the import prices of these materials in Colombia.
- (280) Finally, the Commission examined if any of the raw materials affected by the measures as described in recital (276) account individually for at least 17 % of the cost of production of the product concerned. For the purpose of this calculation, an undistorted price of MEG and maleic anhydride, as established in recital (123), was used. As noted in recital (275), none of the sampled Chinese exporting producers use acetaldehyde in their manufacturing processes. The Commission therefore did not proceed with analysis of potential distortion of acetaldehyde. The Commission established that MEG accounts individually for more than 17 % of the cost of production of the exporting producer Hubei Hongyuan, and maleic anhydride accounts individually for more than 17% of the cost of production of the exporting producer Xinjiang Guolin.
- (281) Therefore, the Commission provisionally concluded that maleic anhydride and MEG are subject to distortions within the meaning of Article 7(2a) of the basic Regulation.

## 7. UNION INTEREST

### 7.1. Union interest under Article 7(2b) of the basic Regulation

- (282) In accordance with Article 7(2b) of the basic Regulation, the Commission examined whether it could clearly conclude that it was in the Union interest to determine the amount of provisional duties in accordance with Article 7(2a) of the basic Regulation with regard to Xinjiang Guolin. An analysis of Union interest under Article 7(2a) was not necessary for Hubei Hongyan since the injury margin was higher than the dumping margin and therefore, its duty was capped by the dumping margin found.
- (283) The determination of the Union interest was based on an appreciation of all pertinent information to this investigation, including the spare capacities in the exporting country, competition for raw materials and the effect on supply chains for Union companies.

#### 7.1.1. Spare capacities in the exporting country

- (284) According to the data submitted by the cooperating producers, there is already significant spare capacity, over 7 500 tonnes, in the PRC. The recent imposition of additional 10 % duties on Chinese products from the United States could redirect exports from the USA to the Union<sup>(107)</sup>. Furthermore, as noted also in the complaint, one of the largest Chinese exporters of glyoxylic acid, Hubei Shunhui Biotechnology Company, has announced expansion plans to increase its production volumes by 20 000 tonnes per year and is seeking investors to invest in that expansion project as submitted in the complaint<sup>(108)</sup>.
- (285) Moreover, in view of the absence of cooperation of more than 50% of the imports from the PRC, it can be concluded that the level of Chinese capacity that can be directed to the Union market could be significant.

<sup>(107)</sup>Federal Register :: Implementation of Additional Duties on Products of the People's Republic of China Pursuant to the President's February 1, 2025 Executive Order Imposing Duties To Address the Synthetic Opioid Supply Chain in the People's Republic of China.

<sup>(108)</sup>[http://www.sunwellchem.com/hz\\_en/id/5.html](http://www.sunwellchem.com/hz_en/id/5.html).

(286) As the Union's free market for glyoxylic acid stands at around [20 900 – 22 900] tonnes, the Commission concluded that the significant additions in capacity in China, when used, have the potentiality to increase considerably the supply of the product under investigation, depress prices and consequently undermine the effectiveness of the measure, if not set at the level of dumping.

#### 7.1.2. *Competition for raw materials*

(287) As regards competition for raw materials, the GOC provided no information on the market for the distorted raw materials in the PRC, as set out in recital (31) above. As set out in section 3.2.1 above, the Chinese raw materials market was considered to be distorted.

(288) The Commission established that the unit prices for maleic anhydride and MEG, representing both more than 17 % of undistorted production costs, reported by the exporting producers were substantially lower (by 50-60 % and 10-20 %, respectively) compared to the import prices of these materials in the representative country under consideration (Colombia), see recital (280). As regards competition for maleic anhydride, the Commission established that the unit price of this raw material in China, as reported by Xinjiang Guolin, was only around half the unit price Colombia.

(289) The Commission noted in recital (278) that distortions on raw materials consist of, inter alia, export value added tax (VAT) refund reductions or withdrawals. For maleic anhydride and mono ethylene glycol (MEG) the export VAT rate is 13 % while the rate of the export VAT rebate is only 10 %. Therefore, 3 % of the export VAT for these raw materials is non-reimbursable and therefore subject to export VAT refund reductions. By artificially increasing the level of raw materials supply, the GOC exerts a downward pressure on prices of domestic maleic anhydride and MEG. The Chinese producers pay less for domestic inputs than what they would have otherwise had to pay if the export restriction had not been in place. This creates a comparative disadvantage for the Union industry compared to the exporting producers in China.

(290) This creates a comparative disadvantage for the Union industry compared to the exporting producers in China. The Commission therefore concluded that, while MEG is available to the Union industry, it is available at a higher price than for its competitors in China. The Union industry is therefore at a disadvantageous position vis-à-vis Chinese exporting producers.

#### 7.1.3. *Effect on supply chains for Union companies*

(291) The Commission investigated the effect of the level of the measures on the situation of the Union supply chains. As explained in recital (197), glyoxylic acid is only produced in China and the Union. Imports of glyoxylic acid from China are approximately 16 000 tonnes. According to the information gathered by the users in the Union and the Union industry, the product purchased in China is equivalent to the product purchased from the Union industry. Only one user, L. Brüggemann, reported that they import a specific quality of glyoxylic acid from China which they claim cannot be sourced from the Union industry and therefore asked for end-use exemption. As explained in recitals (22) to (28) above, the Commission could not validate their claim that the product they import differs from the Union product.

(292) Two of the users which provided comments, Deretil S.A. ("Deretil") and Laboratorios Jaer claimed that the measures would give the complainant a monopolistic position which would likely increase the costs for users and would also endanger the supply chain, claiming that the Union industry cannot cover the demand.

(293) The Commission noted that given the spare capacity existing in the investigation period (see recital (213)), the Union industry could cover approximately [90 % – 95 %] of these imports. That number is now likely even higher, since exports by the Union industry to the UK have declined after the investigation period sharply. Furthermore, for Hubei Hongyuan and other cooperating producers, that collectively account close to 40 % of imports from China, the provisional anti-dumping duties are set at the level of the much lower dumping margin. Taking all the above into consideration, the Commission estimated that downstream users in the EU could adapt their sources of supply. In addition, the loss of the Union industry would make China the sole source of glyoxylic acid, a critical chemical in the production of products such as antibiotics. Consequently, the claims were rejected.

- (294) Deretil also provided comments arguing that the Union industry and Deretil compete in the market for the production of allantoin. Imposing high antidumping measures would allegedly compromise their position versus the complainant. The Commission established that the production of allantoin accounts for a very small part of the captive use of glyoxylic acid in the Union Industry and, more importantly, this amount is very small in comparison to the glyoxylic acid that Deretil (one of the major users in the EU) consumes. Thus, the allantoin production of the Union industry would be expected to have a limited effect on the competitiveness of Deretil.
- (295) The Commission then went on to estimate the impact on the profitability of the downstream users on the basis of the questionnaire replies of the cooperating users Deretil, Trade Corporation, Nouryon and L. Brüggemann. Laboratorios Jaer did not provide a questionnaire reply. Under the assumption stated above that users, upon imposition of measures, will move to purchase from exporting producers with low duty rates and from the Union producer, the effect of the measures on their profitability will not result in losses which means that they will be able to absorb the effect of the measures.

#### 7.1.4. *Conclusion on Union interest under Article 7(2b) of the basic Regulation*

- (296) Having assessed all pertinent information to this investigation, the Commission concluded that it is clearly in the Union interest to determine the amount of provisional duties for Xinjiang Guolin in accordance with Article 7(2a) of the basic Regulation.
- (297) In view of the analysis set out above, the Commission concluded that, in accordance with Article 7(2a) of the basic Regulation, it is in the interest of the Union to set the level of the provisional duties on the basis of the level of dumping, subject to further considerations in the context of Article 21, as set out in section 7.2 below.

### 7.2. **Union interest under Article 21 of the basic Regulation**

- (298) Having assessed the Union interest pursuant to Article 7(2b) of the basic Regulation, the Commission then 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.

#### 7.2.1. *Interest of the Union industry*

- (299) The sole producer of glyoxylic acid in the Union lodged the complaint (see recital (2)), cooperated fully in the investigation and expressed its interest to the imposition of measures.
- (300) The investigation has shown that the Union producer is suffering material injury caused by the dumped imports from the country concerned. These imports significantly undercut the Union producer's prices, in any event, exercised significant price suppression as shown by the underselling margins found, and caused significant loss of market share and profits towards the end of the period considered, and during the investigation period, as elaborated in section 5.
- (301) The imposition of measures would likely prevent a further surge of imports from the PRC at very low prices. Without measures, Chinese producers will continue to dump the product concerned on the Union market preventing the Union industry from resuming full production, from selling at an adequate price and from generating a sufficient profit and thus causing further material injury to the Union industry.
- (302) It was therefore concluded that imposing measures on imports originating in the PRC would be in the interest of the Union industry.

#### 7.2.2. *Interest of unrelated importers and traders*

- (303) The Commission did not receive responses from Union importers or traders with the dedicated questionnaire.

- (304) The Commission, thus, concluded that it is unlikely that the imposition of anti-dumping duties on glyoxylic acid originating in the PRC will have a permanent impact over the profitability of importers or traders.

### 7.2.3. *Interest of users*

- (305) Six users of the PUI came forward during the investigation. Four, Deretil S.A., Trade Corporation, Nouryon and L. Brüggemann provided a reply to the questionnaire. Laboratorios Jaer and Syensco only provided a written submission.
- (306) The users that contributed to the investigation represented approximately 60 % of the imports of the product concerned. The degree of participation was assessed on the basis of the data reported in questionnaire replies and the size of EU imports reported in Table 3.
- (307) Deretil and Laboratorios Jaer, users active mainly in antibiotic production and specialised fertilisers, respectively, and representing together around 50 % of imports and of total EU consumption, opposed the imposition of measures. Both noted that the measures would increase their costs, give the complainant a monopolistic position allowing them to impose further price increases and would also endanger the supply chain in Europe, as the complainant does not have the capacity to cover the demand, and the only sources of glyoxylic acid are the complainant and the Chinese producers.
- (308) Regarding the effects on supply chain security, the Commission noted in section 7.1.3 that there is significant spare capacity in the Union industry, and this spare capacity will likely increase due to the foreseen reduction of its exports. In any case, anti-dumping measures do not block imports, but rather reinstate fair trade conditions for all parties; the downstream industry could still source material from China, thus the Union industry would not enjoy a monopolistic position. Conversely, the loss of the Union industry would make China the sole source of glyoxylic acid, a critical chemical in the production of antibiotics, the main sector of the user Deretil, the biggest known user in the EU market.
- (309) Deretil also noted that they are competing against the complainant in the production of allantoin. As explained in recital (294) above, the complainant provided data that their captive use of glyoxylic acid for allantoin only accounts for 1% of their production of glyoxylic acid despite the reduction of sales of the PUI in the Union market. As duties would result in a less injurious price for the PUI in the EU market, it is therefore unlikely that the complainant would increase the production of allantoin. Furthermore, the quantities dedicated to allantoin production by the Union industry are orders of magnitude lower than Deretil's glyoxylic acid consumption, thus the allantoin production would have a very limited, if any, effect on the case.
- (310) The concern of Deretil and Laboratorios Jaer that the increase in costs due to the imposition of measures would impact EU industries' competitiveness against international competitors was also echoed by other users. Nouryon, a company active in fertiliser production, one of the biggest users of EU produced glyoxylic acid, did mention competitiveness as a concern but did not oppose the measures. The same was the case for Syensco, the sole complainant in the parallel anti-dumping case concerning imports of vanillin from the PRC <sup>(109)</sup>. They claimed that measures would make the resumption of production in their plant (currently suspended due to the impact of dumped Chinese imports) more difficult but did not express opposition to the measures.
- (311) L. Brüggemann had also objected to the duties claiming that they need to source a specific technical grade of glyoxylic from China, as it is not available in the Union and that, therefore, duties would significantly affect their profitability. As explained above in recital (291), they requested an end-use exemption. The Commission estimated that the measures would only have limited effect on the company's profitability and could not validate L. Brüggemann's claim that the imported product differs from the Union products. In view of the above, the Commission provisionally rejected the request for an end-use exemption.

<sup>(109)</sup> Trade defence investigations – Case AD708 -Vanillin.

- (312) The Commission analysed the impact of the imposition of duties on the profitability of the users based on the questionnaire replies submitted as well as on data available on capacity and the evolution of the market. As noted in recital (295), the Commission's analysis indicates that, assuming redirection of their purchases to producers with lower duties, all four users would be able to remain profitable, even if measures are imposed at the level of Article 7(2a).
- (313) In conclusion, the measures are necessary for the Union industry to recover market share and return to profitability. The importing users would face an increase of costs when sourcing glyoxylic acid from China, and it would cause a certain decline in their profitability varying according to their production procedure and their purchase strategy. The risks would be mitigated by the free available capacity of the Union industry. The restoration of healthy competition and a level playing field would also ensure that the users can source locally. On the other hand, the non-imposition of measures would result in a monopoly situation for China, thus making users wholly dependent on overseas suppliers, whose supply chains are exposed to abrupt disruptions. It would thus compromise the resilience of supply chains critical for the Union and its citizens' and, would in particular undermine the Union's goal to strengthen the security of supply of medicines <sup>(110)</sup>.

#### 7.2.4. Conclusion on Union interest

- (314) 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 glyoxylic acid originating in the PRC at this stage of the investigation.

### 8. PROVISIONAL ANTI-DUMPING MEASURES

- (315) 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.
- (316) Provisional anti-dumping measures should be imposed on imports of glyoxylic acid originating in the PRC, in accordance Article 7(2a) of the basic Regulation. The Commission concluded in section 6.3 that the appropriate level to remove injury should be the dumping margin.
- (317) The provisional duty for the other cooperating non-sampled companies is based on the weighted average dumping margin as established below for the two sampled companies in the PRC, which is lower than the weighted average injury margins for the two sampled companies in the PRC.
- (318) Given the low level of cooperation from exporting producers and the fact that the duty level for Xinjiang Guolin was based on the dumping margin found in accordance with Article 7(2a) of the basic Regulation, the level of the countrywide duty level was based on the highest dumping margins found per product types sold in representative quantities by Xinjiang Guolin.
- (319) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Provisional dumping margin	Provisional injury margin	Provisional anti-dumping duty
Hubei Hongyuan	27,2 %	112,9 %	27,2 %
Xinjiang Guolin	175,8 %	175,8 %	175,8 %
Other cooperating companies	78,5 %	102,5 %	78,5 %
All other imports originating in the People's Republic of China	280,3 %	280,3 %	280,3 %

<sup>(110)</sup> Addressing critical shortages of medicines in the EU.

- (320) 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 PRC 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 imports originating in the People's Republic of China'. They should not be subject to any of the individual anti-dumping duty rates.
- (321) 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 application of individual anti-dumping duties is only applicable upon presentation of 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. Until such invoice is presented, imports should be subject to the anti-dumping duty applicable to 'all other imports originating in the People's Republic of China'.
- (322) 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.
- (323) 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. REGISTRATION

- (324) As mentioned in recital (3), the Commission made imports of the product concerned subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.
- (325) In view of the findings at provisional stage, the registration of imports should be discontinued.
- (326) No decision on a possible retroactive application of anti-dumping measures has been taken/can be taken at this stage of the proceeding.

## 10. INFORMATION AT PROVISIONAL STAGE

- (327) 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.
- (328) Comments were received from Hubei Hongyuan, Xinjiang Guolin, Laboratorios Jaer, Jinyimeng Group Co., Ltd, Guangdong Joy Chemical Co., Lt., and Inner Mongolia Tianyuda Biological Technology Co., Ltd. Xinjiang Guolin submitted that the Commission deducted the ocean freight twice for certain transactions and that the Commission interchanged the profit margin and the SG&A margin in the calculation.

- (329) The Commission corrected the ocean freight transactions, which were initially counted twice in the calculation. The Commission furthermore corrected the profit margin of 10 % and the SG&A margin of 23 % in the calculations.
- (330) Furthermore, the Commission noted that incorrect exchange rate was applied to the source for determination of the normal value concerning the labour cost, electricity and water. The Commission updated the value of the labour cost, electricity and water in Table 1, using the same currency exchange rate communicated by the European Central Bank for the investigation period for all factors of production.
- (331) As a result of the corrections mentioned in recitals (329) and (330), the dumping margins in two occasions increased slightly.
- (332) The remaining comments received did not concern the accuracy of the calculations, but rather to methodologies used by the Commission in the determination of their respective dumping margins. Those comments will therefore be considered, together with all other submissions, after the publication of provisional measures.

#### 11. FINAL PROVISION

- (333) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.
- (334) 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 is glyoxylic acid [usually falling under Chemical Abstracts Service (CAS) Number 298-12-4 or 6000-59-5], of a purity of at least 95 % by dry weight, whether in solid form or as an aqueous solution with a concentration by weight higher than 40 % thereof, currently falling under CN code ex 2918 30 00 (TARIC code 2918 30 00 13) and originating in the People's Republic of China.

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

Company	Provisional anti-dumping duty (%)	TARIC additional code
Hubei Hongyuan Pharmaceutical Technology Co., Ltd	27,2	89M2
Xinjiang Guolin New Materials Co., Ltd	175,8	89M3
Other cooperating companies listed in Annex	78,5	See Annex
All other imports originating in the People's Republic of China	280,3	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 in tonnes) of glyoxylic acid sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.' Until such invoice is presented, the duty applicable to all other imports originating in the People's Republic of China 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*

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Commission Implementing Regulation (EU) 2024/2715 of 25 October 2024.
2. Data collected regarding products which entered the EU for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

*Article 4*

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

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

Done at Brussels, 21 March 2025.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN

## ANNEX

## COOPERATING EXPORTING PRODUCERS IN THE PRC NOT SAMPLED

Name	TARIC additional code
Cangzhou Goldlion Chemicals Co., Ltd.	
Guangdong Joy Chemical Co., Ltd.	
Inner Mongolia Tianyuda Biological Technology Co., Ltd.	
Jinyimeng Group Co., Ltd.	