

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**

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (the basic Regulation) ⁽¹⁾, and in particular Articles 9 and 11(2) thereof,

Whereas:

A. PROCEDURE**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 anti-dumping 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 anti-dumping duty applicable to imports of sulphanilic acid originating in the PRC from 21 % to 33,7 % following an anti-absorption reinvestigation.

⁽¹⁾ OJ L 343, 22.12.2009, p. 51.

⁽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 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 40, 12.2.2004, p. 17).

- (5) In March 2004, by Commission Decision 2004/255/EC ⁽¹⁾, the Commission repealed Decision 2002/611/EC following the voluntary withdrawal of the undertaking by Kokan.
- (6) By Decision 2006/37/EC ⁽²⁾, 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. Council Regulations (EC) No 1338/2002 and (EC) No 1339/2002 were amended by Council Regulation (EC) No 123/2006 ⁽³⁾ accordingly.
- (7) By Regulation (EC) No 1000/2008 ⁽⁴⁾, 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 ⁽⁵⁾, 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.

2. Request for an expiry review

- (8) Following the publication of a notice of impending expiry ⁽⁶⁾ of the anti-dumping measures in force on imports from the PRC and India, the Commission received on 1 July 2013 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community ('the basic Regulation'). The request was lodged by CUF — Quimicos Industriais ('the applicant' or 'CUF') the sole producer of sulphanilic acid in the Union, thus representing 100 % of the Union production.
- (9) The request was based on the grounds that the expiry of the measures would be likely to result in a continuation of dumping and recurrence of injury to the Union industry.

3. Initiation of an expiry review

- (10) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 16 October 2013, by a notice published in the *Official Journal of the European Union* ⁽⁷⁾ ('the Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. Parallel investigation

- (11) By Notice of Initiation published in the *Official Journal of the European Union* on 16 October 2013 ⁽⁸⁾ the Commission also initiated an expiry review investigation pursuant to Article 18 of Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community ⁽⁹⁾ on the countervailing measures in force on imports of sulphanilic acid originating in India.

⁽¹⁾ 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).

⁽²⁾ 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).

⁽³⁾ 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 anti-dumping duty on imports of sulphanilic acid originating, inter alia, in India (OJ L 22, 26.1.2006, p. 5).

⁽⁴⁾ 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).

⁽⁵⁾ 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 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 276, 17.10.2008, p. 3).

⁽⁶⁾ OJ C 28, 30.1.2013, p. 12.

⁽⁷⁾ OJ C 300, 16.10.2013, p. 14.

⁽⁸⁾ OJ C 300, 16.10.2013, p. 5.

⁽⁹⁾ Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community (OJ L 188, 18.7.2009, p. 93).

5. Investigation

5.1. Review investigation period and period considered

- (12) The investigation of a continuation or recurrence of dumping covered the period from 1 October 2012 to 30 September 2013 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of a continuation or recurrence of injury covered the period from 1 January 2010 to the end of the review investigation period, 30 September 2013 ('the period considered').

5.2. Parties concerned

- (13) The Commission officially advised the applicant, the exporting producers in the PRC and in India, the importers, the users known to be concerned, and the representatives of the exporting countries of the initiation of the expiry review. The interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of Initiation.
- (14) The sole Union producer, being the only interested party who so requested, was granted a hearing.

5.3. Sampling

- (15) In view of the apparent large number of exporting producers in India and the PRC and of unrelated importers in the Union, sampling was envisaged in the Notice of Initiation in accordance with Article 17 of the basic Regulation. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, the above parties were requested to make themselves known to the Commission within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of Initiation.
- (16) The Commission received replies to the sampling form from two Indian exporting producers and no replies from Chinese exporting producers. Therefore, no sampling was applied.
- (17) One unrelated importer replied to the sampling form however it did not import the product concerned from the countries concerned and it did not provide a questionnaire reply. Therefore, no sampling was applied.
- (18) Since there is only one Union producer, sampling was not applied for the Union producers.

5.4. Investigation

- (19) The Commission sought and verified all the information deemed necessary for a determination of the likelihood of a continuation or recurrence of dumping and injury and for a determination of the Union interest. The Commission sent questionnaires to the sole Union producer, to the two exporting producers in India, to known importers and to Union users.
- (20) Out of two Indian exporting producers only one (Kokan Synthetics & Chemicals Pvt. Ltd) submitted a complete reply. This Indian producer represented a major part of the total Indian exports to the Union during the review investigation period.
- (21) Verification visits were carried out at the premises of the following companies:
- (a) *Union Producer:*
 - CUF — Quimicos Industriais, Estarreja, Portugal
 - (b) *Exporting producer and analogue country producer:*
 - Kokan Synthetics & Chemicals Pvt. Ltd, Khed, India
 - (c) *Union users:*
 - Blankophor GmbH, Leverkusen, Germany
 - Hovione Farmaciencia SA, Loures, Portugal
 - IGCAR Chemicals, S.L., Rubi, Spain.

B. PRODUCT CONCERNED AND LIKE PRODUCT

- (22) The product concerned is sulphanilic acid currently classifiable within CN code ex 2921 42 00 (TARIC code 2921 42 00 60). There are two grades of sulphanilic acid, which are determined according to their purity: a technical grade and a purified grade. In addition, the purified grade is sometimes commercialised in the form of a salt of sulphanilic acid. Sulphanilic acid is used as a raw material in the production of optical brighteners, concrete additives, food colorants and speciality dyes. Limited use by the pharmaceutical industry was noted as well. Though it is not contested that both grades have the same basic physical, chemical and technical characteristics and therefore deemed to be one single product, it is important to note that the investigation showed that in practical terms inter-changeability is limited. In particular users who rely on purified grade sulphanilic acid could only use technical grade in case they could further purify it themselves. Those users who need or prefer technical grade sulphanilic acid could in theory use purified grade, however due to the price difference (20 %-25 %) this is economically not a viable solution.
- (23) Sulphanilic acid is a pure commodity product and its basic physical, chemical and technical characteristics are identical whatever the country of origin. The product concerned and the products manufactured and sold by the exporting producers in the countries concerned on their domestic market and to third countries, as well as those manufactured and sold by the Union producer on the Union market have thus been found to have the same basic physical and chemical characteristics and essentially the same uses, and are therefore considered to be like products within the meaning of Article 1(4) of the basic Regulation.

C. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF DUMPING

- (24) In accordance with Article 11(2) of the basic Regulation, the Commission examined whether dumping was currently taking place and whether dumping was likely to continue or recur upon a possible expiry of the measures in force on imports from the PRC and India.

1. Preliminary remarks**1.1. The PRC**

- (25) Upon initiation of the expiry review, the Commission contacted 39 known Chinese exporting producers and the Chinese authorities. None of those producers came forward and cooperated.
- (26) The Commission informed the Chinese authorities and the exporting producers concerned of its intention to use best facts available for its findings on the basis of Article 18 of the basic Regulation. The parties did not submit any comment in that respect.
- (27) Consequently, findings on dumping and the likelihood of recurrence of dumping had to be based on facts available, i.e. information submitted by the applicant, in particular the information included in the review request, and Eurostat data.
- (28) Only a minor quantity of the product concerned was imported from the PRC into the Union during the review investigation period.

1.2. India

- (29) Upon initiation of the expiry review, the Commission contacted 25 known Indian exporting producers, of which only one, namely Kokan, replied to the questionnaire and cooperated in the investigation. The company was representing the majority of Indian exports to the Union during the review investigation period.
- (30) During the period considered, that exporting producer operated under a price undertaking accepted by the Commission, which was found to have been respected.

2. Dumping**2.1. The PRC****2.1.1. Analogue country**

- (31) In accordance with the provisions of Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the price or constructed value obtained in an appropriate market economy third country (the analogue country).

(32) In the original investigation, India was used as the analogue country for the purposes of establishing the normal value with regard to the PRC. The Notice of Initiation indicated India as an analogue country and interested parties were invited to comment on the choice. No comments were received and there were no indications that India was no longer an appropriate choice. The Union industry proposed the USA as analogue country in their request for review, however due to the facts that there is only one single producer in the USA and that the market in the USA is protected by anti-dumping and countervailing duties on imports of sulphanilic acid from China and India for over 20 years, this proposal was rejected. Therefore, India was selected as an analogue country in this investigation, too.

(33) The data of the cooperating Indian exporting producer were therefore used.

2.1.2. Normal value

(34) Pursuant to Article 2(7)(a) of the basic Regulation, normal value was established on the basis of the data of the cooperating producer in the analogue country, namely Kokan. Domestic sales were used as a basis to determine normal value (see recitals (42)-(47)).

2.1.3. Export price

(35) In view of the lack of cooperation from the Chinese exporting producers and thus the absence of specific information on Chinese prices, the export price was determined on the basis of facts available in accordance with Article 18 of the basic Regulation and to that end statistical sources (Eurostat) were used. It is considered that this source of information is close to the actual prices charged by Chinese exporters to Union customers.

2.1.4. Comparison

(36) The comparison between normal value and export price was made on an ex-works basis.

(37) In accordance with Article 2(10) of the basic Regulation, due allowance to the export price in the form of adjustments was made where necessary. In order to express the export price at ex-works level, and on the basis of information submitted in the review request, the Commission adjusted the CIF price based on Eurostat for freight, insurance, handling and credit costs. These adjustments represented between 5 % to 10 % of the CIF price.

2.1.5. Dumping

(38) In accordance with Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price.

(39) Given the lack of cooperation from Chinese exporters there is no information available concerning the import product mix. In the absence of information on the quantities of imports of purified and technical sulphanilic acid, it was nevertheless considered that even if one presumes that all the imports were of purified grade sulphanilic acid, which is on average 20 % more expensive than the technical grade, the Eurostat import prices were at a level that, compared to the normal values of the analogue country, did not show the existence of dumping.

(40) Moreover, as mentioned in recital (28), the import volumes from China were very low during the RIP. It is generally accepted in the industries concerned that small quantity, ad-hoc shipments of sulphanilic acid have considerably higher unit prices than regular orders of bigger quantities, which may explain the high import price level reported by Eurostat.

(41) Therefore, although negative dumping follows from the available figures, such conclusion may be of limited relevance due to the low imported quantities and the absence of information regarding the imported product mix, which is important due to the significant price difference between the purified and the technical grades.

2.2. India

2.2.1. Normal value

(42) Domestic sales by the sole cooperating exporting producer of each type of the product concerned were sold in representative quantities and were made in the ordinary course of trade within the meaning of Article 2(4) of the basic Regulation.

(43) For each product type, the proportion of profitable sales to independent customers on the domestic market during the review investigation period was established.

- (44) All domestic sales were made at a net sales price equal to or above the calculated cost of production and profitable domestic sales therefore represented more than 80 % of the total sales volume of each product type. As a consequence, for each of the product types, normal value was based on the actual domestic price, calculated as a weighted average of the prices of all domestic sales of that type made during the review investigation period.
- (45) The applicant claimed that the pressure of Chinese imports entering the Indian market distorted the Indian domestic prices and hence the normal value determination.
- (46) As stated above in recital (44) profitable domestic sales represented more than 80 % of the total sales volume of each product type and normal value thus had to be based on the actual domestic price. In any event, regardless of whether Chinese imports exercised a downward pressure on the Indian domestic market, the normal value is determined in such a way that such pressure would not affect the assessment. Indeed, if 80 % or less of sales of a particular product type were profitable, the normal value determination would only be based on these profitable sales. Moreover, if all sales of a particular product type became loss-making, normal value would be based on the full cost of production and a reasonable profit margin.
- (47) The Commission therefore considers the claim made by the applicant irrelevant as far as calculation of the normal value is concerned.

2.2.2. Export price

- (48) The product concerned was exported to independent customers in the Union and the export price was established according to Article 2(8) of the basic Regulation, namely on the basis of export prices actually paid or payable.
- (49) The applicant claimed that there is a contradiction between the price evolution of benzene and the price evolution of the Indian exports to the Union. It found this all the more remarkable since it stated that the minimum price undertaking accepted by the Commission was indexed based on the benzene price evolution. The applicant also alleged that this price undertaking rendered the export prices of the main Indian exporting producer unrepresentative.
- (50) The Commission found that benzene as a raw material for the production of aniline, which is the main raw material of sulphanic acid, cannot represent more than between 50 % to 60 % of the cost of production of the product concerned. Moreover, the indexation clause of the price undertaking limits the effect of benzene price evolutions on the minimum price. Finally, the respect of the minimum price undertaking was checked during the on-site verification and it was found that the export price levels were consistently and considerably higher than the minimum prices foreseen in the undertaking, thereby limiting its impact.
- (51) The applicant further alleged that in all likelihood Indian exporting producers made small quantity shipments for export to the Union, which would have attracted high spot prices, thereby artificially increasing the level of the export prices.
- (52) The investigation did not reveal any such sales made by Kokan, the main Indian exporting producer. The vast majority (over 99 %) of the sales of the other Indian exporters to the Union were also found to consist of quantities which cannot be considered to be spot sales.
- (53) Based on the above findings, the claims made by the applicant regarding the lack of representativity of Indian export prices to the Union have to be rejected.

2.2.3. Comparison

- (54) The normal value and the export price were compared on an ex-works basis. For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation.
- (55) On this basis, adjustments were made for transport and insurance costs, handling, loading and ancillary costs, packing costs, credit costs, discounts and commissions where demonstrated to affect price comparability. This adjustment amounts to between 6 % and 10 % of the Union frontier CIF price.

2.2.4. Dumping

- (56) As provided for in Article 2(11) and (12) of the basic Regulation, the weighted average normal value established for the like product was compared to the weighted average export price of the product concerned.
- (57) On this basis, the dumping margin calculated for the cooperating exporting producer was negative. Hence, there was no dumping during the RIP.
- (58) The applicant claimed that the conclusion on the absence of dumping at the level of the main exporting producer cannot be extended to the other Indian exporting producers, given that its export prices are based on a minimum import price undertaking.
- (59) However, the main Indian exporting producer's export prices were set at levels considerably higher than the minimum prices of its undertaking. Moreover, the export price level of the other Indian producers based on Eurostat was found to be considerably higher than the main exporting producer's export prices. Finally, the investigation showed that the cooperating exporting producer's export sales prices to third countries, which are not subject to either an undertaking or anti-dumping duties, were set at a level similar to its export sales to the Union and thus not dumped. Hence, the Commission concludes that Indian export prices were set independently from the price undertaking and according to market conditions.
- (60) The claim made by the applicant that dumping should have been found for the other Indian exporting producers therefore had to be rejected.

3. Likelihood of recurrence of dumping

3.1. Preliminary remarks

- (61) US anti-dumping measures on imports of sulphanilic acid originating in India and in the PRC, and countervailing measures with regard to India have been in place since 1992. In 2011, the US Department of Commerce prolonged the countervailing duties in force on imports from India at the level of 43,7 % and the anti-dumping measures in force on imports from both India and the PRC, ranging from 19,1 % to 114,8 %. The level of the measures effectively closed the US market for Indian and Chinese imports.

3.2. The PRC

- (62) The production capacity available in the PRC was estimated on the basis of data provided by the Union producer and the sole US producer Nation Ford Chemical Company ('NFC') in the US sunset review investigation on the anti-dumping measures on sulphanilic acid originating in China (USITC publication 4270).
- (63) NFC indicated that the capacities installed in the PRC would allow producing 65 500 tons of sulphanilic acid each year which is in line with the estimation of the applicant who claimed, based on a study prepared by the Chinese industry that the available capacity in China is in a range between 65 500 and 82 000 tons. The spare capacity was estimated at 20 % which would amount to between 13 100 tons and 16 400 tons. This is more than twice the level of the Union consumption during the review investigation period.
- (64) It was further alleged by the applicant that the Chinese exporters also managed to enter into the Indian market and it substantiated this allegation by submitting statistical data based on the Indian Government's Indian export/import database. The data indicated an important increase of Chinese imports of purified sulphanilic acid into India during the RIP compared to previous periods at prices undercutting the domestic sales prices of purified grade sulphanilic acid of the cooperating Indian producer. Since the normal value of purified grade sulphanilic acid, making due allowance for freight and insurance costs, was established based on the domestic sales of purified grade sulphanilic acid made by the sole cooperating Indian producer in representative quantities, ranging from INR 92 500 to INR 112 500 (range given for reasons of confidentiality), the data confirm that Chinese imports of purified sulphanilic acid entered the Indian market at dumped prices, ranging from INR 82 500 to INR 92 500 (range given for reasons of confidentiality). This observed dumping of imports into the Indian market contributed to the assessment of the expected behaviour of Chinese exporting producers in case the current measures would be allowed to lapse.

- (65) Taking into account the significant spare capacity available in China and the information on their pricing behaviour on a third market, not protected by trade defence measures, a likelihood of recurrence of dumping exists should measures be allowed to lapse.

3.3. *India*

- (66) The total capacity available in India was also estimated on the basis of data provided by both NFC and the sole Union producer.
- (67) The applicant estimated the total capacity of India at around 13 500 tons out of which 2 700 tons can be considered spare. These figures are fully in line with the data provided by the sole US producer NFC in the US investigation.
- (68) The applicant claimed that a spare capacity of 2 700 tons poses a threat to its sales as it represents a considerable part of Union consumption and that such spare capacity will likely increase as a result of the increasing presence of Chinese products on the Indian market and that therefore the incentive to export will further increase.
- (69) In this regard the Commission noted that the main Indian exporting producer abandoned its status of Export Oriented Unit in 2013 as it was planning to increase its sales on its domestic market. These sales had been seriously limited by the conditions of the EOU scheme. The company confirmed that despite the growing Chinese imports, it did not perceive significant pressure from Chinese competitors as far as technical grade sulphanic acid is concerned (which is the product Kokan is mainly interested in) and that in their assessment the Indian market had good prospects of development. Therefore, there are no reasons to assume that spare capacity of Indian producers will be diverted to the Union due to an alleged Chinese pressure on the Indian market.
- (70) Notwithstanding this estimated Indian spare capacity, there does not seem to be a likelihood of recurrence of dumping, given that neither exports to the Union nor to third countries were dumped.
- (71) The investigation did not show that the cooperating exporting producer applied a different pricing behaviour when selling to third countries as compared to its export sales to the Union. Prices of exports to third countries, which were made in considerable quantities, were at a level which is comparable to the sales prices of the Union industry to unrelated customers.
- (72) In its submission following the disclosure the applicant provided new statistical data and claimed on this basis that Indian exports to Turkey were dumped.
- (73) The Commission found and investigated a similar quantity of Indian exports to Turkey and could attribute them to the cooperating exporting producer. Therefore, the Commission could base its calculations on more precise and detailed data regarding both product mix and price levels. The Commission confirms that the exported volume was not dumped.

3.4. *Conclusion on the likelihood of recurrence of dumping*

- (74) With regard to the PRC, as there was no cooperation and hence no company specific data relating to the Chinese spare capacity and pricing behaviour in third countries is available, findings were made on the basis of facts available.
- (75) Given that the facts available suggest high Chinese spare capacity and dumping behaviour on third markets, combined with the attractive price levels in the Union market, the likelihood of recurrence of dumping is considered existent.
- (76) However, no likelihood of recurrence of dumping with regard to India was found, based on the absence of dumping during the review investigation period, spare capacity which is considerably below that of China and high export price levels to the Union and the rest of the world.

D. LIKELIHOOD OF A CONTINUATION OR RECURRENCE OF INJURY

1. Union production and definition of the Union industry

- (77) During the review investigation period, the like product was manufactured in the Union by one single Union producer who therefore represents 100 % of the Union production and constitutes the Union industry within the meaning of Article 4(1) of the basic Regulation.

2. Union consumption

- (78) Union consumption was established on the basis of:

- sales volumes of the like product by the Union industry into the Union market,
- import volumes of sulphanilic acid (TARIC level) into the Union market reported in Eurostat.

- (79) In view of the fact that the Union industry consists of only one producer and there is only one US exporting producer, in order to respect confidential business information, it is necessary to present the information in tables below in an indexed form.

Table 1

Consumption in the Union market

Volume (index)	2010	2011	2012	RIP
Union consumption (2010 = 100)	100	106	106	114

Source: Eurostat and questionnaire reply.

- (80) The investigation showed that the market for sulphanilic acid gradually expanded over the period considered and increased by 14 % by the end of the RIP.

3. Imports from the countries concerned

- (a) Import volumes and market share

Table 2

Imports from the countries concerned

Import volume (index)	2010	2011	2012	RIP
PRC	100	77	14	1
India	100	422	187	52
Total countries concerned	100	110	30	6

Source: Eurostat.

Table 2(a)

Imports from the countries concerned

Import volume (ranges) ⁽¹⁾	2010	2011	2012	RIP
PRC	650-1 000	500-800	90-250	10-60
India	50-200	250-550	100-250	10-80
Total countries concerned	700-1 200	750-1 350	190-500	20-140

Source: Eurostat

⁽¹⁾ Following the disclosure the Union producer requested that the import volumes and values of sulphanilic acid from the countries concerned made available in ranges as well, as on the basis of the indexed figures it was difficult to assess the real (absolute term) development of the figures and to understand the conclusions of the Commission thereof.

Table 3

Market share of the countries concerned

Market share (index)	2010	2011	2012	RIP
Market share of imports from the PRC	100	73	13	1
Market share of imports from India	100	397	177	46
Total countries concerned	100	103	28	5

- (81) Considering each country separately, import volumes from the PRC decreased by 99 % between 2010 and the review investigation period and their market share also decreased by 99 % in the same period.
- (82) The volume of imports originating in India decreased by 48 % over the period considered and their market share decreased by 54 % over the same period.
- (83) Aggregated volume of imports of sulphanilic acid from the countries concerned has decreased by 94 % during the period considered and has fallen to a very low level during the review investigation period. Similarly, the market share of imports of sulphanilic acid from the countries concerned has shrunk by 95 % during the period considered and reached a very low level during the review investigation period.

(b) *Import prices*

Table 4

Average prices of imports of sulphanilic acid from the countries concerned

	2010	2011	2012	RIP
Price of imports from PRC index (2010 = 100)	100	92	104	164
Price of imports from India index (2010 = 100)	100	79	84	92
Average import prices countries concerned Index (2010 = 100)	100	93	104	126

Source: Eurostat.

Table 4a

Average prices of imports of sulphanilic acid from the countries concerned

Price ranges ⁽¹⁾	2010	2011	2012	RIP
Price of imports from PRC	1 000-1 400	950-1 350	1 000-1 400	1 700-2 500
Price of imports from India	1 200-1 800	1 000-1 400	1 100-1 500	1 300-1 700
Average import prices countries concerned	1 000-1 800	950-1 400	1 000-1 500	1 300-2 500

Source: Eurostat.

⁽¹⁾ Following the disclosure the Union producer requested that the import volumes and values of sulphanilic acid from the countries concerned made available in ranges as well, as on the basis of the indexed figures it was difficult to assess the real (absolute term) development of the figures and to understand the conclusions of the Commission thereof.

- (84) The average price of imports of sulphanilic acid from the PRC decreased slightly in 2011 by 8 % and showed an increasing trend thereafter with a very sharp increase of 64 % in the review investigation period.
- (85) The average prices of the product concerned from India also decreased in 2011 by 21 % and since then increased gradually but remained still below the 2010 price levels by 8 %.

(c) *Level of price undercutting and underselling*

- (86) Due to the low quantities sold by the Chinese exporting producers and the absence of information regarding the imported product mix, no meaningful undercutting and underselling calculation could be performed. Based on the assumption made on the Chinese Eurostat import prices, in recital (39) above, no undercutting or underselling was found during the RIP.
- (87) Based on the import statistics provided by the Union industry described in recital (64) above, the Chinese prices of purified grade sulphanilic acid on the Indian market, adjusted for Union import duties of 6,5 % on the product concerned and post-importation costs of 2 % (customs clearance costs), were found to be undercutting and underselling the sales prices of the Union industry in the range of 5 % to 15 %.
- (88) In the case of India no undercutting and underselling was found. Due to the fact that the calculation is based on the sales data of the sole cooperating exporting producer in order to respect confidential business information the exact figures could not be disclosed. The undercutting and underselling was found to be between – 20 % to – 40 %.
- (89) Following the disclosure and the comments made by the Union producer the Commission calculated undercutting and underselling for the remaining part of the Indian imports based on Eurostat data. According to these, no undercutting and underselling was found with regard to those imports. Therefore the conclusions of recital (88) are confirmed. Moreover, a comparison was also made between the prices of the product concerned produced and sold by the Union industry and those of the product concerned sold by Indian exporters to the rest of the world. Such comparison did not show any undercutting or underselling either.
- (90) Further on, the Union producer provided new calculations demonstrating that the difference between the average price level of the Indian imports and the sales of Union producer was very low in 2012. However, this calculation could not be accepted by the Commission since it did not take into account the fact that the Indian imports were composed of predominantly technical grade while the Union producer sold exclusively purified grade sulphanilic acid which is roughly 20 % more expensive.

4. Imports from other third countries

- (91) With the exception of three negligible transactions (in 2010 and 2011 from Switzerland and one in 2012 from Malaysia), all imports of sulphanilic acid from other third countries came from the US in the period considered.

Table 5

Imports of sulphanilic acid from other third countries (US)

	2010	2011	2012	RIP
Volume of imports from the US (index)	100	267	253	299
Market share of US imports (index)	100	180	171	188
Average prices of US imports (index)	100	95	101	102

Source: Eurostat.

- (92) Both the volume and market share of US imports of sulphanilic acid have increased significantly during the period considered, by 199 % and 88 % respectively. As the Union industry's market share remained relatively stable during the same period, it was the US imports that took over the market left by the Chinese and Indian exporters.
- (93) The price levels of US imports remained rather stable during the period considered and were in the same range as those of the Union producer. During the review investigation period there was no price undercutting by the US imports.

5. Situation of the Union industry

- (94) In accordance with Article 3(5) of the basic Regulation, the examination of the likelihood of a continuation or recurrence of injury included an evaluation of all economic factors having a bearing on the state of the Union industry during the period considered.
- (95) In order to respect confidential business information, it has been necessary to present information concerning the sole Union producer in an indexed form.

5.1. Production, production capacity and capacity utilisation

Table 6

Production, capacity, capacity utilisation

	2010	2011	2012	RIP
Production tonnes (index)	100	87	99	107
Capacity tonnes (index)	100	100	100	100
Capacity utilisation rate (index)	100	87	99	107

Source: Questionnaire reply.

- (96) The production of the Union industry was 7 % higher in the review investigation period than at the beginning of the period considered. The Union industry's capacity remained unchanged during the period considered and therefore the capacity utilisation rate changed the same way as the production, it increased by 7 % in the review investigation period.
- (97) It should be noted that the Union industry maintained a satisfactory level of capacity utilisation during the period considered with the exception of 2011 and managed to achieve an optimal level during the review investigation period.
- (98) Following the disclosure the Union industry claimed that throughout the period considered it reached optimal capacity utilisation level only in the RIP which shows that its recovery is still very recent and fragile.

- (99) This comment in the Commission's assessment does not change the conclusions of recital (97) which do not contradict in any way the comments of the Union industry.

5.2. Closing stock

Table 7

Closing stock in volume

	2010	2011	2012	RIP
Closing stocks tonnes (index)	100	576	328	171

Source: Questionnaire reply.

- (100) The Union industry's year end stock levels showed a sharp increase in 2011 with a decreasing trend afterwards but still remaining 71 % above the 2010 level in the review investigation period. In any case, based on the production volume during the review investigation period the closing stock level represents less than one month of production.

5.3. Sales volumes and market share

Table 8

Sales volume and market share

	2010	2011	2012	RIP
Sales volume tonnes (index)	100	70	97	104
Market share % (index)	100	66	92	92

Source: Questionnaire reply.

- (101) Sales volumes of the Union industry have increased by 4 % compared to the levels in the beginning of the period considered. There was a very sharp dip in 2011 followed by a steady increase afterwards.
- (102) In terms of market share, the Union industry's performance can be considered stable during the period considered with the exception of 2011 when similarly to the decrease in sales, the market share of the Union industry decreased as well. In the following years the sales and market share showed an increasing trend. Even though the market share of the Union producer remained in the review investigation period slightly below the 2010 level, it is worth noting that the Union industry still managed to take part in the growth in the Union consumption and held a significant market share of the Union market throughout the period considered.
- (103) In its submission following the disclosure the Union industry stated that its market share is very unstable due to the fact that sulphanilic acid is a price driven commodity and provided the example of 2011 when the Union industry's market share plummeted.
- (104) In this regard it has to be emphasised that the loss in market share experienced in 2011 coincided with a price increase by the Union producer against market trends at that time. Indeed, the investigation showed that import prices from all the countries decreased in the range of 5 % to 20 % in 2011. It is also noteworthy that the statistical data available shows that it was mainly the US importer which took over the market share lost by the Union industry.

5.4. *Prices and factors affecting prices*

Table 9

Sales prices

	2010	2011	2012	RIP
Average sales prices EUR/tonne (index)	100	109	108	112

Source: Questionnaire reply.

- (105) The Union industry's sales prices on the Union market have increased by 12 % during the period considered which was due to the passing on of the increase in the cost of main raw material (*aniline*).

5.5. *Employment and productivity*

Table 10

Employment and productivity

	2010	2011	2012	RIP
Employment (index)	100	100	117	117
Labour productivity (index)	100	88	85	91
Average labour cost (index)	100	105	102	116

Source: Questionnaire reply.

- (106) The employment in full time equivalent has increased during the review investigation period by 17 %. The average labour costs have shown an increasing trend during the period considered with reaching a 16 % increase in the review investigation period compared to 2010. Since production only increased by 7 % as shown in recital (96), the labour productivity has decreased in the period considered by 9 %.

5.6. *Profitability*

Table 11

Profitability

	2010	2011	2012	RIP
Profitability (index)	100	96	20	65

Source: Questionnaire reply.

- (107) The profitability of the Union industry on the like product decreased during the period considered and it was slightly below the optimal level claimed by the Union industry, however it is important to note that it still remained positive throughout the period considered.
- (108) The decrease in the profitability is mainly due to the increase in the average cost of production, which increased by almost 20 % between 2010 and the review investigation period, and which could not be fully compensated by the 12 % increase in the sales prices as indicated in recital (105).

5.7. *Investments, return on investment and cash flow*

Table 12

Investments, return on investment and cash flow

	2010	2011	2012	RIP
Annual Investments (index)	—	100	133	57
Return on investment (index)	100	86	30	103
Cash flow (index)	100	116	68	82

- (109) The investigation showed that the Union Industry could not invest in 2010. Subsequently, investments for the sulphanilic acid business have decreased by 43 % from 2011 to the end of the review investigation period and their amount in absolute terms can be considered to be low, relating mainly to maintenance activity. These findings are consistent with the return on investments and the low profitability achieved during the review investigation period.
- (110) Return on investment followed closely the profitability trend in 2011 and 2012. In the review investigation period the return on investment improved and reached the same level as in 2010 due to the increase in the profitability from 2012 to the review investigation period (see Table 11).
- (111) Cash flow showed a fluctuating trend but remained positive throughout the period considered. In the review investigation period cash flow decreased by 18 % compared to 2010 level. The Union industry has not reported any difficulties in raising capital during the period considered.

5.8. *Magnitude of dumping and recovery from past dumping*

- (112) As concluded in recitals (41) and (57) to (60) above, no dumping was found during the review investigation period from the countries concerned.
- (113) Taking into account the absence of dumped imports from the PRC and India, the increase in the sales volumes and prices and in the capacity utilisation rate of the Union industry, it can be concluded that the measures were successful and that the Union industry has recovered from the effects of past dumping during the period considered. A certain decline in some injury indicators such as profitability and market share was observed during the review investigation period however this cannot be attributed to the imports from the countries concerned due to their very low level in this period. In any case, the injury indicators which developed negatively still indicate a sustainable situation for the Union industry.

5.9. *Export activity of the Union industry*

- (114) The Union industry exported only negligible volumes in 2012 and the review investigation period and therefore it is concluded that exports had no impact on the situation of the Union industry.

6. Conclusion on the situation of the Union industry

- (115) Even though the average price levels established for the product concerned from the PRC and India during the RIP and their comparison to previous years is of limited reliability due to the low volumes of imports nevertheless the investigation showed that the product concerned from the PRC and India entered the Union at non-dumped prices.
- (116) The market share of the Union industry remained fairly stable and the volumes lost by the countries concerned were taken up by imports from the US at a price level similar to that of the Union industry. The Union industry was able to increase its sales volumes, average sales prices and to achieve close to optimal capacity utilisation rates.

- (117) The moderate decline in the market share and the profitability of the Union industry cannot be attributed to the Chinese and Indian imports as explained in recital (113) above.
- (118) It is therefore concluded that the Union industry did not suffer material injury during the review investigation period.
- (119) Although the Union industry made some observations concerning the injury analysis, which were addressed above in recitals (89) to (90), (98)-(99) and (103)-(104), it agreed with the overall conclusion concerning the absence of material injury in particular during the RIP.

7. Likelihood of recurrence of injury

- (120) For the assessment of likelihood of recurrence of injury it is important to point out that under optimal capacity utilisation — which has been achieved during the review investigation period — the Union industry was not able to satisfy the whole Union consumption and consequently a significant part of the Union consumption needed to be covered by imports.
- (121) In addition, the Union industry only produces purified sulphanilic acid, which means that users who prefer technical sulphanilic acid for their production have to turn to imports.
- (122) Furthermore, the Union industry had a fairly stable market share with sales to a number of long-lasting customers. The investigation revealed that for some users the suppliers of sulphanilic acid need to undergo stringent and costly certification/verification process which makes changes from one supplier to another more difficult.
- (123) It is in this context that the likelihood of recurrence of injury if the measures were allowed to lapse is analysed in accordance with Article 11(2) of the basic Regulation.

7.1. The PRC

- (124) Since none of the Chinese exporting producers cooperated in the investigation, findings with regard to the PRC had to be based on best facts available in accordance with Article 18 of the basic Regulation, in particular the expiry review request.
- (125) As already concluded in recitals (63) and (75), Chinese producers possess significant spare capacity of sulphanilic acid production and there is likelihood of recurrence of dumping.
- (126) In addition, as indicated in recitals (64) and (87), information available suggested that the PRC had recently sold increased quantities of sulphanilic acid to India at prices undercutting those of the Union industry.
- (127) Finally, the statistics obtained on Chinese imports to the Indian market as explained in recital (64) seem to indicate that China is interested in selling predominantly purified grade sulphanilic acid which if directed to the Union market would enter into direct competition with the sales of the Union producer.
- (128) All these factors together indicate that the PRC could quickly export significant quantities of sulphanilic acid at dumped prices to the Union market without even the need to redirect its sales from other markets should the measures be allowed to lapse. The Union market is attractive in terms of prices and would allow Chinese exporters to make economies of scale by increasing their production. Were this to occur the Union industry would face an immediate drop in its sales and sales prices, which in turn would affect capacity utilisation and profitability. If these injury indicators deteriorated the recovery of the Union industry would be quickly reversed and material injury would occur.

7.2. India

- (129) With regard to India, as concluded above in recital (76) there is no likelihood of recurrence of dumping if measure were allowed to lapse. In the light of this finding the analysis of recurrence of injury is not necessary.

8. Conclusion on recurrence of injury

- (130) In view of the findings of the investigation as explained in the recitals above, the absence of measures would in all likelihood result in a significant increase of exports from the PRC at low prices, affecting negatively the financial and economic performance of the Union industry and resulting in recurrence of material injury.
- (131) The likelihood of recurrence of injury with regard to India was not analysed due to the negative finding concerning recurrence of dumping from India.

E. UNION INTEREST

1. Introduction

- (132) With regard to the anti-dumping measures on imports of sulphanilic acid from India it was concluded that there was no likelihood of recurrence of dumping. Therefore, no determination with regard to the Union interest is necessary.
- (133) In case of China, in accordance with Article 21 of the basic Regulation, it was examined whether the maintenance of the measures would be against the Union interest as a whole. The determination of the Union interest was based on an appreciation of the various interests involved, namely those of the Union industry, of importers and users. The interested parties were given the opportunity to make their views known pursuant to Article 21(2) of the basic Regulation.

2. Interest of the Union industry

- (134) As explained in recital (113) the measures have been successful and enabled the Union industry to consolidate its position. At the same time, it was also concluded above in recital (130) that the Union industry would be likely to experience a serious deterioration of its situation in case the anti-dumping measures against China were allowed to lapse. Therefore, it can be concluded that the continuation of the measures against China would benefit the Union industry.

3. Interest of users

- (135) All known users were informed about the initiation of the review. The Commission received four complete questionnaire replies and three partial replies/comments from users of sulphanilic acid. On the basis of these data it was established that the impact of the cost of the product concerned on the cost of production of the downstream products varies considerably among users depending on the type of the downstream product.
- (136) A number of users (pharmaceutical and specialty dye producers) admitted that sulphanilic acid plays only marginal role in their production costs and therefore it is considered that the measures have basically no impact on their production costs/prices.
- (137) For other users (producers of cement additives and optical brighteners) however sulphanilic acid accounted for 4 % to 12 % of the cost of production of their downstream products. These users also reported losses during the review investigation period and claimed that the duties currently in force are partly responsible for their difficult situation.
- (138) With regard to this claim, it has to be noted that imports from the PRC were almost non-existent during the review investigation period and therefore duties against China, which would guarantee a fair price level on the Union market did not entail extra costs to users during the period considered and could thus not explain the difficulties encountered by these users. The price increase of the like product during the period considered was due to the increase of cost of production triggered by the increase of the price of the main raw material as indicated in recitals (105) and (108). Abolishing the duties currently in force against imports of sulphanilic acid from India as proposed by this regulation should immediately facilitate access for an additional source of sulphanilic acid supply on the Union market on competitive prices and thereby would be in the interest of the users. Consequently, it is considered that maintaining the measures as far as China is concerned will not cause undue difficulties to users in the future.

4. Interest of importers

(139) All known importers were informed about the initiation of the review. One importer of the product concerned provided a partial questionnaire reply in which it claimed that sulphanilic acid does not play an important role in its activity. No other importer replied to the questionnaire or provided any written submission or comment. In the absence of further cooperation from importers, it was concluded that it would not be against their interest to maintain the measures imposed on imports from the PRC.

5. Conclusion

(140) In view of above, it was concluded that there were no compelling reasons of Union interest against the maintenance of the anti-dumping measures against the PRC.

F. MAINTENANCE OF ANTI-DUMPING MEASURES AGAINST THE PRC AND TERMINATION OF ANTI-DUMPING MEASURES AGAINST INDIA

(141) All parties were informed of the essential facts and considerations on the basis of which it is considered appropriate that the existing anti-dumping duties on imports of sulphanilic acid from the PRC be maintained and be repealed on imports from India. Interested parties were also granted the possibility to submit comments subsequent to that disclosure. The submissions and comments were duly taken into consideration where warranted.

(142) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to sulphanilic acid originating in China should be maintained and the anti-dumping measures applicable to sulphanilic acid originating in India should be repealed. The Commission Decision accepting the undertaking currently in force concerning imports of sulphanilic acid from Kokan should also be repealed.

(143) Taking into consideration that the recovery of the Union industry is recent, the Commission, if it receives a request of the Union producer in that sense, will monitor the imports of the product concerned. The monitoring will be limited to a period of two years after the publication of this Regulation.

(144) The maintenance of the measures provided for in this Regulation against China and the repeal of measures against India are in accordance with the opinion of the Committee established by Article 15(1) of the basic Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty on imports of sulphanilic acid currently falling within CN code ex 2921 42 00 (TARIC code 2921 42 00 60) originating the People's Republic of China is hereby imposed.

2. The rate of the definitive anti-dumping duty applicable to the net free-at-Union frontier price, before duty, for the products described in paragraph 1, shall be as follows:

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

3. The definitive anti-dumping duty on imports of sulphanilic acid currently falling within CN code ex 2921 42 00 (TARIC code 2921 42 00 60) originating in India is hereby repealed and the proceedings concerning these imports is terminated.

4. The Commission Decision 2006/37/EC accepting the undertaking currently in force concerning imports of sulphanilic acid from Kokan Synthetics & Chemicals Pvt. Ltd (India) is hereby repealed.

5. 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, 17 December 2014.

For the Commission
The President
Jean-Claude JUNCKER
