

COMMISSION IMPLEMENTING REGULATION (EU) 2021/441**of 11 March 2021****imposing a definitive anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

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

Whereas:

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

- (1) In July 2002, by Regulation (EC) No 1339/2002 ⁽²⁾ the Council imposed a definitive anti-dumping duty of 21 % on imports of sulphanilic acid originating in the People's Republic of China ('the PRC') and a definitive antidumping duty of 18,3 % on imports of sulphanilic acid originating in India ('the original investigation').
- (2) By Regulation (EC) No 1338/2002 ⁽³⁾, the Council imposed a definitive countervailing duty of 7,1 % on imports of sulphanilic acid originating in India.
- (3) By Decision 2002/611/EC ⁽⁴⁾, the Commission accepted a price undertaking with regard to both the anti-dumping and anti-subsidy measures on the imports from India offered by one Indian exporting producer, namely Kokan Synthetics and Chemicals Pvt. Ltd ('Kokan').
- (4) In February 2004, by Regulation (EC) No 236/2004 ⁽⁵⁾, the Council increased the rate of the definitive antidumping duty applicable to imports of sulphanilic acid originating in the PRC from 21 % to 33,7 % following an anti-absorption reinvestigation.
- (5) In March 2004, by Decision 2004/255/EC ⁽⁶⁾, the Commission repealed Decision 2002/611/EC following the voluntary withdrawal of the undertaking by Kokan.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Council Regulation (EC) No 1339/2002 of 22 July 2002 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of sulphanilic acid originating in the People's Republic of China and India (OJ L 196, 25.7.2002, p. 11).

⁽³⁾ Council Regulation (EC) No 1338/2002 of 22 July 2002 imposing a definitive countervailing duty and collecting definitively the provisional countervailing duty imposed on imports of sulphanilic acid originating in India (OJ L 196, 25.7.2002, p. 1).

⁽⁴⁾ Commission Decision 2002/611/EC of 12 July 2002 accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India (OJ L 196, 25.7.2002, p. 36).

⁽⁵⁾ Council Regulation (EC) No 236/2004 of 10 February 2004 amending Regulation (EC) No 1339/2002 imposing a definitive antidumping duty and collecting definitively the provisional duty imposed on imports of sulphanilic acid originating in the People's Republic of China and India (OJ L 40, 12.2.2004, p. 17).

⁽⁶⁾ Commission Decision 2004/255/EC of 17 March 2004 repealing Decision 2002/611/EC accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India (OJ L 80, 18.3.2004, p. 29).

- (6) By Decision 2006/37/EC ⁽⁷⁾, the Commission accepted a new undertaking with regard to both the anti-dumping and anti-subsidy measures on the imports from India offered by Kokan. Regulations (EC) No 1338/2002 and (EC) No 1339/2002 were amended by Regulation (EC) No 123/2006 ⁽⁸⁾ accordingly.
- (7) By Regulation (EC) No 1000/2008 ⁽⁹⁾, the Council imposed anti-dumping duties on imports of sulphanilic acid originating in the PRC and India following an expiry review of the measures. By Regulation (EC) No 1010/2008 ⁽¹⁰⁾, the Council imposed definitive countervailing duties on imports of sulphanilic acid originating in India and amended the level of the anti-dumping duties on Indian imports of sulphanilic acid following an expiry and an interim review.
- (8) By Regulation (EU) No 1346/2014 ⁽¹¹⁾, the Commission imposed a definitive anti-dumping duty on imports of sulphanilic acid originating in the PRC and repealed the definitive anti-dumping duty on imports of sulphanilic acid originating in India following an expiry review. By Regulation (EU) No 1347/2014 ⁽¹²⁾, the Commission repealed the definitive countervailing duty on imports of sulphanilic acid originating in India following an expiry review.

1.2. Request for an expiry review

- (9) Following the publication of a Notice of impending expiry ⁽¹³⁾ of the anti-dumping measures in force on imports from the PRC, the Commission received on 19 September 2019 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by Bondalti Chemicals S.A. ('the applicant' or 'Bondalti'), the sole producer of sulphanilic acid in the Union, thus representing 100 % of the Union production.
- (10) The request was based on the grounds that the expiry of the measures would be likely to result in continuation or recurrence of dumping and continuation or recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

- (11) Having determined that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 18 December 2019, by Notice published in the *Official Journal of the European Union* ⁽¹⁴⁾ ('the Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

⁽⁷⁾ Commission Decision 2006/37/EC of 5 December 2005 accepting an undertaking offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of sulphanilic acid originating in India (OJ L 22, 26.1.2006, p. 52).

⁽⁸⁾ Council Regulation (EC) No 123/2006 of 23 January 2006 amending Regulation (EC) No 1338/2002 imposing a definitive countervailing duty on imports of sulphanilic acid originating in India and amending Regulation (EC) No 1339/2002 imposing a definitive antidumping duty on imports of sulphanilic acid originating, inter alia, in India (OJ L 22, 26.1.2006, p. 5).

⁽⁹⁾ Council Regulation (EC) No 1000/2008 of 13 October 2008 imposing a definitive anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China and India following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96 (OJ L 275, 16.10.2008, p. 1).

⁽¹⁰⁾ Council Regulation (EC) No 1010/2008 of 13 October 2008 imposing a definitive countervailing duty on imports of sulphanilic acid originating in India following an expiry review pursuant to Article 18 of Regulation (EC) No 2026/97 and a partial interim review pursuant to Article 19 of Regulation (EC) No 2026/97 and amending Regulation (EC) No 1000/2008 imposing a definitive antidumping duty on imports of sulphanilic acid originating in the People's Republic of China and India following an expiry review pursuant to Article 11(2) of Regulation (EC) No 384/96 (OJ L 276, 17.10.2008, p. 3).

⁽¹¹⁾ Commission Implementing Regulation (EU) No 1346/2014 of 17 December 2014 imposing a definitive anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China and repealing the definitive anti-dumping duty on imports of sulphanilic acid originating in India following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 (OJ L 363, 18.12.2014, p. 82).

⁽¹²⁾ Commission Implementing Regulation (EU) No 1347/2014 of 17 December 2014 repealing the definitive countervailing duty on imports of sulphanilic acid originating in India following an expiry review pursuant to Article 18 of Council Regulation (EC) No 597/2009 (OJ L 363, 18.12.2014, p. 101).

⁽¹³⁾ OJ C 140, 16.4.2019, p. 10.

⁽¹⁴⁾ OJ C 425, 18.12.2019, p. 39.

1.4. Investigation

1.4.1. Review investigation period and period considered

- (12) The investigation of a continuation or recurrence of dumping covered the period from 1 October 2018 to 30 September 2019 ('the review investigation period'). The examination of trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2016 to the end of the review investigation period ('the period considered').

1.4.2. Interested parties

- (13) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed known exporting producers, the authorities of the PRC, and known importers and users about the initiation of the investigation and invited them to participate.
- (14) No parties came forward.
- (15) 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.
- (16) No hearing was held either with the Commission or the Hearing Officer.

1.4.3. Sampling

1.4.3.1. Sampling of exporting producers in the PRC

- (17) To decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the Mission of the People's Republic of China to the European Union to identify other exporting producers, if any, that could be interested in participating in the investigation. No association of exporting producers was known and contacted.
- (18) No company from the PRC came forward.
- (19) Consequently, the Commission informed the authorities of the PRC ⁽¹⁵⁾ that it intended to resort to the use of facts available under Article 18 of the basic Regulation when examining the continuation or recurrence of dumping. The authorities of the PRC did not respond.

1.4.3.2. Sampling of unrelated importers

- (20) To decide whether sampling was necessary and, if so, to select a sample, the Commission requested all unrelated importers, or representatives acting on their behalf, including the ones who did not cooperate in the investigation leading to the measures subject to the present review, to make themselves known and to provide the information specified in the Notice of initiation.
- (21) No importer came forward.

1.4.4. Questionnaire replies and verification

- (22) The Commission made available online the questionnaires for exporting producers, the Union producers, and the unrelated importers.
- (23) Questionnaire reply was received from the sole Union producer.
- (24) The Commission sent to the Government of China ('GOC') a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation.

⁽¹⁵⁾ Note Verbale of 27 January 2020.

- (25) The Commission sought to verify all the information deemed necessary for the determination of likelihood of continuation or recurrence of dumping and injury and Union interest.
- (26) Following the outbreak of the Covid-19 pandemics, the Commission decided to suspend all non-essential travels and informed the interested parties thereof ⁽¹⁶⁾. Subsequently, a remote crosscheck ('RCC') of the information submitted in the questionnaire was carried out for the following parties:

Union producer:

— Bondalti Chemicals S.A.

1.4.5. *Presentation of data*

- (27) Given that the Union industry is composed of one producer only, some of the figures presented in this regulation are in the form of ranges for reasons of confidentiality.

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

- (28) Given the sufficient evidence available at the initiation of the investigation tending to show, with regard to the PRC, the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation, the Commission initiated the investigation on the basis of Article 2(6a) of the basic Regulation. 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 and no submission on the application of Article 2(6a) of the basic Regulation was received.
- (29) In point 5.3.2 of the Notice of Initiation the Commission also specified that, in view of the evidence available, it had provisionally selected India as an appropriate source pursuant to Article 2(6a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possible sources.
- (30) On 7 May 2020, the Commission informed by a first note ('the Note of 7 May') the 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 sulphanilic acid. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission confirmed its intention to choose India as an appropriate source. Only the applicant sent comments on the Note of 7 May.
- (31) On 25 September 2020, the Commission informed by a second note ('the Note of 25 September') interested parties on the relevant sources it intended to use for the determination of the normal value and confirmed its choice of India as an appropriate source. It also informed interested parties that it would establish selling, general and administrative costs ('SG&A') and profits based on available information for the company Aarti, a producer in India. Comments sent by the applicant were considered. No comments on the second note were received.

1.4.7. *Subsequent procedure*

- (32) On 14 December 2020, the Commission disclosed the essential facts and considerations on the basis of which it intended to maintain the anti-dumping duties in force. All parties were granted a period within which they could make comments on the disclosure. The applicant submitted comments supporting the findings of the Commission.

⁽¹⁶⁾ Ref. No t20.001169.

2. PRODUCT UNDER REVIEW AND LIKE PRODUCT

2.1. Product under review

- (33) The product subject to this review ⁽¹⁷⁾ is sulphanilic acid and its salts ('the product under review'), originating in PRC, currently falling under CN code ex 2921 42 00 (TARIC codes 2921 42 00 40, 2921 42 00 60, and 2921 42 00 61). This includes:
- Sulphanilic acid, whether purified or technical grades, whether in the form of a solution or a powder, and
 - Salts of sulphanilic acid, whether purified or technical grades, whether in the form of a solution or a powder, produced by treating the sulphanilic acid solution with sodium hydroxide, potassium hydroxide, or calcium hydroxide (or oxide), resulting in:
 - Sodium sulphanilate,
 - Potassium sulphanilate, or
 - Calcium sulphanilate.
- (34) Sulphanilic acid is used as a raw material in the production of optical brighteners, concrete additives, food colorants, speciality dyes, and within the pharmaceutical industry.

2.2. Like product

- (35) As established in the original investigation and subsequent expiry reviews, this expiry review investigation confirmed that the following products have the same basic physical and technical characteristics as well as the same basic uses:
- the product under review
 - the product produced and sold on the domestic market of PRC and
 - the product produced and sold in the Union by the Union industry.

Therefore, these products are considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

- (36) In accordance with Article 11(2) of the basic Regulation, and as stated in the Notice of Initiation, the Commission examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

3.1. Non-cooperation from the sampled companies and the GOC

- (37) As mentioned in recital (18), none of the exporters/producers from PRC cooperated in the investigation. Therefore, on 27 January 2020, the Commission informed the Chinese authorities that due to the absence of cooperation from exporting producers in PRC, the Commission might apply Article 18 of the basic Regulation to its findings. The Commission stressed also that a finding based on facts available might be less favourable to the parties concerned and invited the PRC to comment. The Commission did not receive any comments in this regard.
- (38) On 18 December 2019, the Commission sent to the GOC an antidumping questionnaire intended for the authorities of the PRC. That questionnaire was provided to the GOC to allow it to provide its views on the evidence contained in the request on the basis of which it was claimed that significant distortions exist on the Chinese domestic market for the product under review which justify the application of Article 2(6a) of the basic Regulation. As highlighted in recital (28) above, the GOC did not provide any questionnaire reply nor did it address the evidence on the case file provided by the applicant, including 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' ('the Report').

⁽¹⁷⁾ As clarified in the Note to the File of 18 November 2020, Ref. No t20.007508. Apart from the agreement of the applicant, the Commission did not receive any comments on the Note to the File.

- (39) On 27 January 2020, the Commission informed the authorities of the PRC about its intention to also apply Article 18 of the basic Regulation and base its findings in respect of the mentioned distortions in the PRC on the facts available. The Commission stressed also that a finding based on facts available might be less favourable to the party concerned and invited the GOC to comment. The Commission did not receive any comment. The Government of PRC did not register as interested party in the proceeding.
- (40) Therefore, in accordance with Article 18(1) of the basic Regulation, the findings in relation to the existence of significant distortions set out below were based on facts available. In particular, the Commission relied on the information contained in the request for review and other sources of publicly available information such as relevant websites.
- (41) In accordance with Article 18(1) of the basic Regulation, the findings in relation to the likelihood of continuation or recurrence of dumping set out below were based on facts available. In particular, the Commission relied on the information contained in the request for review and the statistics based on the data reported to the Commission by the Member States in accordance with Article 14(6) of the basic Regulation ('14(6) database'), and Eurostat. In addition, the Commission used other sources of publicly available information such as the Global Trade Atlas ('GTA') database and the websites of relevant Chinese producers ⁽¹⁸⁾.

3.2. Dumping during the review investigation period

- (42) As explained in Section 4.3, Chinese imports accounted for more than one third of the total imports of the product under review into the Union. The volume of Chinese imports was found to be representative for the purpose of calculating dumping during the review investigation period.

3.2.1. Normal value

- (43) 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'.
- (44) 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'.
- (45) As further explained below in Section 3.2.2, the Commission concluded in this investigation that, based on the evidence available and in view of the lack of cooperation of the GOC and the exporting producers, the application of Article 2(6a) of the basic Regulation was appropriate.

3.2.2. Existence of significant distortions

3.2.2.1. Introduction

- (46) Article 2(6a)(b) of the basic Regulation defines 'significant distortions' as those distortions which occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions regard shall be had, inter alia, to the potential impact of one or more of the following elements:
- the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country;
 - state presence in firms allowing the state to interfere with respect to prices or costs;

⁽¹⁸⁾ See company-specific footnotes under the next sections.

- public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;
 - the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws;
 - wage costs being distorted;
 - access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the state.
- (47) According to Article 2(6a)(b) of the basic Regulation, the assessment of the existence of significant distortions within the meaning of Article 2(6a)(a) shall take into account, amongst others, the non-exhaustive list of elements in the former provision. Pursuant to Article 2(6a)(b) of the basic Regulation, in assessing the existence of significant distortions, regard shall be had to the potential impact of one or more of these elements on prices and costs in the exporting country of the product under review. Indeed, as that list is non-cumulative, not all the elements need to be given regard to for a finding of significant distortions. Moreover, the same factual circumstances may be used to demonstrate the existence of one or more of the elements of the list. However, any conclusion on significant distortions within the meaning of Article 2(6a)(a) must be made on the basis of all the evidence at hand. The overall assessment on the existence of distortions may also take into account the general context and situation in the exporting country, in particular where the fundamental elements of the exporting country's economic and administrative set-up provides the government with substantial powers to intervene in the economy in such a way that prices and costs are not the result of the free development of market forces.
- (48) Article 2(6a)(c) of the basic Regulation provides that '[w]here the Commission has well-founded indications of the possible existence of significant distortions as referred to in point (b) in a certain country or a certain sector in that country, and where appropriate for the effective application of this Regulation, the Commission shall produce, make public and regularly update a report describing the market circumstances referred to in point (b) in that country or sector'.
- (49) Pursuant to this provision, the Commission has issued a country report concerning the PRC⁽¹⁹⁾, showing the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials and labour) as well as in specific sectors (such as steel and chemicals). Interested parties were invited to rebut, comment or supplement the evidence contained in the investigation file at the time of initiation. The Report was placed in the investigation file at the initiation stage.
- (50) The request for review provided additional evidence on significant distortions in the sulphanilic acid sector within the meaning of Article 2(6a)(b), complementing the Report. The applicant provided evidence that the production and sale of the product under review is affected (at least potentially) by the distortions mentioned in the Report, in particular by high levels of state interference in the chemical sector, including in sectors related to the production of sulphanilic acid, in particular in input sectors and as regards the factors of production.
- (51) The Commission examined 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 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 review.

⁽¹⁹⁾ 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.

3.2.2.2. Significant distortions affecting the domestic prices and costs in the PRC

- (52) The Chinese economic system is based on the concept of a 'socialist market economy'. That concept is enshrined in the Chinese Constitution and determines the economic governance of the PRC. The core principle is the 'socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people'. The State-owned economy is the 'leading force of the national economy' and the State has the mandate 'to ensure its consolidation and growth' ⁽²⁰⁾. Consequently, the overall setup of the Chinese economy not only allows for substantial government interventions into the economy, but such interventions are expressly mandated. The notion of supremacy of public ownership over the private one permeates the entire legal system and is emphasized as a general principle in all central pieces of legislation. The Chinese property law is a prime example: it refers to the primary stage of socialism and entrusts the State with upholding the basic economic system under which the public ownership plays a dominant role. Other forms of ownership are tolerated, with the law permitting them to develop side by side with the State ownership ⁽²¹⁾.
- (53) In addition, under Chinese law, the socialist market economy is developed under the leadership of the Chinese Communist Party ('CCP'). The structures of the Chinese State and of the CCP are intertwined at every level (legal, institutional, personal), forming a superstructure in which the roles of CCP and the State are indistinguishable. Following an amendment of the Chinese Constitution in March 2018, the leading role of the CCP was given an even greater prominence by being reaffirmed in the text of Article 1 of the Constitution. Following the already existing first sentence of the provision: '[t]he socialist system is the basic system of the People's Republic of China' a new second sentence was inserted which reads: '[t]he defining feature of socialism with Chinese characteristics is the leadership of the Communist Party of China.' ⁽²²⁾. This illustrates the unquestioned and ever growing control of the CCP over the economic system of the PRC. This leadership and control is inherent to the Chinese system and goes well beyond the situation customary in other countries where the governments exercise general macroeconomic control within the boundaries of which free market forces are at play.
- (54) The Chinese State engages in an interventionist economic policy in pursuance of goals, which coincide with the political agenda set by the CCP rather than reflecting the prevailing economic conditions in a free market ⁽²³⁾. The interventionist economic tools deployed by the Chinese authorities are manifold, including the system of industrial planning, the financial system, as well as the level of the regulatory environment.
- (55) First, on the level of overall administrative control, the direction of the Chinese economy is governed by a complex system of industrial planning which affects all economic activities within the country. The totality of these plans covers a comprehensive and complex matrix of sectors and crosscutting policies and is present on all levels of government. Plans at provincial level are detailed while national plans set broader targets. Plans also specify the means in order to support the relevant industries/sectors as well as the timeframes in which the objectives need to be achieved. Some plans still contain explicit output targets while this was a regular feature in previous planning cycles. Under the plans, individual industrial sectors and/or projects are being singled out as (positive or negative) priorities in line with the government priorities and specific development goals are attributed to them (industrial upgrade, international expansion etc.). The economic operators, private and State-owned alike, must effectively adjust their business activities according to the realities imposed by the planning system. This is not only because of the binding nature of the plans but also because the relevant Chinese authorities at all levels of government adhere to the system of plans and use their vested powers accordingly, thereby inducing the economic operators to comply with the priorities set out in the plans (see also Section 3.2.2.5 below) ⁽²⁴⁾.

⁽²⁰⁾ Report – Chapter 2, p. 6-7.

⁽²¹⁾ Report – Chapter 2, p. 10.

⁽²²⁾ Available at http://www.fdi.gov.cn/1800000121_39_4866_0_7.html (last viewed on 27 October 2020).

⁽²³⁾ Report – Chapter 2, p. 20-21.

⁽²⁴⁾ Report – Chapter 3, p. 41, 73-74.

- (56) Second, on the level of allocation of financial resources, the financial system of the PRC is dominated by the State-owned commercial banks. Those banks, when setting up and implementing their lending policy need to align themselves with the government's industrial policy objectives rather than primarily assessing the economic merits of a given project (see also Section 3.2.2.8 below) ⁽²⁵⁾. The same applies to the other components of the Chinese financial system, such as the stock markets, bond markets, private equity markets etc. Also these parts of the financial sector other than the banking sector are institutionally and operationally set up in a manner not geared towards maximizing the efficient functioning of the financial markets but towards ensuring control and allowing intervention by the State and the CCP ⁽²⁶⁾.
- (57) Third, on the level of regulatory environment, the interventions by the State into the economy take a number of forms. For instance, the public procurement rules are regularly used in pursuit of policy goals other than economic efficiency, thereby undermining market based principles in the area. The applicable legislation specifically provides that public procurement shall be conducted in order to facilitate the achievement of goals designed by State policies. However, the nature of these goals remains undefined, thereby leaving broad margin of appreciation to the decision-making bodies ⁽²⁷⁾. Similarly, in the area of investment, the GOC maintains significant control and influence over the destination and magnitude of both State and private investment. Investment screening as well as various incentives, restrictions, and prohibitions related to investment are used by authorities as an important tool for supporting industrial policy goals, such as maintaining State control over key sectors or bolstering domestic industry ⁽²⁸⁾.
- (58) In sum, 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 ⁽²⁹⁾.

3.2.2.3. Significant distortions according to Article 2(6a)(b), first indent of the basic Regulation: the market in question being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the authorities of the exporting country.

- (59) In the PRC, enterprises operating under the ownership, control and/or policy supervision or guidance by the State represent an essential part of the economy.
- (60) In the absence of any cooperation from the PRC, the Commission has limited information concerning the ownership structure of companies active in the sulphanilic acid sector in the PRC. Among the three Chinese companies indicated as major producers by the applicant, all appear to be privately owned. However, the Commission found that in the case of one of the three producers – Cangzhou Lingang Yueguo Chemical Co., Ltd – the enterprise's production unit is located in Cangzhou Lingang Economic and Technological Development Zone – a national chemical park, which is under direct CCP influence, as also evidenced by the following media report: 'On the morning of 17 July, the Party Branch of the [Lingang Economic and Technological] Development Zone Project Service Centre held a party meeting to celebrate the 99th anniversary of the founding of the Party as well as the Party's 2020 half-year assembly. Li Guoqing, Member of the Development Zone's Party Working Committee, Deputy Chairman of the Management Committee and Secretary of the Party Committee of the subordinate entities, attended the meeting and delivered a speech.' ⁽³⁰⁾. In the case of another of the companies mentioned, – Zhejiang Wulong Chemical Industrial Stock Co., Ltd – the Commission found, based on the reports by the All-China Federation of Industry and Commerce, that the enterprise has close ties with the CCP as it 'has been rated as an

⁽²⁵⁾ Report – Chapter 6, p. 120-121.

⁽²⁶⁾ Report – Chapter 6, p. 122-135.

⁽²⁷⁾ Report – Chapter 7, p. 167-168.

⁽²⁸⁾ Report – Chapter 8, p. 169-170, 200-201.

⁽²⁹⁾ Report – Chapter 2, p. 15-16, Report – Chapter 4, p. 50, p. 84, Report – Chapter 5, p. 108-9.

⁽³⁰⁾ See: <http://www.czcip.gov.cn/zonghexinxi/r-24281.html> (last viewed on 27 October 2020)

advanced grassroots Party organization at the county and town level for many years. In this company with nearly 1000 employees, the influx of population has brought difficulties to the party building work. Therefore, the company's Party branch worked hard to explore new ways of party building in the company and expand the Party building work to every department of the company. [...] Song Yunchang said that many company employees only pay attention to production work and do not have a strong understanding of Party building work. Thus, employees, and especially party members can improve the ideological understanding. [...] Every quarter, the Party branch convene a branch committee to study Party building work and analyse the situation of Party members. Song Yunchang said that the company's Party branch has also thought through the system innovation.' (31).

- (61) As submitted by the applicant, another of the three large Chinese producers of sulphanilic acid – Hebei Honggang Chemical Industry Co., Ltd – exports sulphanilic acid through at least two state owned trading companies (Northeast Pharmaceutical Group Import and Export Trade Co., Ltd and China Jiangsu International Economic and Technical Cooperation Group Co., Ltd). Moreover, according to the applicant, the three largest traders of sulphanilic acid (32) are all State-owned and exported during the first seven months of 2019 more than 4 000 tonnes of sulphanilic acid, which represented 64 % of all exports from the PRC in that period.
- (62) With respect to the providers of inputs for the production of the product under review, as submitted by the applicant and confirmed in the previous investigations, the main raw material in the manufacturing of sulphanilic acid is aniline, representing 35 % of the production costs. According to the review request, and as confirmed by other sources, one of the main producers of aniline at global scale is the Chinese company Wanhua Chemical (or Yantai Wanhua) (33). In 2019, Wanhua Chemical was ranked as the 37th largest chemical company worldwide by a specialized online magazine (34). The company's largest shareholder is Yantai Guofeng Investment Holdings Ltd (Yantai Guofeng), which is a company owned fully by the State-owned Assets Supervision and Administration Commission (SASAC) of the Yantai Municipal Government (35). In Wanhua Chemical's annual report for year 2019, Yantai Guofeng stands as the main controlling entity of Wanhua Chemical (36). In this regard, the Commission also found in media reports that the CCP entertains a prominent role in the operations and decision-making processes of the company: 'Zhou Zhe, the deputy secretary of Wanhua Party Committee, said with emotion: "there is extensive experience behind Wanhua's successes achieved over the past 40 years. But they can be boiled down to one sentence, that is, resolutely following the Party and making good use of every reform policy issued by the Party!" From Li Jiankui, the first chairman and Party secretary to Ding Jiansheng, the chairman and Party secretary of the joint stock company and to Liao Zengtai, the current chairman and Party secretary, Wanhua's Party committee secretary and chairman of the board have always been "one person". This ensures that the Party committee plays a leading role by making the enterprise keep to the set course, overseeing the overall operations and ensuring the implementation of decisions. Wanhua ensures that there is a Party branch for each production unit and has developed them into strong bastion. Thus, all communists are always in the lead at critical times.' (37).

(31) See: https://www.acfic.org.cn/gdgs1_362/zj/zjsgslgz/200901/t20090123_23197.html (last viewed on 27 October 2020)

(32) Northeast Pharmaceutical Group Import And Export Trade Co., Ltd, China Jiangsu International Economic And Technical Cooperation Group Co., Ltd and Zhejiang Chemicals Import & Export Corporation,

(33) See: <https://www.globenewswire.com/news-release/2020/03/18/2002467/0/en/Global-Aniline-Market-Opportunities-to-2025-Innovations-in-the-Production-of-Aniline-from-Biomass.html> and <https://teletype.in/@skr-tt/rkrLj4e3Q> (both last viewed on 26 October 2020)

(34) See: <https://cen.acs.org/business/finance/CENs-Global-Top-50-chemical/97/i30> (last viewed on 26 October 2020)

(35) See http://gzw.yantai.gov.cn/art/2019/8/21/art_9289_2493465.html (last viewed on 26 October 2020)

(36) See: http://static.sse.com.cn/disclosure/listedinfo/announcement/c/2020-03-31/600309_2019_n.pdf, p. 52-54 (last viewed on 26 October 2020)

(37) See article in specialised online service PUDaily: *Wanhua's Pursuit of Reform – An Exemplar of China's State-owned Enterprise Reform*. 10 June 2019, <http://www.pudaily.com/News/NewsView.aspx?nid=77913> (last viewed on 27 October 2020).

- (63) Wanhua Chemical, a major producer of aniline in the PRC and worldwide, can therefore be considered as controlled by the State. With its position, it must also be considered as an important actor of the Chinese chemical market, entering in numerous commercial interactions with the rest of the sectoral fabric, for example, in relation to the sourcing of inputs⁽³⁸⁾. Other suppliers of aniline can also be considered as active participants of the Chinese petrochemical sector. With regard to that sector, the Commission found that that, according to national statistics, State-owned enterprises (SOEs) in the Chinese chemical sector represented 52 % of the total assets of chemical companies in 2015⁽³⁹⁾. SOEs, in particular large central ones, have traditionally played a dominant role in the PRC's petrochemical industry due to their oligopoly position in upstream/feedstock, easy access to government-allocated resources (funds, loans, land etc.) and strong influence in government decision-making.
- (64) With respect to the above, the GOC and the CCP maintain structures that ensure their continued influence over enterprises, and in particular State-owned or State-controlled enterprises. The State (and in many aspects also the CCP) not only actively formulates and oversees the implementation of general economic policies by such State-owned or State-controlled companies, but it also claims its rights to participate in their operational decision making. This is typically done through rotation of cadres between government authorities and these companies, through presence of party members in the companies' executive bodies and of 'party cells' in the companies' structures (see also Section 3.2.2.4), as well as through shaping the corporate structure of the sector⁽⁴⁰⁾. In exchange, State-owned or State-controlled enterprises enjoy a particular status within the Chinese economy, which entails a number of economic benefits, in particular shielding from competition and preferential access to relevant inputs, including finance⁽⁴¹⁾. The elements that point to the existence of government control over enterprises in the sulphanilic acid value chain, and the chemical sector at large, is further developed in Section 3.2.2.4 below.
- (65) With the significant level of government intervention in the Chinese chemical industry, including within the sulphanilic acid value chain, and a significant share of SOEs in the sector, even privately owned producers are prevented from operating under market conditions. Both public and privately owned enterprises active in the Chinese chemical sector, including producers of sulphanilic acid and producers of the inputs necessary in the production of the latter, are also subject, directly or indirectly, to policy supervision and guidance as set out in Section 3.2.2.5 below.

3.2.2.4. Significant distortions according to Article 2(6a)(b), second indent of the basic Regulation: State presence in firms allowing the state to interfere with respect to prices or costs

- (66) Apart from exercising control over the economy by means of ownership of SOEs and other tools, the GOC is in position to interfere with prices and costs through State presence in firms. 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⁽⁴²⁾, 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⁽⁴³⁾) and the company shall provide the necessary

⁽³⁸⁾ See company's description of Wanhua's agreement with SOE Sinopec Nanjing Chemical concerning strategic cooperation with regard to aniline: 'On February 8, Yantai Wanhua Polyurethanes Co., Ltd and SINOPEC Nanjing Chemical Co., Ltd held the signing ceremony of the aniline strategic cooperation in the ancient city of Nanjing. The participants reviewed together the 10-year record their bilateral business cooperation concerning aniline, summarized their successful cooperation experience and then thoroughly discussed their future strategic cooperation relationship and reached an agreement as regards the cooperation expansion and the joint long term development. The Aniline Strategic Cooperation Agreement signed between Yantai Wanhua and Nanjing Chemical Co., Ltd (Nanhua) provides Yantai Wanhua with a stable and low cost guarantee for the supply of aniline raw materials during its fast development phase. At the same time, it improves the economic risk resistance capacities of both companies, thus creating favourable conditions for further cooperation and development of both Parties.' 9.2.2012. <https://www.whchem.com/en/newsmedia/news/271.shtml> (last viewed on 27 October 2020)

⁽³⁹⁾ Data for 2015 on the basis of the China Statistical Yearbook 2016, National Bureau of Statistics of China.

⁽⁴⁰⁾ Report – Chapter 3, p. 22-24 and Chapter 5, p. 97-108.

⁽⁴¹⁾ Report – Chapter 5, p. 104-9.

⁽⁴²⁾ Report – Chapter 5, p. 100-1.

⁽⁴³⁾ Report – Chapter 2, p. 26

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 ⁽⁴⁴⁾. 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 ⁽⁴⁵⁾. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of sulphanilic acid and the suppliers of their inputs.

- (67) By way of example, CCP structures personally overlap with the management body in the case of at least one company – Wanhua Chemical – which, as mentioned already, produces large amounts of aniline (the key constituent input of sulphanilic acid). The Commission found that the current chairman of the enterprise, Liao Zengtai, also holds the position of Party secretary. Furthermore, one of the directors of Wanhua Chemical, and chairman of its shareholding and controlling company Yantai Guofeng, is a member of the CCP, and serves as Party branch secretary of the latter enterprise. In the past, he was Party Committee Member of Yantai SASAC, and chief of the Statistical Evaluation Section of the latter public entity ⁽⁴⁶⁾. As another example to illustrate the presence of the CCP in the chemical sector's corporate fabric, in the structures of one of the lead exporters of sulphanilic acid in the PRC – China Jiangsu International Economic and Technical Cooperation Group – all the top management team of the company is affiliated with the Party ⁽⁴⁷⁾. The company itself also reports on internal Party-related activities: 'On the afternoon of 18th January, the Party Committee of China Jiangsu International Group Company held the 2018 annual review of the Party Organization Secretary's work on grassroots Party Building and the 2019 Party Building Work Deployment Conference.' ⁽⁴⁸⁾. Another of the large exporters of sulphanilic acid mentioned earlier – Northeast Pharmaceutical Group Import and Export Trade Co., Ltd – claims that one of its corporate policies is to 'Listen to President Xi's words, and follow the Party' and that one of its corporate values is 'Running a business must be beneficial to the government' ⁽⁴⁹⁾.
- (68) The State's presence and intervention in the financial markets (see also Section 3.2.2.8 below) as well as in the provision of raw materials and inputs further have an additional distorting effect on the market ⁽⁵⁰⁾. Thus, the State presence in firms, including SOEs, in the sulphanilic acid and other related sectors (such as the financial and input sectors) allow the GOC to interfere with respect to prices and costs.

3.2.2.5. Significant distortions according to Article 2(6a)(b), third indent of the basic Regulation: public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces

- (69) The direction of the Chinese economy is to a significant degree determined by an elaborate system of planning which sets out priorities and prescribes the goals the central and local governments must focus on. Relevant plans exist on all levels of government and cover virtually all economic sectors. The objectives set by the planning instruments are of binding nature and the authorities at each administrative level monitor the implementation of the plans by the corresponding lower level of government. Overall, the system of planning in the PRC results in resources being driven to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces ⁽⁵¹⁾.

⁽⁴⁴⁾ Report – Chapter 2, p. 31-2.

⁽⁴⁵⁾ Available at <https://www.reuters.com/article/us-china-congress-companies-idUSKCN1B40JU> (last viewed on 27 October 2020).

⁽⁴⁶⁾ See the company's website: <https://www.whchem.com/cn/aboutus/management/directorboard.shtml> (last viewed on 27 October 2020)

⁽⁴⁷⁾ See the company's website: <http://www.zjgj.com/intro/21.html> (last viewed on 27 October 2020)

⁽⁴⁸⁾ See the company's website: <http://www.zjgj.com/news/2540.html> (last viewed on 27 October 2020)

⁽⁴⁹⁾ See the company's website: <http://www.nepharm.com.cn/article/index/cid/88.html> (last viewed on 28 October 2020)

⁽⁵⁰⁾ Report – Chapters 14.1 to 14.3.

⁽⁵¹⁾ Report – Chapter 4, p. 41-42, 83.

- (70) The chemical industry, to which producers of sulphanilic acid and their input suppliers belong, is regarded as an important sector by the GOC. This is confirmed in the numerous plans, directives and other documents pertaining to the chemical sector, which are issued at national, regional and municipal level ⁽⁵²⁾.
- (71) Specifically, with regard to olefins – the chemical product group to which benzene (the raw material for aniline – which is the main input of sulphanilic acid) belongs to – a particular focus on the production of the latter can be found in the 13th National Five Year Plan (FYP) ⁽⁵³⁾. Olefins are also covered by provisions of the 13th FYP for the Petrochemical and Chemical Industry (2016-20), through which the State establishes development paths for specific chemical sub-sectors, including supply and value chain management, as well as setting of industrialization targets, which all can have a direct impact on market forces in these sub-sectors. In the case of olefins, the State instructs to: ‘Accelerate the promotion of key petrochemical projects construction. [...] Prepare for the use of both international and domestic resources, appropriately develop methanol-to-olefins, propane dehydrogenation-to-propylene, raise the share of non-petroleum-based products in the ethylene and propylene production volume, improve the supply security capacity’ ⁽⁵⁴⁾ and announces it will ‘orderly promote the construction of seven major petrochemical industrial bases and major projects, enhance the capacity to guarantee availability of olefins, aromatics, and other basic products, and improve the integration of refining’ ⁽⁵⁵⁾.
- (72) Other high profile Chinese policy documents, such as the State Council Guidelines on Structure Adjustment, Transformation, and Profitability Growth of the Petrochemical Industry also set among their main goals the management of supply patterns with regard to olefins: ‘The production capacity structure shall be gradually optimized. [...] Olefins, aromatics, and other basic raw materials supply guarantee capacity shall be significantly enhanced.’ ⁽⁵⁶⁾.
- (73) The provisions of the country-wide plans and guidelines find their reflection in provincial planning documents, such as the 13th FYP for the Development of the Chemical Industry in Jiangsu Province (2016 – 2020), which notably commands what steps each region should undertake with respect to the industrial base and its capacity, as well as sources of supply, notably in relation to olefins: ‘the Nanjing petrochemical base shall ensure the integration and development of refined products, olefins and aromatic hydrocarbons, [and] ensure the high-value development of downstream products’ ⁽⁵⁷⁾. Similarly, olefins are also part of the 13th Petrochemical Industry Plan for Hebei Province, whereby the authorities aims at steering structural development patterns for specific industry segments, together with capacity control, notably instructing to: ‘Speed up the development of coal – ethylene glycol, gradually develop coal (methanol) – olefins, raise the production capacity for non-petroleum-based olefins, build coal-to-aromatic hydrocarbon facilities in appropriate locations of coastal areas, raise the industry concentration level and scaling up, [...]’ ⁽⁵⁸⁾.
- (74) The Commission also found that another raw material used in the production of sulphanilic acid – sulphuric acid – was subject to public policies in the Hebei province, under the 13th Petrochemical Industry Plan for Hebei Province, with regard to controlling new production capacity: ‘[Hebei shall][...] strictly implement the sector entry conditions,- control any new production capacity project regarding coke, caustic alkali, sodium carbonate, sulphuric acid, calcium carbide, PVC, methanol, dyes etc.’ ⁽⁵⁹⁾.

⁽⁵²⁾ Report – Chapter 16, pp. 406-424.

⁽⁵³⁾ Report – Chapter 16, p. 401

⁽⁵⁴⁾ Report – Chapter 16, p. 411

⁽⁵⁵⁾ 13th FYP for the Petrochemical and Chemical Industry, Section III.7

⁽⁵⁶⁾ Document No 57 of the State Council. 23 July 2016, Section I.3. http://www.gov.cn/zhengce/content/2016-08/03/content_5097173.htm (last viewed on 27 October 2020).

⁽⁵⁷⁾ Report – Chapter 16, p. 419

⁽⁵⁸⁾ Report – Chapter 16, p. 424

⁽⁵⁹⁾ Report – Chapter 4, p. 70

- (75) The GOC steers the development of the chemical sector in accordance with a broad range of tools, for example by providing State subsidies, notably to producers of aniline – the key raw material used in the production of sulphanilic acid. The annual reports of Wanhua Chemicals, a leading producer of aniline, confirm that the company received the following amounts of government subsidies: in 2019 – RMB 907 million ⁽⁶⁰⁾; in 2018 – RMB 1 billion; in 2017 – RMB 1,3 billion ⁽⁶¹⁾.
- (76) Moreover, the Commission found that Wanhua Chemicals, as a State-controlled company, has been recently entrusted with the implementation of a project of national extent, which showcases the close relationship with the State, which the company benefits from: 'In October 2019, the National Standardization Administration of China formally issued a reply, approving Yantai Wanhua Chemical Group Co., Ltd as the enterprise in charge of the preparation and construction of the national technical standard innovation base (new chemical materials).' ⁽⁶²⁾.
- (77) In addition, with regard to benzene, the chemical input used to produce aniline, the Commission found that the PRC applies an export tax of 40 % ⁽⁶³⁾. It however does not apply any export duty on downstream products of benzene, including sulphanilic acid.
- (78) Through these and other means, the raw materials used to produce sulphanilic acid are subject to governmental intervention, with the GOC directing and controlling virtually every aspect in the development and functioning of the chemical sector.
- (79) In sum, the GOC has measures in place to induce operators to comply with the public policy objectives of supporting encouraged industries, including the production of aniline as the main raw material used in the manufacturing of the product under review. Such measures impede market forces from operating freely.

3.2.2.6. Significant distortions according to Article 2(6a)(b), fourth indent of the basic Regulation: the lack, discriminatory application or inadequate enforcement of bankruptcy, corporate or property laws

- (80) According to the information on file, the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interests of creditors and debtors. This appears to be rooted in the fact that while the Chinese bankruptcy law formally rests on principles that are similar to those applied in corresponding laws in countries other than the PRC, the Chinese system is characterised by systematic under-enforcement. The number of bankruptcies remains notoriously low in relation to the size of the country's economy, not least because the insolvency proceedings suffer from a number of shortcomings, which effectively function as a disincentive for bankruptcy filings. Moreover, the role of the State in the insolvency proceedings remains strong and active, often having direct influence on the outcome of the proceedings ⁽⁶⁴⁾.
- (81) In addition, the shortcomings of the system of property rights are particularly obvious in relation to ownership of land and land-use rights in the PRC ⁽⁶⁵⁾. All land is owned by the Chinese State (collectively owned rural land and State-owned urban land). Its allocation remains solely dependent on the State. There are legal provisions that aim at allocating land use rights in a transparent manner and at market prices, for instance by introducing bidding procedures. However, these provisions are regularly not respected, with certain buyers obtaining their land for free or below market rates ⁽⁶⁶⁾. Moreover, authorities often pursue specific political goals including the implementation of the economic plans when allocating land ⁽⁶⁷⁾.

⁽⁶⁰⁾ See: http://static.sse.com.cn/disclosure/listedinfo/announcement/c/2020-03-31/600309_2019_n.pdf, p. 160 (last viewed on 28 October 2020)

⁽⁶¹⁾ See: http://static.sse.com.cn/disclosure/listedinfo/announcement/c/2019-04-23/600309_2018_n.pdf, p. 138 (last viewed on 28 October 2020)

⁽⁶²⁾ See: http://www.yantai.gov.cn/art/2020/6/28/art_20330_2762266.html (last viewed on 28 October 2020)

⁽⁶³⁾ http://transcustoms.com/China_HS_Code/China_Tariff.asp?HS_Code=2902200000 (last viewed on 29 October 2020)

⁽⁶⁴⁾ Report – Chapter 6, p. 138-149.

⁽⁶⁵⁾ Report – Chapter 9, p. 216.

⁽⁶⁶⁾ Report – Chapter 9, p. 213-215.

⁽⁶⁷⁾ Report – Chapter 9, p. 209-211.

- (82) Much like other sectors in the Chinese economy, the producers of sulphanilic acid are subject to the ordinary rules on Chinese bankruptcy, corporate, and property laws. That has the effect that these companies, too, are subject to the top-down distortions arising from the discriminatory application or inadequate enforcement of bankruptcy and property laws. The present investigation revealed nothing that would call those findings into question. As such, the Commission preliminarily concluded that the Chinese bankruptcy and property laws do not work properly, thus generating distortions when maintaining insolvent firms afloat and when allocating land use rights in the PRC. Those considerations, on the basis of the evidence available, appear to be fully applicable also in the chemical sector, including the sulphanilic acid sector and the sectors manufacturing the raw materials used to produce sulphanilic acid.
- (83) In light of the above, the Commission concluded that there was discriminatory application or inadequate enforcement of bankruptcy and property laws in the chemical sector, including with respect to the product under review.

3.2.2.7. Significant distortions according to Article 2(6a)(b), fifth indent of the basic Regulation: wage costs being distorted

- (84) A system of market-based wages cannot fully develop in the PRC as workers and employers are impeded in their rights to collective organisation. The PRC has not ratified a number of essential conventions of the International Labour Organisation ('ILO'), in particular those on freedom of association and on collective bargaining⁽⁶⁸⁾. 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⁽⁶⁹⁾. Moreover, the mobility of the Chinese workforce is restricted by the household registration system, which limits access to the full range of social security and other benefits to local residents of a given administrative area. This typically results in workers who are not in possession of the local residence registration finding themselves in a vulnerable employment position and receiving lower income than the holders of the residence registration⁽⁷⁰⁾. Those findings lead to the distortion of wage costs in the PRC.
- (85) No evidence was submitted to the effect that the chemical sector, including the producers of sulphanilic acid, would not be subject to the Chinese labour law system described. The sulphanilic acid sector is thus affected by the distortions of wage costs both directly (when making the product under review or the main raw material for its production) as well as indirectly (when having access to capital or inputs from companies subject to the same labour system in the PRC).

3.2.2.8. Significant distortions according to Article 2(6a)(b), sixth indent of the basic Regulation: access to finance granted by institutions which implement public policy objectives or otherwise not acting independently of the State

- (86) Access to capital for corporate actors in the PRC is subject to various distortions.
- (87) Firstly, the Chinese financial system is characterised by the strong position of State-owned banks⁽⁷¹⁾, which, when granting access to finance, take into consideration criteria other than the economic viability of a project. Similarly to non-financial SOEs, the banks remain connected to the State not only through ownership but also via personal relations (the top executives of large State-owned financial institutions are ultimately appointed by the CCP)⁽⁷²⁾ and, again just like non-financial SOEs, the banks regularly implement public policies designed by the government. In doing so, the banks comply with an explicit legal obligation to conduct their business in accordance with the needs of the national economic and social development and under the guidance of the industrial policies of the State⁽⁷³⁾. This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important⁽⁷⁴⁾.

⁽⁶⁸⁾ Report – Chapter 13, p. 332-337.

⁽⁶⁹⁾ Report – Chapter 13, p. 336.

⁽⁷⁰⁾ Report – Chapter 13, p. 337-341.

⁽⁷¹⁾ Report – Chapter 6, p. 114-117.

⁽⁷²⁾ Report – Chapter 6, p. 119.

⁽⁷³⁾ Report – Chapter 6, p. 120.

⁽⁷⁴⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

- (88) While it is acknowledged that various legal provisions refer to the need to respect normal banking behaviour and prudential rules such as the need to examine the creditworthiness of the borrower, the overwhelming evidence, including findings made in trade defence investigations, suggests that these provisions play only a secondary role in the application of the various legal instruments.
- (89) Furthermore, bond and credit ratings are often distorted for a variety of reasons including the fact that the risk assessment is influenced by the firm's strategic importance to the GOC and the strength of any implicit guarantee by the government. Estimates strongly suggest that Chinese credit ratings systematically correspond to lower international ratings ⁽⁷³⁾.
- (90) This is compounded by additional existing rules, which direct finances into sectors designated by the government as encouraged or otherwise important ⁽⁷⁶⁾. This results in a bias in favour of lending to SOEs, large well-connected private firms and firms in key industrial sectors, which implies that the availability and cost of capital is not equal for all players on the market.
- (91) Secondly, borrowing costs have been kept artificially low to stimulate investment growth. This has led to the excessive use of capital investment with ever lower returns on investment. This is illustrated by the recent growth in corporate leverage in the state sector despite a sharp fall in profitability, which suggests that the mechanisms at work in the banking system do not follow normal commercial responses.
- (92) Thirdly, although nominal interest rate liberalization was achieved in October 2015, price signals are still not the result of free market forces, but are influenced by government-induced distortions. Indeed, the share of lending at or below the benchmark rate still represents 45 % of all lending and recourse to targeted credit appears to have been stepped up, since this share has increased markedly since 2015 in spite of worsening economic conditions. Artificially low interest rates result in under-pricing, and consequently, the excessive utilization of capital.
- (93) 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. Faced with a situation of increasing debt-at-risk, the GOC has opted to avoid defaults. Consequently, bad debt issues have been handled by rolling over debt, thus creating so called 'zombie' companies, or by transferring the ownership of the debt (e.g. via mergers or debt-to-equity swaps), without necessarily removing the overall debt problem or addressing its root causes.
- (94) In essence, despite the recent steps that have been taken to liberalize the market, the corporate credit system in the PRC is affected by significant distortions resulting from the continuing pervasive role of the state in the capital markets.
- (95) No evidence was submitted to the effect that the sulphanilic acid sector would be exempted from the above-described government intervention in the financial system. The Commission has also established that a leading producer of aniline (the main raw material used in the production of sulphanilic acid) benefited from government subsidies (see recital (75)). Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

3.2.2.9. Systemic nature of the distortions described

- (96) The Commission noted that the distortions described in the Report are characteristic for the Chinese economy. The evidence available shows that the facts and features of the Chinese system as described above in Sections 3.2.2.1 to 3.2.2.5 as well as in Part A of the Report apply throughout the country and across the sectors of the economy. The same holds true for the description of the factors of production as set out above in Sections 3.2.2.6 to 3.2.2.8 above and in Part B of the Report.

⁽⁷³⁾ See IMF Working Paper 'Resolving China's Corporate Debt Problem', by Wojciech Maliszewski, Serkan Arslanalp, John Caparuso, José Garrido, Si Guo, Joong Shik Kang, W. Raphael Lam, T. Daniel Law, Wei Liao, Nadia Rendak, Philippe Wingender, Jianguan, October 2016, WP/16/203

⁽⁷⁶⁾ Report – Chapter 6, p. 121-122, 126-128, 133-135.

- (97) The Commission recalls that in order to produce sulphanilic acid, a range of inputs is needed. In that respect, the PRC is one of the leading producers of aniline – the key raw material in that production process (see recital (62)). When the producers of sulphanilic acid purchase/contract these inputs in the PRC, 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.
- (98) As a consequence, not only the domestic sales prices of sulphanilic acid 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 A and B 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. No evidence or argument to the contrary has been adduced by the GOC or the exporting producers in the present investigation.

3.2.2.10. Conclusion

- (99) The analysis set out in Sections 3.2.2.2 to 3.2.2.9, which includes an examination of all the available evidence relating to the PRC's intervention in its economy in general as well as in the chemical sector (including the product under review) showed that prices or costs of the product under review, 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. On that basis, and in the absence of any cooperation from the GOC, the Commission concluded that it is not appropriate to use domestic prices and costs to establish normal value in this case.
- (100) 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 from an appropriate source, in accordance with Article 2(6a) of the basic Regulation, as discussed in the following section.

3.2.3. *Appropriate source*

3.2.3.1. General remarks

- (101) The choice of the source 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 referred to countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ⁽⁷⁾,
 - Production of the product under review in that country;
 - Availability of relevant public data in the country.
- (102) As explained in recitals (30) and (31), the Commission issued two notes for the file on the sources for the determination of the normal value: the first note on production factors of 7 May and the second note on the production factors of 25 September. These notes described the facts and evidence underlying the relevant criteria. Through these notes, the Commission informed interested parties of its intention to consider India as an appropriate source for the reasons mentioned in recitals (103), (104) and (105) below. The Commission did not receive any comments in this regard.

⁽⁷⁾ World Bank Open Data – Upper Middle Income, <https://data.worldbank.org/income-level/upper-middle-income>.

3.2.3.2. A level of economic development similar to the PRC and production of the product under review

- (103) In the Note of 7 May on production factors, the Commission explained that the product under review appears to be produced only in India and the United States of America ('US')⁽⁷⁸⁾, neither of which is a country with a level of economic development similar to the PRC in accordance with the criteria mentioned in recital (101) above.
- (104) As the Commission could not find any country with a similar level of economic development as the PRC with the production of a product in the same general category and/or sector of the product under review, the Commission indicated in the Note of 7 May on production factors that it would look for the production of the product under review in a country with a different level of development than the PRC reflecting undistorted prices or benchmarks in the sense of Article 2(6a)(a), first paragraph. The Commission noted that India has a level of economic development inferior to the one of the PRC. Therefore, in circumstances where a precise margin of dumping would need to be calculated, this country would not be suitable because of its lower level of economic development than the PRC. However, since the current investigation is an expiry review where the question is whether dumping is likely to continue or recur irrespective of the actual level, the Commission considered whether India could exceptionally constitute the basis to establish the costs of production and sale in the circumstances of this case. In this respect, the Commission noted that the normal value established on the basis of this very conservative approach already showed significant dumping as concluded in Section 3.2.7 below. The Commission concluded that it was therefore not necessary to explore other alternatives.
- (105) Following the request, the information available to the Commission showed that there were several producers of the product under review in India.
- (106) The Commission then verified the necessary financial data publicly available in India for those producers. The Commission focused on companies with publicly available profit and loss statements with data for the review investigation period that were profitable in this period. The Commission found audited annual reports for the period running from 1 April 2018 to 31 March 2019 available online for Aarti Industries Limited ('Aarti') and Daikaffil Chemicals India Limited.
- (107) Daikaffil India Limited's has a collaboration agreement with a foreign company. Daikaffil's website⁽⁷⁹⁾ states that this foreign company has directly supervised and controlled the quality of Daikaffil India Limited's production in all its production lines, provided technology for free and agreed to buy-back agreements of some production. Similar statements appear on the company's financial statements. The information found seems to suggest that in these circumstances Daikaffil does not occur the production costs that another sulphanilic acid producing company will occur. This situation leads to an impact on Daikaffil's SGA and profit.
- (108) No interested party contested that India would be chosen to establish the undistorted costs of production and sale for the exporting producers, or that Aarti Industries Limited offered appropriate financial data for the purpose of this investigation. Aarti Industries Limited focuses on a broad category of products in order to gain economy of scale and synergies, a strategy found in sulphanilic acid producers in countries with a higher level of development than India. Even if it is a bigger group company, Aarti Industries Limited's management business was found to be similar to the applicant's due to its business variety and performance.

3.2.3.3. Availability of relevant public data in India

- (109) The Commission carefully analysed all relevant data available in the file for the factors of production in India and noted the following:

— There were imports of the inputs that, as established in the Note of 7 May and the Note of 25 September, are necessary for the production of the product under review.

⁽⁷⁸⁾ Worldwide sulphanilic acid is produced in the Union, the US, PRC and India.

⁽⁷⁹⁾ <http://www.daikaffil.com/collaboration.html> (last viewed on 24 November 2020).

- The Indian State of Maharashtra hosts a significant number of chemical companies and sulphanilic acid producers. Specific data from the Indian State Maharashtra was used rather than India-wide data when available.
- The industrial electricity tariff for the review investigation period was available in the form of data provided by the Maharashtra Electricity Regulatory Commission.
- Prices for natural gas for the review investigation period were readily available in the form of data provided by the Petroleum Planning and Analysis Cell in India (which is part of the Indian Ministry of Petroleum and natural gas).
- The website of the Ministry of Statistics in India provides for yearly average wages. The website of the Labour Bureau in India provides for minimum wages in manufacturing sectors and per State.

(110) According to Article 2(6a)(a) of the basic Regulation, the constructed normal value must include an undistorted and reasonable amount for SG&A and for profits. In addition, a value for manufacturing overheads needs to be established to cover costs not included in the factors of production. As aforementioned, the Indian exporting producer Aarti had publicly available financial statements that could be used as a proxy to determine an undistorted and reasonable amount for SG&A and profits.

3.2.3.4. Conclusion on India as an appropriate source

(111) In view of the above analysis, India was exceptionally considered an appropriate source on the basis of Article 2(6a)(a) of the basic Regulation for the undistorted costs and prices. The company Aarti was selected to source the necessary financial data.

3.2.4. Factors of production

(112) As mentioned in the Note of 7 May and the Note of 25 September, the Commission analysed all the available data for the factors of production identified. The Commission decided to use the following sources and units of measurement in order to determine the normal value in accordance with Article 2(6a)(a) of the basic Regulation:

Table 1

Factors of production of Sulphanilic Acid

Factor of Production	HS Code	Source of data	Unit undistorted value
Sulphuric acid; oleum	2807 00	Global Trade Atlas (GTA) ⁽¹⁾	70,15 EUR/Metric tonne
Aniline and its salts	2921 41	Global Trade Atlas (GTA)	1 342,59 EUR/Metric tonne
Activated carbon	3802 10	Global Trade Atlas (GTA)	2 835,95 EUR/Metric tonne
Demineralised water	[N/A]	Water tariff for industries in the Indian State of Maharashtra	0,06 EUR/M3
Cold water	[N/A]	Water tariff for industries in the Indian State of Maharashtra	0,06 EUR/M3
Labour	[N/A]	Labour bureau of India (Global data on average yearly wage in India extrapolated to Maharashtra)	0,92 EUR/Hour
Electricity	[N/A]	Maharashtra Electricity Regulatory Commission	0,118 EUR/kWh

Factor of Production	HS Code	Source of data	Unit undistorted value
Natural Gas	2711 21	Petroleum Planning and Analysis Cell in India	0,11 EUR/Nm ³
Vapour	[N/A]	Applicant's data	Percentage of variable costs.

(¹) <http://www.gtis.com/gta/secure/default.cfm>

3.2.4.1. Raw materials

- (113) The raw materials used for the production of the product under review are sulphuric acid and aniline (⁸⁰). For the salts, in addition to these two raw materials, there is also sodium, potassium or calcium. Since in expiry reviews, the Commission does not have to calculate the exact dumping margin, it decided to disregard the additional cost of these materials when calculating the normal value for the salts. This simplified approach resulted in a more conservative dumping margin.
- (114) In order to establish the undistorted price of raw materials as delivered at the gate of the appropriate producer, the Commission used as a basis the weighted average import CIF price to India as reported in the GTA to which import duties and domestic transport costs were added. An import CIF price in India 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 of the European Parliament and the Council (⁸¹).
- (115) The Commission excluded the imports from the PRC into India as it concluded in Section 3.2.2 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 present on the domestic market in China do not equally affect products intended for export, the Commission considered that the same distortions affected export prices. Similarly, imports in India from non-WTO members listed in Annex 1 of Regulation (EU) 2015/755 were also excluded (⁸²). Article 2(7) of the basic Regulation provides that domestic prices in those countries cannot be used for the purpose of determining normal value. After excluding imports from the PRC to India, the volume of imports from other third countries of sulphuric acid remained representative (75,3 % of the total volumes imported into India). The volume of imports of aniline to India from third countries other than the PRC being limited, the Commission endeavoured to find other representative benchmarks.
- (116) The Commission found no undistorted international representative benchmark price for aniline in the free market. China remains the main player in the world, with nearly 50 % of the global aniline capacity, followed by Western Europe and the US (⁸³). In addition, the free market for aniline in the Union and the US is limited (⁸⁴). Some 90 % of the aniline produced worldwide goes into the production of MDI (⁸⁵), an insulating material. The applicant is the only European producer of aniline not integrated with MDI production (⁸⁶).

(⁸⁰) These are the raw materials for the production of sulphanilic acid and not for its salts.

(⁸¹) 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 as amended by Commission delegated Regulation (EU) 2017/749 of 24 February 2017 (OJ L 113, 29.4.2017, p. 11).

(⁸²) These non-WTO members are Azerbaijan, Belarus, North Korea, Turkmenistan and Uzbekistan.

(⁸³) <https://www.reportsanddata.com/report-detail/aniline-market>

(⁸⁴) Page 6 of Huntsman Corporation's 10-K SEC filing dated 13 February 2020 refers to the absence of a significant 'market' for aniline as MDI manufacturers are either integrated with an aniline manufacturing facility or have a long-term supply contract. For details, see <https://www.huntsman.com/investors/financials/sec-filings/content/0001558370-20-000780/0001558370-20-000780.pdf>

(⁸⁵) See page 7 of the request for the review.

(⁸⁶) See page 7 of the request for the review.

- (117) The applicant submitted that average price of imported aniline to India over the past five years was 1,95 USD/kg, and never lower than 1,50 USD/kg (i.e. 1,32 EUR/kg)⁽⁸⁷⁾. The Commission used as a benchmark the most conservative price for aniline provided by the applicant, that is to say, 1,32 EUR/kg.
- (118) In order to establish the normal value according to the Commission's methodology, the import duties of the factors of production and the materials imported into India, as well as the domestic transport costs should normally be added to these import prices. For sulphuric acid, the Commission applied the import duty of India as available in the World Bank World Integrated Trade Solution⁽⁸⁸⁾, at the respective levels, depending on the country of origin of the imported volumes. Furthermore, the Commission added domestic transport costs calculated per tonne on the basis of quotations for deliveries as provided by a World Bank report⁽⁸⁹⁾. For the benchmark taken for aniline, the Commission added domestic transport.

3.2.4.2. Consumables

- (119) Consumables are activated carbon, demineralised water and cold water.
- (120) For activated carbon, the Commission applied the same methodology as for sulphuric acid in the section on raw materials above. After excluding the PRC, the imports from other third countries remained representative accounting for 50,8 % of total volumes imported to India. As to domestic transport, the Commission added domestic transport costs calculated per tonne on the basis of quotations for deliveries as provided by the World Bank report referred to in the section above.
- (121) For demineralised water and cold water, the Commission resorted to the 2018 water tariff for industries that use water for production or cooling agent in Maharashtra⁽⁹⁰⁾.

3.2.4.3. Labour

- (122) The Periodic Labour Force Surveys by the Ministry of Statistics in India⁽⁹¹⁾ show that the average yearly wage is in general the double of the minimum wage⁽⁹²⁾. The Commission used the latest analysis of labour data in India by its Labour Bureau (i.e. the report 'Indian Labour Statistics 2017')⁽⁹³⁾ showing the minimum wages in Maharashtra in the chemicals/drugs and pharmaceuticals industry sector and multiplied the minimum wage for a year by two.

3.2.4.4. Electricity

- (123) The Maharashtra Electricity Regulatory Commission publishes the price of electricity for companies (industrial users) in Maharashtra⁽⁹⁴⁾. The Commission used the data on the industrial electricity prices during the Indian financial year 2019/2020 (i.e. prices prevailing in the second half of the review investigation period).

⁽⁸⁷⁾ See t20.003680.

⁽⁸⁸⁾ Available at <https://wits.worldbank.org/WITS/WITS/Restricted/Login.aspx> (last viewed on 7 January 2020); although it requires registration, the access to the database is free.

⁽⁸⁹⁾ See page 84 of the report <https://www.doingbusiness.org/content/dam/doingBusiness/country/c/china/CHN.pdf>

⁽⁹⁰⁾ <https://timesofindia.indiatimes.com/city/mumbai/maharashtra-govt-increases-water-tariff-for-industries-using-it-as-raw-material/articleshow/62573525.cms>

⁽⁹¹⁾ http://mospi.nic.in/sites/default/files/publication_reports/Annual_Report_PLFS_2018_19_HL.pdf

⁽⁹²⁾ The yearly average wage in India during the review investigation period was some 192 000 INR (see regular wage/salary employee data in statement 17 on page 60 of the 'Annual Report, PLFS, 2018-19' downloadable via the link in the footnote above). The report 'Indian Labour Statistics 2017' shows that the yearly minimum earnings of workers in the Indian manufacturing sector in general in 2014 was over 100 000 INR/year.

⁽⁹³⁾ http://www.labourbureaunew.gov.in/UserContent/ILS_2017.pdf

⁽⁹⁴⁾ <https://www.merc.gov.in/faces/merc/common/outputClient.xhtml>

3.2.4.5. Natural gas

- (124) The Petroleum Planning and Analysis Cell in India (which is part of the Indian Ministry of Petroleum and natural gas) publishes regularly in its website ⁽⁹⁵⁾ the price of natural gas in India. The Commission used the published prices covering the review investigation period ⁽⁹⁶⁾.

3.2.4.6. Vapour

- (125) In the absence of any other data, for establishing vapour costs the Commission used the methodology used in the request, which was verified by the Commission during the RCC. Vapour is an 'energy' element which cost was established as a percentage of certain variable costs actually incurred by the applicant in its production of sulphanilic acid during the review investigation period ⁽⁹⁷⁾.

3.2.4.7. Manufacturing overhead costs, SG&A, profits and depreciation

- (126) 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.
- (127) In order to establish an undistorted value of the manufacturing overheads and given the absence of cooperation from the Chinese exporting producers, the Commission used facts available in accordance with Article 18 of the basic Regulation. Therefore, based on the data of the applicant ⁽⁹⁸⁾, the Commission established the ratio of manufacturing overheads to the total manufacturing and labour costs. This percentage was then applied to the undistorted value of the cost of manufacturing to obtain the undistorted value of manufacturing overheads.
- (128) For establishing an undistorted and reasonable amount for SG&A and profit, the Commission relied on the financial data for the period 1 April 2018 – 31 March 2019 for Aarti as extracted from Aarti's audited accounts available on the company's website.

3.2.5. Calculation

- (129) 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.
- (130) First, the Commission established the undistorted manufacturing costs. In the absence of cooperation by the exporting producers, the Commission relied on the information provided by the applicant in the review request on the usage of each factor (materials and labour) for the production of sulphanilic acid. These consumption rates provided by the applicant were verified by the Commission during the RCC. The Commission multiplied the usage factors by the undistorted costs per unit observed in India.
- (131) Second, manufacturing overhead costs were calculated. The calculation of these manufacturing overhead costs is explained in recital (127) above. The percentage obtained was applied to the undistorted costs of manufacturing.
- (132) Third, the Commission applied SG&A and profit. They were determined based on the financial statements of Aarti (see Section 3.2.3.3). The Commission added the following items to the undistorted cost of manufacturing:
- SG&A, which accounted for 23,6 % of the total manufacturing costs of Aarti, and
 - Profits amounting to 20,4 % of the total manufacturing costs of Aarti.

⁽⁹⁵⁾ <https://www.ppac.gov.in/>

⁽⁹⁶⁾ See page 33 of <https://www.ppac.gov.in/WriteReadData/Reports/202005260522443480671SnapshotofIndiasOilGasdata,April2020.pdf>

⁽⁹⁷⁾ See t20.007552. The detailed cost information provided by the applicant is confidential by nature in light of Article 19(1) of the basic Regulation and cannot be redacted.

⁽⁹⁸⁾ For a breakdown, see t20.007552.

- (133) On that basis, 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.

3.2.6. *Export price*

- (134) As a consequence of non-cooperation, export prices were established on the basis of the facts available in accordance with Article 18 of the basic Regulation. The Commission used import data on Chinese imports reported in the 14(6) database and Eurostat to determine export prices.
- (135) As these prices are reported on a Cost, Insurance, Freight ('CIF') basis, they were adjusted to an ex-works level by deducting an appropriate amount for transportation (53 EUR/ton) and insurance costs (0,2 %) between the PRC and the Union border. In the absence of cooperation from the Chinese exporting producers, the Commission used data provided by the applicant ⁽⁹⁹⁾.

3.2.7. *Comparison and dumping margin*

- (136) The Commission compared the constructed normal value as established in accordance with Article 2(6a)(a) of the basic Regulation on an ex-works basis with the export price at ex-works level to the Union. The Commission followed a conservative approach and compared the constructed normal value for sulphanilic acid with exports prices for sulphanilic acid and its salts (imports under TARIC code 2921 42 00 60 and under TARIC code 2921 42 00 40). The Commission disregarded however imports made under TARIC code 2921 42 00 90 (aniline derivatives and their salts – Other) as this code might include products other than the product under review.
- (137) The dumping margin found, expressed as a percentage of the CIF Union frontier price, duty unpaid, was 41,7 %.

3.2.8. *Conclusion on continuation of dumping*

- (138) The Commission therefore concluded that dumping continued during the review investigation period.

3.3. **Likely development of imports should the measures lapse**

- (139) Further to the finding of the existence of dumping during the review investigation period, the Commission investigated in accordance with Article 11(2) of the basic Regulation the likelihood of continuation of dumping, should the measures be repealed. The following additional elements were analysed: the production capacity and spare capacity in PRC, the relationship between prices level in the Union and export prices to third countries and the attractiveness of the Union market.
- (140) As a consequence of the non-cooperation of Chinese authorities and of producers/exporters in the PRC, the Commission based its assessment on the facts available in accordance with Article 18 of the basic Regulation.

3.3.1. *Production capacity and spare capacity in the PRC*

- (141) In the previous expiry review the Commission concluded that the available capacity in the PRC was in a range of 65 500 to 82 000 tonnes. At the time, the spare capacity of sulphanilic acid in the PRC was estimated within the range 13 100 – 16 400 tonnes.

⁽⁹⁹⁾ See t20.006886.

- (142) The current request for expiry review includes a list of 44 Chinese producers of sulphanilic acid and estimates that in 2019 production capacity of sulphanilic acid ranged 75 000 – 190 000 tonnes. In 2017, the production capacity of sulphanilic acid in the PRC was estimated at 98 506 tonnes for 14 Chinese producers ⁽¹⁰⁰⁾. Since 2017 production capacities have been added by producers such as Hebei Honggang Chemical Co., Ltd and Cangzhou Lingang Yueguo Chemical Co., Ltd ⁽¹⁰¹⁾. Moreover, much of the production equipment used to make dyes, pigments and organic chemical in the PRC can also be used to produce sulphanilic acid ⁽¹⁰²⁾.
- (143) In light of projections based on historical demand and exports and market intelligence about the PRC, currently the spare capacity of sulphanilic acid in the PRC ranges 35 000 – 65 000 tonnes, representing as a minimum already well more than fivefold the Union consumption in the review investigation period.

3.3.2. Prices in other export markets

- (144) The Commission made a GTA extraction with values and volumes of PRC exports of aniline derivatives and its salts ⁽¹⁰³⁾ (data for sulphanilic acid only is not available) for the period 2015-19 per country of destination. An analysis of export prices shows that, apart from sales to the US, Chinese exports of aniline derivatives and its salts to the Union are the highest priced. The product mix per country of destination is unknown, but the price difference between prices in the Union and other exports markets is significant. In 2019 the average selling price of aniline derivatives and its salts to the Union was 3,2 times higher than in other export markets. An increase of Chinese sales into the Union is thus likely in the absence of anti-dumping measures. Such imports are expected to happen at dumped prices that would undercut the prices of the sole Union producer.

3.3.3. Attractiveness of the Union market

- (145) In the world, the PRC is the largest exporting country of sulphanilic acid by quantity ⁽¹⁰⁴⁾. In light of the plans put in place by the Government of China (see Section 3.2.2) and the websites of relevant Chinese producers ⁽¹⁰⁵⁾, it is clear that Chinese producers of sulphanilic acid have significant exports.
- (146) The analysis of the GTA extraction mentioned in recital (144) above showed that Chinese exports of aniline derivatives and its salts amounted to some 82 million tonnes in 2019. The bulk of those exports went to Oman, Pakistan, Brazil, India and Vietnam. Even if the product mix of exported products might differ and data is wider than the product under review, it is noted that the average price of Chinese exports of aniline derivatives and its salts to non-EU countries was much lower than the average price of exports to the Union. The investigation found that demand for sulphanilic acid was concentrated in the US, Europe, Mexico, Brazil and Japan ⁽¹⁰⁶⁾. As to the US, sulphanilic acid prices would be high, however the access to the US market seems to be restricted for Chinese sulphanilic acid producers since the introduction of anti-dumping measures ⁽¹⁰⁷⁾. The attractiveness of the Union market in terms of demand and prices is thus patent.

⁽¹⁰⁰⁾ See p. I-16 of the publication 4680 of the United States International Trade Commission on Sulphanilic Acid from China and India, Investigations Nos 701-TA-318 and 731-TA-538 and 561 (Fourth Review) from April 2017 ('the April 2017 USITC Report').

⁽¹⁰¹⁾ Page 33 of the request.

⁽¹⁰²⁾ See p. 22 of the April 2017 USITC Report.

⁽¹⁰³⁾ Aniline derivatives and its salts include the product under review. It is a broader category than sulphanilic acid and its salts.

⁽¹⁰⁴⁾ See p. I-19 of the April 2017 USITC Report.

⁽¹⁰⁵⁾ For Hebei Honggang Chemical Industry Co., Ltd see http://en.hebhonggang.com/comcontent_detail/i=2&comContentId=2.html (last viewed on 24 November 2020); for Cangzhou Lingang Yueguo Chemical Co., Ltd see http://www.y-gchem.com/about_en.html (last viewed on 24 November 2020); for Orichem International Ltd see <http://www.orichem.com/> (last viewed on 24 November 2020).

⁽¹⁰⁶⁾ See p. I-18 of the April 2017 USITC Report. Please see footnote 98.

⁽¹⁰⁷⁾ See p. 10 of the April 2017 USITC Report. Please see footnote 98.

3.3.4. Conclusion on the likely development of imports should the measures lapse

- (147) Based on the significant production and spare capacity in the PRC and the attractiveness of the Union market, the Commission concluded that there is a strong likelihood that the expiry of the anti-dumping measures would result in an increase in dumped volumes.

3.3.5. Conclusion on the likelihood of continuation of dumping

- (148) In view of its findings on the continuation of dumping during the review investigation period and on the likely development of imports should the measures lapse, the Commission concluded, based on facts available, that there is a strong likelihood that the expiry of the anti-dumping measures would result in the continuation of dumping.

4. INJURY

4.1. Definition of the Union industry and Union production

- (149) The like product was manufactured by one Union producer during the period considered. The company constitutes the 'Union industry' within the meaning of Article 4(1) of the basic Regulation.
- (150) The total Union production during the review investigation period was established in the range of 1 900 to 2 300 tonnes, based on the information provided by the Union industry. The analysis was carried out on the basis of data provided by the sole Union producer of the like product, thus representing 100 % of the total Union production of the like product.

4.2. Union consumption

- (151) The Commission established the Union consumption on the basis of:
- sales volumes of the like product by the Union industry into the Union market,
 - import volumes of sulphanilic acid and its salts (10-digit TARIC level) reported in Eurostat.
- (152) In view of the fact that the Union industry consists of only one producer, in order to respect confidential business information, it is necessary to present the information in tables below in an indexed form.
- (153) In line with the Note to the file of 18 November 2020 ⁽¹⁰⁸⁾, the Commission followed a conservative approach and for the injury analysis only used imports classified under TARIC code 2921 42 00 60 (sulphanilic acid) and 2921 42 00 40 (sodium sulphanilate, which is a salt of sulphanilic acid produced by treating the sulphanilic acid with sodium hydroxide). The Commission, however, disregarded imports made under TARIC code 2921 42 00 90 (aniline derivatives and their salts – Other) as this code might include products other than the product under review and no proper methodology could be used to identify the proportion of the product under review under that code.
- (154) The investigation showed that the Union market for sulphanilic acid first expanded in the second year of the period considered. Then, however, the consumption declined but remained slightly above the level of 2016 in the review investigation period.

Table 2

Union consumption (volume index)

	2016	2017	2018	Review investigation period
Union consumption	100	113	104	105

Source: Union producer and Eurostat

⁽¹⁰⁸⁾ Ref. No t20.007508.

4.3. Imports from the PRC

(a) Import volumes and market share

- (155) The Commission established the volume of imports from the PRC to the Union on the basis of data from Eurostat and the market share of the imports by comparing these import volumes with the Union consumption as shown in Table 3.
- (156) The total volume of imports from the PRC increased continuously throughout the period considered. In the review investigation period, the import volumes were higher than in 2016 by 66 %.
- (157) Imports from the PRC grew continuously to account for more than a third of total imports in the review investigation period.
- (158) In the original investigation, the Commission investigated imports of sulphanilic acid and its salts, which is apparent, inter alia, from the definition of the product concerned in the recitals of the Regulation imposing the provisional measures⁽¹⁰⁹⁾. Nevertheless, the Commission by omission described the product subject to the measures only as sulphanilic acid in the operative part of the Regulation. This issue became pronounced in 2015.
- (159) In 2015, after the previous expiry review was already concluded, a revision of the Union's tariff classification introduced a new TARIC code for sodium sulphanilate (TARIC code 2921 42 00 40). Moreover, at the end of 2014 and beginning of 2015, the Netherlands⁽¹¹⁰⁾ and Italy⁽¹¹¹⁾ issued Binding Tariff Information ('BTI') decisions classifying salts of sulphanilic acid under TARIC code 2921 42 00 90 (Aniline derivatives and their salts – Other).
- (160) The import statistics by Eurostat show that the volumes of imports from the PRC classified under TARIC code 2921 42 00 90 fluctuated between 1 500 tonnes and 3 000 tonnes between 2010 and the review investigation period⁽¹¹²⁾. The changes in the tariff classification in 2015 and the two BTIs did not have any influence on the fluctuating trend concerning that TARIC code.
- (161) On the contrary, the volumes imported from the PRC under TARIC code 2921 42 00 60 (sulphanilic acid) clearly decreased after 2014. In 2010 to 2014, the import volumes ranged between 100 and 800 tonnes per year⁽¹¹³⁾. Since 2015, they never exceeded 65 tonnes. In addition, the import volumes from the PRC under TARIC code 2921 42 00 40 (sodium sulphanilate) grew from approximately 35 tonnes in 2015 to more than 1 000 tonnes in the review investigation period.
- (162) Thus, the Commission considered that the Chinese exporting producers exploited the situation explained in recitals (158) and (159) and resumed imports of salts of sulphanilic acid under the TARIC codes not explicitly covered by the operative part of the anti-dumping measures during the period considered.

Table 3

Imports from the PRC (tonnes, ranges)

	2016	2017	2018	Review investigation period
PRC	600 – 670	550 – 600	750 – 800	1 050 – 1 100
<i>Index (2016 = 100)</i>	100	90	119	166

Source: Eurostat

⁽¹⁰⁹⁾ Commission Regulation (EC) No 575/2002 of 3 March 2002 imposing a provisional anti-dumping duty on imports of sulphanilic acid originating in the People's Republic of China and in India (OJ L 87, 4.4.2002, p. 28).

⁽¹¹⁰⁾ Ref. No. NLRD-2014-1999. Available at https://ec.europa.eu/taxation_customs/dds2/ehti/ehti_consultation.jsp?Lang=en (last viewed 30 November 2020).

⁽¹¹¹⁾ Ref. No. ITIT-2014-0509C-277100. Available at https://ec.europa.eu/taxation_customs/dds2/ehti/ehti_consultation.jsp?Lang=en (last viewed 30 November 2020).

⁽¹¹²⁾ Years 2010 and 2011 were quite exceptional with imports from the PRC of more than 5 000 tonnes and less than 1 200 tonnes respectively.

⁽¹¹³⁾ Year 2013 was exceptional with import volume of only slightly more than 10 tonnes.

- (163) As explained in recitals (158) to (161), imports of the product under review increased after 2015 when the TARIC code for sodium sulphanilate was introduced. In 2016, Chinese imports accounted for 14 % of the Union market. Their market share dropped in 2017 but recovered and continued growing for the remainder of the period considered. In the review investigation period, imports from the PRC reached 22 % of the Union market share.

Table 4

Union market share (%)

	2016	2017	2018	Review investigation period
PRC in %	14	11	16	22
<i>Index (2016 = 100)</i>	100	80	115	158

Source: calculated based on the information from the Union producer and Eurostat

(b) Import prices and price undercutting

- (164) The Commission established the prices of imports on the basis of data from Eurostat. The average import price of the product under review from the PRC almost doubled during the period considered. The import price of sulphanilic acid, the only component of the product under review currently under measures, and the import price of its salts followed, however, divergent trends.
- (165) The import price of sulphanilic acid from the PRC decreased in the period considered. In the review investigation period, the import price dropped almost 10 % in comparison to the beginning of the period considered. The Commission considered that the peak price in 2018 was not representative since it corresponded to only 4 tonnes of sulphanilic acid imported from the PRC.
- (166) The import price of salts of sulphanilic acid from the PRC showed an opposite trend. The import price of salts grew constantly to reach in the review investigation period almost 190 % of its value in 2016.

Table 5

Import price (EUR/tonne)

	2016	2017	2018	Review investigation period
Price of sulphanilic acid in EUR/tonne	1 271	1 070	2 315	1 157
<i>Index (2016 = 100)</i>	100	84	182	91
Price of salts of sulphanilic acid ⁽¹⁾ in EUR/tonne	714	1 046	1 198	1 333
<i>Index (2016 = 100)</i>	100	146	168	187
Average price of the product under review in EUR	720	1 049	1 204	1 325
<i>Index (2016 = 100)</i>	100	146	167	184

⁽¹⁾ As set out in recital (153), the salts of sulphanilic acid are limited to sodium sulphanilate.

Source: Eurostat

- (167) In the absence of cooperation from the Chinese exporting producers and thus, due to the lack of information on the exact imported product types, the Commission determined price undercutting based on the imports per TARIC code and the assumption that the product types falling under the specific TARIC codes imported from the PRC are similar to those produced and sold by the single Union producer.
- (168) The Commission determined the price undercutting during the review investigation period by comparing:
- the weighted average sales price of the product under review of the only Union producer charged to unrelated customers on the Union market, adjusted to an ex-works level; and
 - the corresponding weighted average prices of the imports from PRC producers (data from Eurostat) for the product under review from the PRC per TARIC code established on a Cost, insurance, freight ('CIF') basis, adjusted to a landed price, including an amount of conventional customs duty and post importation costs.
- (169) The result of the comparison was expressed as a percentage of the Union industry's turnover during the review investigation period.
- (170) Taking into account the approach described in recital (153), the comparison showed for imports from the PRC of comparable product types based on TARIC code classification an average undercutting margin in the Union market during the review investigation period of 13,3 %.

4.4. Imports from third countries other than the PRC

- (171) Throughout the period considered, the majority of total Union imports originated in the US. The imports from the US rose between 2016 and 2017 then continuously declined but remained in the review investigation period 5 % above the level of 2016. Their market share increased by 8 percentage points between 2016 and 2018, and then dropped back to the level of 32 % in the review investigation period.
- (172) The trend of imports from third countries other than the PRC was strongly influenced by the imports from the US, thus followed the same evolution in terms of import volumes. The market share of imports from third countries other than the PRC remained rather stable during the period considered. Imports from third countries accounted for 38 – 41 % of the Union market.

Table 6

Import volumes and market shares of third countries other than the PRC (tonnes, %)

	2016	2017	2018	Review investigation period
India – import volume	270 – 300	70 – 100	70 – 100	270 – 300
<i>Index (2016 = 100)</i>	100	30	28	100
India – market share in %	6	2	2	6
Switzerland – import volume	0 – 1	0	0	0
<i>Index (2016 = 100)</i>	100	0	0	0
Switzerland – market share in %	> 0,01	0	0	0
United States – import volume	1 450 – 1 500	2 000 – 2 050	1 900 – 1 950	1 550 – 1 600
<i>Index (2016 = 100)</i>	100	137	129	105
United States – market share in %	32	39	40	32

All third countries excluding the PRC – import volume	1 720 – 1 800	2 070 – 2 150	1 970 – 2 050	1 720 – 1 900
<i>Index (2016 = 100)</i>	100	120	113	104
All third countries excluding the PRC – market share in %	38	40	41	38

Source: Eurostat

- (173) The import prices of the product under review originating in third countries other than the PRC remained well above the level of the Chinese import prices ranging from approximately 1 400 EUR/tonne in 2017 to almost 1 700 EUR/tonne in the review investigation period.

4.5. Economic situation of the industry

4.5.1. General remarks

- (174) 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.
- (175) With regard to the Union industry, no sampling was applied. Thus, the assessment of the economic situation of the industry was carried out on the sole Union producer representing 100 % of the production in the Union.
- (176) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators. The Commission evaluated the indicators on the basis of data submitted by the Union producer in the review request and the crosschecked questionnaire reply submitted by this producer.
- (177) This data was found to be representative of the economic situation of the Union industry.
- (178) 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.
- (179) The microeconomic indicators are: average unit prices and factors affecting 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

- (180) During the period considered, production decreased between 2016 and 2018. Although it slightly recovered in the review investigation period, it remained 11 % below the level of 2016.
- (181) The production capacity remained unchanged throughout the whole period considered.
- (182) At a stable production capacity, the capacity utilisation followed the same trend as the production. Thus, in the review investigation period, it dropped by 11 % (or 8 percentage points) in comparison to 2016. In addition, already in 2016, the capacity utilisation was below an optimal level.

Table 7

Union production, production capacity, and capacity utilisation

	2016	2017	2018	Review investigation period
Production in tonnes (index)	100	99	79	89
Production capacity in tonnes (index)	100	100	100	100
Capacity utilisation in %	71	70	56	63

Source: Questionnaire reply

4.5.2.2. Sales volume and market share

- (183) Following an increase in Union consumption in 2017, the Union producer was also able to increase its sales volume. In second part of the period considered, the sales volume, however, dropped and in the review investigation period, it was 11 % below the level of 2016.
- (184) In addition, the sole Union producer lost market share during the period considered. In the review investigation period, its market share was by 8 percentage points lower than in 2016.

Table 8

Sales volume and market share

	2016	2017	2018	Review investigation period
Sales volume in tonnes (index)	100	115	92	89
Market share in % (index)	48	49	43	40

Source: Questionnaire reply

4.5.2.3. Growth

- (185) From 2016 until the end of the review investigation period, the Union consumption grew continuously. Yet, due to the growing competition from the low-priced imports from the PRC, the sales volume of Union industry declined. This resulted in the Union industry losing market share over the period considered.

4.5.2.4. Employment and productivity

- (186) The employment level of the Union industry declined between 2016 and 2018 only to increase in relative terms in the review investigation period. In this respect, it must be noted that the Union industry employs a limited number of persons in the production of the product under review. Thus, a small increase in the number of employees translated into a surge of employment when expressed as an index of the basis year 2016. Consequently, the rise in employment over the period considered could not be interpreted as a clear sign of recovery.

- (187) Productivity of the Union industry's workforce, measured as output (tonnes) per fulltime equivalent (FTE) per year increased by 15 % in 2017 in comparison to 2016. For the rest of the period considered, productivity declined. In the review investigation period, production volumes below the level of 2016 in combination with a number of employees above the level of 2016 resulted in productivity that reached only 78 % of the level of 2016.

Table 9

Employment and productivity

	2016	2017	2018	Review investigation period
Employment in FTE (index)	100	86	71	114
Productivity in tonnes/FTE (index)	100	115	110	78

Source: Questionnaire reply

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

- (188) The investigation has established the continuation of dumping from the PRC, and that the magnitude of the margins of dumping as shown in recital (137) is well above the *de minimis* level.
- (189) In addition, the level of imports from the PRC was considerable during the review investigation period amounting to 22 % of the Union market.
- (190) The expiry review showed that the measures in force did not allow for a recovery of the Union industry from past dumping.

4.5.3. Microeconomic indicators

4.5.3.1. Prices and factors affecting prices

- (191) The average unit price of the Union industry achieved on the Union market grew by 8 % between 2016 and 2017. In the last two years of the period considered, the price, however, declined and in the review investigation period remained 4 % above the level of 2016.
- (192) Similarly, the cost of production grew during the period considered. The magnitude of its growth substantially exceeded the increase in sales price. Thus, the unit cost of production rose by 20 % in 2018. Although it dropped in the review investigation period, it remained 10 % above the level of 2016. This development in combination with the sales price higher by only 4 % affected the profitability of the Union producer.

Table 10

Unit price and unit cost in the Union market

	2016	2017	2018	Review investigation period
Union unit price to unrelated customers in EUR/tonne (index)	100	108	107	104
Union unit cost of production in EUR/tonne (index)	100	104	120	110

Source: Questionnaire reply

4.5.3.2. Labour costs

- (193) Average labour costs increased considerably between 2016 and 2018. In the review investigation period, labour cost per employee decreased to a level comparable with 2016.

Table 11

Labour costs

	2016	2017	2018	Review investigation period
Union labour cost in EUR/FTE (index)	100	119	133	102

Source: Questionnaire reply

4.5.3.3. Inventories

- (194) Inventories developed in a positive direction between 2016 and 2018. The quantity of closing stock decreased by 70 % in that period. Nevertheless, in the review investigation period rose again considerably to reach almost the same level as in 2016.

Table 12

Inventories

	2016	2017	2018	Review investigation period
Closing stocks in tonnes (index)	100	62	29	97

Source: Questionnaire reply

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

- (195) During the period considered, the profitability of the Union industry, expressed as a percentage of net sales, increased in 2017. This increase was followed by an abrupt decline and the Union producer remained lossmaking for the rest of the period considered including in the review investigation period. This was mainly caused by the fact that the costs of production peaked in 2018, yet in competition against the growing low-priced imports from the PRC, the Union producer was not able to increase its sales price to an appropriate level.
- (196) The return on investments ('ROI'), expressed as the share of profit on the net book value of investments, broadly followed the profitability trend. It increased between 2016 and 2017. In the second part of the period considered, ROI dropped to negative figures.

Table 13

Profitability and return on investments

	2016	2017	2018	Review investigation period
Profitability in % (index)	100	309	-59	-76
Return on investments in % (index)	100	355	-57	-71

Source: Questionnaire reply

- (197) The net cash flow is the ability of the Union producers to self-finance their activities. The net cash flow from operating activities followed the profitability trend. Its value increased more than six-fold between 2016 and 2017. In 2018, it dropped to one third of its value in 2017. The net cash flow continued declining and in the review investigation period, it reached significantly negative figures.

Table 14

Cash flow

	2016	2017	2018	Review investigation period
Cash flow in EUR (index)	100	648	217	-163

Source: Questionnaire reply

- (198) The Union industry's annual investments in the production of the like product continuously decreased over the whole period considered. In the review investigation period, the value of net investments was by 77 % lower than in 2016.
- (199) The Union producer considered the information on their ability to raise capital sensitive. Therefore, the Commission is not able to make any finding on this matter public.

Table 15

Investments

	2016	2017	2018	Review investigation period
Net investments in EUR (index)	100	72	56	23

Source: Questionnaire reply

4.6. Conclusion on the situation of the Union industry

- (200) The investigation showed that the imports of low-priced dumped products from the PRC increased after the previous expiry review. This development was in particular enabled by the situation described in recitals (158) and (159), and the resulting imports of the product under review under TARIC codes that were not explicitly covered by anti-dumping measures. For the Union industry, this led to declining production and sales volumes that translated into worsening of its overall financial situation.
- (201) The examined macro- and micro-indicators showed that despite the anti-dumping duties the Union industry continued suffering material injury within the meaning of Article 3(1) of the basic Regulation during the review investigation period.

5. LIKELIHOOD OF CONTINUATION OF INJURY

- (202) The Commission concluded in recital (200) that the Union industry suffered material injury during the review investigation period. In addition to that conclusion, the Commission assessed, in accordance with Article 11(2) of the basic Regulation, whether there would be a likelihood of continuation of injury from the dumped imports from the PRC if the measures were allowed to lapse.
- (203) In that regard, the Commission examined the production capacity and spare capacity in the PRC, prices in other markets, the attractiveness of the Union market and the impact of imports from the PRC on the situation of the Union industry should the measures be allowed to lapse.

5.1. Spare production capacity

- (204) As mentioned in recitals (141) to (143), Chinese exporters have significant spare capacity to increase their exports rapidly. Their spare capacity was estimated between 35 000 and 65 000 tonnes, which is at least more than five times the consumption in the Union.

5.2. Prices in other export markets

- (205) As explained in recital (144), Chinese producers exported sulphanilic acid and its salts to all third countries with the exception of the US for prices below the price they were able to charge on the Union market. Moreover, the price difference was significant as in 2019, the average selling price of aniline derivatives and their salts to the Union was more than three times higher than in other export markets.

5.3. Attractiveness of the Union market

- (206) Given the more lucrative prices on the Union market compared to third country markets as described in recitals (145) and (146), it is likely that significant quantities currently exported to those countries would be re-directed to the Union market should the anti-dumping measures be allowed to lapse.
- (207) On that basis, in the absence of measures, Chinese producers would likely increase their presence in the Union market in terms of both volume and market share and at dumped prices that would likely undercut the Union industry's prices as explained in recitals (164) to (169).

5.4. Impact of imports from the PRC on the situation of the Union industry should the measures be allowed to lapse

- (208) If measures were allowed to lapse, an increase in imports from the PRC is expected, due to the attractiveness of the Union market as set out in recitals (205) and (206). These imports are likely to be undercutting the prices of the Union industry or at least put a heavy downward pressure on the non-injurious price level of the Union industry, as set out in recitals (164) to (169).

5.5. Conclusion on likelihood of continuation of material injury

- (209) With the likely arrival of large quantities of Chinese imports at dumped prices, the Union industry would be forced to reduce its production or lower its prices. The spare capacity in the PRC is of such a massive size that even a small shift of sales towards the Union would negatively affect the Union industry, especially as Chinese exports to other third countries have shown that the prices to the Union market might decrease, further undercutting the prices of the Union industry. Decreases in production volumes or sales prices by the Union industry would cause further deterioration of its profitability and other performance indicators.
- (210) On the basis of the above, it can be concluded that there is a likelihood of continuation of material injury should the current anti-dumping measures lapse.

6. UNION INTEREST

- (211) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing anti-dumping measures would be against the interest of the Union as whole. The determination of the Union interest was based on an appreciation of all the various interests involved. All interested parties were given the opportunity to make their views known in accordance with Article 21(2) of the basic Regulation

6.1. Interest of the Union industry

- (212) As mentioned in recital (208), the Union industry would likely experience further serious deterioration of its situation in case the anti-dumping measures were allowed to lapse. Therefore, the continuation of measures would benefit the Union industry because the Union producer would get the opportunity to increase its sales volumes and market share, improve its profitability and overall its economic situation.
- (213) By contrast, the discontinuation of the measures would seriously threaten the viability of the Union industry, because a shift of the Chinese imports to the Union market at dumped prices and in considerable volumes would be likely to occur, causing the continuation of material injury to the Union industry.

6.2. Interest of unrelated importers and users

- (214) In the request for an expiry review, the applicant identified 25 importers and/or users in the Union. All companies were notified of the initiation of the expiry review. None of them either cooperated in the investigation or registered as an interested party.

- (215) As explained in recital (34), sulphanilic acid has five main areas of application: optical brighteners, concrete additives, food colorants, speciality dyes, and within the pharmaceutical industry. Previous investigations found that the product under review represented a negligible share of around 1 % on the costs of production of the producers of pharmaceuticals and specialty dyes. It, however, contributed by 4 to 12 % to the costs of production of the producers of optical brighteners and concrete additives. Since none of the users or importers cooperated in the investigation, it can be concluded that they have not been substantially negatively affected by the measures.
- (216) In addition, the product under review is currently being produced in only four economies around the world: China, India, the Union, and the US. Therefore, the Commission considered that extending the measures would help preserve an already limited variety of sources for users of sulphanilic acid.
- (217) Thus, the Commission concluded that continuation of the measures would not be against the interest of importers and users.

6.3. Conclusion on Union interest

- (218) The Commission concluded that there were no compelling reasons of the Union interest against maintaining the existing measures on imports of the product under review originating in the PRC. Maintaining measures would be in the interest of the Union industry and would not harm the situation of users and importers in the Union.

7. ANTI-DUMPING MEASURES

- (219) On the basis of the conclusions reached by the Commission on continuation of dumping, continuation of injury and Union interest, the anti-dumping measures on sulphanilic acid and its salts originating in the PRC should be maintained.
- (220) All interested parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be maintained.
- (221) In view of Article 109 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council ⁽¹¹⁴⁾, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (222) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation. The Committee established by Article 15(1) of the basic Regulation delivered a positive opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of sulphanilic acid and its salts currently falling under CN code ex 2921 42 00 (TARIC codes 2921 42 00 40, 2921 42 00 60, and 2921 42 00 61), originating in the People's Republic of China.
2. The rate of the definitive anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the product described in paragraph 1, shall be as follows:

Country	Definitive duty (%)
People's Republic of China	33,7

⁽¹¹⁴⁾ Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ L 193, 30.7.2018, p. 1).

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

Article 2

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

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

Done at Brussels, 11 March 2021.

For the Commission
The President
Ursula VON DER LEYEN
