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COMMISSION IMPLEMENTING REGULATION (EU) 2025/1288

of 27 June 2025

imposing a provisional anti-dumping duty on imports of choline chloride originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

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

After consulting the Member States,

Whereas:

1. PROCEDURE

1.1. Initiation

(1) On 31 October 2024, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of choline chloride originating in the People's Republic of China ('the country concerned' or 'the PRC') on the basis of Article 5 of the basic Regulation. It published a Notice of Initiation in the *Official Journal of the European Union* ([2]) ('the Notice of Initiation').

(2) The Commission initiated the investigation following a complaint lodged on 17 September 2024 by Balchem Italia Srl and Taminco BV ('the complainants'). The complaint was made by the Union industry of choline chloride in the sense of Article 5(4) of the basic Regulation. The complaint contained evidence of dumping and of resulting material injury that was sufficient to justify the initiation of the investigation.

1.2. Registration

(3) The Commission made imports of the product concerned subject to registration by Commission Implementing Regulation (EU) 2025/92 ([3]) ('the registration Regulation').

1.3. Interested parties

(4) In the Notice of Initiation, the Commission invited interested parties to contact it in order to participate in the investigation. In addition, the Commission specifically informed the complainants, other potential Union producers, the known exporting producers and the authorities of the PRC, known importers, suppliers and users, traders, as well as associations known to be concerned about the initiation of the investigation and invited them to participate.

(5) Interested parties had an opportunity to comment on the initiation of the investigation and to request a hearing with the Commission and/or the Hearing Officer in trade proceedings.

([1]) OJ L 176, 30.6.2016, p. 21, ELI: http://data.europa.eu/eli/reg/2016/1036/oj.
([2]) OJ C, C/2024/6602, 31.10.2024, ELI: http://data.europa.eu/eli/C/2024/6602/oj.
([3]) Commission Implementing Regulation (EU) 2025/92 of 20 January 2025 making imports of choline chloride originating in the People's Republic of China subject to registration (OJ L, 2025/92, 21.1.2025, ELI: http://data.europa.eu/eli/reg_impl/2025/92/oj).

1.4. **Comments on initiation**

(6) Van Eeghen Functional Ingredients BV ('Van Eeghen') claimed that the two complainants are not active as EU producers in the food grade choline chloride market and that therefore they would not reach a 25 % market share needed to initiate an investigation concerning food grade choline chloride imports.

(7) With regard to the 25 % threshold needed to initiate an investigation and mentioned in Article 5(4) of the basic Regulation, the Commission clarified that it applies not to market share, but to Union production – Union producers expressly supporting the complaint should account for at least 25 % of the total production of the like product. As mentioned in recital (14) below, the two complainants account for more than 80 % of the Union production of the like product and this threshold is thus largely met.

(8) As explained in more detail in recitals (33) and (34) below, both food grade and feed grade of choline chloride are considered two types of the product under investigation.

(9) The China Chamber of Import/Export of Foodstuffs, Native Produce and Animal By-products ('CFNA') ([4]) claimed that dryers of the product under investigation should be considered as producers and that they should therefore be taken into account when assessing the standing and representativeness requirements of the Union industry. CFNA further alleged that the complainants may have affiliations with any of the Chinese exporting producers of the product concerned.

(10) The claim with regard to the dryers is addressed in recital (160).

(11) As to CFNA's allegation that the two complainants may have affiliations with Chinese exporting producers, the Commission confirmed and verified with regard to the sampled exporting producers that no such relationship existed. Otherwise, the claim was rejected as it was not substantiated by any evidence.

(12) CFNA claimed that the complaint lacked sufficient disclosure, thus undermining the right of defence of the interested parties, and it requested the Commission to demand the complainants to fulfil the obligation of full disclosure in accordance with the applicable rules. The Commission noted that CFNA failed to identify where the complaint would have contained insufficient disclosure. The Commission considered the non-confidential version of the complaint to comply with the applicable standards of the basic Regulation which require that the non-confidential version of the complaint is of sufficient detail to permit interested parties a reasonable understanding of the substance of any information submitted in confidence. For this reason, the claim on the procedural issues is rejected.

1.5. **Sampling**

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

Sampling of Union producers

(14) In its Notice of Initiation, the Commission stated that it had provisionally selected a sample of Union producers. However, by a Note to the File ([5]), the Commission informed interested parties that it abandoned sampling since only the two complainants had replied to the standing questions. These two Union producers accounted for more than 80 % of the estimated production and sales of the like product in the Union. The Commission invited interested parties to comment. No comments were received on the decision to abandon sampling. The two companies were representative of the Union industry.

([4]) CFNA represents in this proceeding exporting producers: Taian Havay Chemicals Co.,Ltd, Liaoning Biochem Co., Ltd., Shandong Aocter Feed Additives Co., Ltd. and Shandong FY Feed Technology Co., Ltd.

([5]) t24.009637.

Sampling of unrelated importers

(15) To decide whether sampling is necessary and, if so, to select a sample, the Commission asked unrelated importers to provide the information specified in the Notice of Initiation. One unrelated importer provided the requested information and agreed to be included in the sample. Therefore, sampling of unrelated importers was not necessary.

Sampling of exporting producers

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

(17) Seven exporting producers in the country concerned provided the requested information and agreed to be included in the sample. In accordance with Article 17(1) of the basic Regulation, the Commission selected a sample of two exporting producers on the basis of the largest representative volume of exports to the Union which could reasonably be investigated within the time available. The sampled exporting producers reported to represent 57 % of the total exports to the Union of choline chloride reported by the co-operating exporting producers. In accordance with Article 17(2) of the basic Regulation, all known exporting producers concerned, and the authorities of the country concerned were consulted on the selection of the sample. There were no comments received on the sample that was chosen.

1.6. **Questionnaire replies and verification visits**

(18) The Commission sent a questionnaire concerning the existence of significant distortions in the PRC within the meaning of Article 2(6a)(b) of the basic Regulation to the Government of the People's Republic of China ('GOC').

(19) The Commission sent questionnaires to the Union producers, the sampled exporting producers and to the cooperating unrelated importer. The same questionnaires, as well as a questionnaire intended for users of the product under investigation, were made available online ([6]) on the day of initiation.

(20) Questionnaire replies were received from the two Union producers, one user, one unrelated importer and the two sampled Chinese exporting producers.

(21) The Commission sought and verified all the information deemed necessary for a provisional determination of dumping, resulting injury and Union interest. Verification visits pursuant to Article 16 of the basic Regulation were carried out at the premises of the following companies:

Union producers:

— Balchem Italia Srl, Italy;

— Taminco BV, Belgium;

Exporting producers in the People's Republic of China:

— Shandong Aocter Feed Additives Co., Ltd., Liaocheng City, Shandong Province, PRC;

— Shandong FY Feed Technology Co., Ltd, Binzhou City, Shandong Province, PRC (hereinafter 'SFY');

— Shandong Yinfeng Biological Technology Co., Ltd, Zouping City, Shandong Province, PRC (supplier-producer to SFY, hereinafter 'SYB').

([6]) https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2756.

1.7. **Investigation period and period considered**

(22) The investigation of dumping and injury covered the period from 1 October 2023 to 30 September 2024 (the 'investigation period'). The examination of trends relevant for the assessment of injury covered the period from 1 January 2021 to the end of the investigation period ('the period considered').

2. **PRODUCT UNDER INVESTIGATION, PRODUCT CONCERNED AND LIKE PRODUCT**

2.1. **Product under investigation**

(23) The product under investigation is choline chloride, in all forms and purities, whether or not on a carrier, with a minimum choline chloride content of 30 % by weight, excluding calcium phosphoryl choline chloride tetrahydrate with CAS number 72556-74-2.

(24) Choline chloride is an organic compound and a quaternary ammonium salt. The molecular formula of pure choline chloride is $[(CH_3)_3NCH_2CH_2OH]^+Cl^{&\#x2013;}$ and its molecular weight is 139,62 g/mol. Choline chloride exists as an aqueous solution and in crystallised form. As an aqueous solution, choline chloride is colourless and can be brought into a solid form by evaporating the water, which results in a white, crystalline salt.

(25) Choline chloride is often used as an additive in animal feed. It is an essential nutrient for growth, development, and good health of many animal species, primarily in the poultry and meat markets. Choline chloride is also used in human food and nutraceutical applications. In particular, choline chloride is added to infant formula and prenatal dietary supplements because it supports brain development and activity. Choline chloride is also a clay stabilisation-agent for fracturing fluids in the oil and gas industry.

(26) Choline chloride is produced in three subsequent reaction processes. First, methanol and ammonia react to form trimethylamine ('TMA'). TMA is then reacted with hydrochloric acid ('HCl') to form trimethylamine hydrochloride (a salt). Third, trimethylamine hydrochloride reacts with ethylene oxide to form liquid choline chloride. The processes consume energy, e.g., natural gas and electricity, but do not produce any by-product other than water.

(27) The concentration of the final product choline chloride is achieved during the purification process through the removal of water. To put choline chloride on a carrier, liquid choline chloride is thoroughly sprayed and mixed with the carrier, i.e., corn cob, sugar beet pulps, silica dioxide, and then dried to reduce the moisture content and obtain the desired choline chloride concentration. The drying process is either done by the producer of liquid choline chloride or by other operators (dryers). The latter would purchase liquid choline chloride to apply it to a carrier and then sell the finished choline chloride mixed with a carrier to traders and users.

2.2. **Product concerned**

(28) The product concerned is the product under investigation originating in the PRC, currently falling under CN codes ex 2923 10 00, ex 2309 90 31, ex 2309 90 96, ex 2106 and 3824 99 96 (and as of initiation falling under TARIC additional code 89ID). Currently, the product is falling under CN codes ex 2923 10 00, ex 2309 90 31, ex 2309 90 96, ex 2106 and 3824 99 96 (TARIC additional codes 89RB, 89RC, 89RD, 89RE, 89RF, 89RG, 89RH and 89YY).

2.3. **Like product**

(29) The investigation showed that the following products have the same basic physical chemical and technical characteristics as well as the same basic uses:

— the product concerned when exported to the Union;

— the product under investigation produced and sold on the domestic market of the PRC; and

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

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

2.4. **Claims regarding product scope**

(31) Van Eeghen and CFNA submitted that food grade choline chloride should be excluded from the scope of the investigation. They claimed that choline chloride used for animal feeding differs substantially from that used for human nutrition with regard to the level of purity, legal requirements, performance and use of the product, price and market dynamics.

(32) Kirsch Pharma GmbH ('Kirsch Pharma') claimed that food grade choline chloride should not be subject to any imposition of anti-dumping duties because the EU production of this type of the product under investigation is not sufficient to cover the Union market demand and it feared a shortage of supply in case measures would be imposed on choline chloride of food grade.

(33) With regard to the Union production of choline chloride for the food grade market, the Commission first confirmed that choline chloride for human consumption is currently not produced by the complainants. The food grade market is relatively small and is estimated to account for 5 % of the Union market at most. Therefore, in view of the difficult market circumstances described under Section 4.4 of this regulation, the Union industry's focus has been on preserving market shares on the main feed market. The complainants also submitted that it currently is not economically interesting to enter this small market which, they stated, is heavily dominated by Chinese imports but that they could enter that market with measures in place. However, food grade choline chloride is still produced by the third Union producer, whose data were included in the complaint and also in the macro-data presented in this regulation. That party, Algry Química, submitted that it suffered from injurious dumping on the food market and that therefore food grade choline chloride should be covered by the investigation.

(34) In view of the claim under recital (31) above, the Commission examined whether choline chloride for human consumption (food grade) and choline chloride for feed applications share the same basic physical, technical and/or chemical characteristics. The Commission found that choline chloride for human consumption and choline chloride for feed applications can be considered as two different sub-types of the same product concerned. They are manufactured in the same way, have in essence the same chemical composition and they share the same basic physical characteristics. It is true that choline chloride sold to the food industry has higher testing standards and must be accompanied by specific test certificates whereas this is not the case for choline chloride for feed applications. However, those additional regulatory requirements do not change the product as such and they are not related to a different quality or purity of choline chloride for human consumption. To the extent that food grade choline chloride may be sold at higher prices because it is considered a niche product as compared to choline chloride for feed applications, this in itself does not put in question the homogeneity of the product scope in this investigation. The Commission further noted that the price difference between choline chloride for the food versus feed market, if any, does not affect the injury calculations as these sub-types of products have different product control numbers and are thus not compared to each other.

(35) Further to the above, Algry Química pointed at the risk of circumvention of the measures should choline chloride for human consumption be excluded, as imports could then be imported as being for human use and subsequently, once in the Union market, be redirected to users in the feed sector.

(36) In view of the above, the claim to exclude food grade choline chloride from the product scope of the investigation was provisionally rejected.

3. DUMPING

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

(37) In view of the sufficient evidence available at the initiation of the investigation pointing to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation with regard to the PRC, the Commission considered it appropriate to initiate the investigation with regard to the exporting producers from this country having regard to Article 2(6a) of the basic Regulation.

(38) Consequently, in order to collect the necessary data for the possible application of Article 2(6a) of the basic Regulation, in the Notice of Initiation the Commission invited all exporting producers in the PRC to provide information regarding the inputs used for producing choline chloride. Eight exporting producers submitted the relevant information.

(39) In order to obtain information deemed necessary for investigating 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.

(40) No questionnaire reply was received from the GOC. Subsequently, on 18 December 2024, the Commission informed the GOC that it intended to use facts available within the meaning of Article 18 of the basic Regulation for the determination of the existence of the significant distortions in the PRC. No comments were received from the GOC further to this notification. The application of Article 18 for the determination of the existence of the significant distortions in the PRC is therefore confirmed.

(41) In point 5.3.2 of the Notice of Initiation, the Commission also specified that, in view of the evidence available, Mexico was a possible appropriate representative country pursuant to Article 2(6a)(a) of the basic Regulation for the purpose of determining the normal value based on undistorted prices or benchmarks. The Commission further stated that it would examine other possibly appropriate representative countries in accordance with the criteria set out in Article 2(6a)(a) first indent of the basic Regulation.

(42) On 20 December 2024, the Commission informed by a note to the file ('the First Note') interested parties on the relevant sources it intended to use for the determination of the normal value. In that note, the Commission provided a list of all factors of production such as raw materials, labour and energy used in the production of choline chloride. In addition, based on the criteria guiding the choice of undistorted prices or benchmarks, the Commission identified the following possible representative countries, namely Mexico, Thailand, Brazil and Malaysia.

(43) The Commission received comments on the First Note from the complainant and from one of the sampled exporting producers.

(44) On 28 February 2025, the Commission informed by a second note ('the Second Note') interested parties on the relevant sources it intended to use for the determination of the normal value, with Brazil as the representative country. It also informed interested parties that it would establish selling, general and administrative costs ('SG & A') and profits based on the readily available financial data of two Brazilian companies, namely Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A. No comments were received in relation to the intended use of these data. In the Second Note, the Commission also addressed the comments received from interested parties on the First Note.

3.2. Normal value

(45) 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'.

(46) However, according to Article 2(6a)(a) of the basic Regulation, 'in case it is determined […] that it is not appropriate to use domestic prices and costs in the exporting country due to the existence in that country of significant distortions within the meaning of point (b), the normal value shall be constructed exclusively on the basis of costs of production and sale reflecting undistorted prices or benchmarks', and 'shall include an undistorted and reasonable amount of administrative, selling and general costs and for profits' ('administrative, selling and general costs' is refereed hereinafter as 'SG & A').

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

3.2.1. *Existence of significant distortions*

(48) In recent investigations concerning the chemical sector in the PRC ([7]), the Commission found that significant distortions within the meaning of Article 2(6a)(b) of the basic Regulation were present.

(49) In those investigations, the Commission found that there is substantial government intervention in the PRC resulting in a distortion of the effective allocation of resources in line with market principles ([8]). In particular, the Commission concluded that in the chemical sector not only does a substantial degree of ownership by the GOC persist in the sense of Article 2(6a)(b), first indent of the basic Regulation ([9]), but the GOC is also in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation ([10]). The Commission further found that the State's presence and intervention in the financial markets, as well as in the provision of raw materials and inputs have an additional distorting effect on the market. Indeed, overall, the system of planning in the PRC results in resources being concentrated in sectors designated as strategic or otherwise politically important by the GOC, rather than being allocated in line with market forces ([11]). Moreover, the Commission concluded that the Chinese bankruptcy and property laws do not work properly in the sense of

([7]) Commission Implementing Regulation (EU) 2024/1959 of 17 July 2024 imposing a provisional anti-dumping duty on imports of erythritol originating in the People's Republic of China (OJ L, 2024/1959, 19.7.2024, ELI: http://data.europa.eu/eli/reg_impl/2024/1959/oj); Commission Implementing Regulation (EU) 2023/2180 of 16 October 2023 amending Implementing Regulation (EU) 2021/607 imposing a definitive anti-dumping duty on imports of citric acid originating in the People's Republic of China as extended to imports of citric acid consigned from Malaysia, whether declared as originating in Malaysia or not, following a new exporter review pursuant to Article 11(4) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L, 2023/2180, 17.10.2023, ELI: http://data.europa.eu/eli/reg_impl/2023/2180/oj); Commission Implementing Regulation (EU) 2023/752 of 12 April 2023 imposing a definitive anti-dumping duty on imports of sodium gluconate originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 100, 13.4.2023, p. 16, ELI: http://data.europa.eu/eli/reg_impl/2023/752/oj); 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 (OJ L 85, 12.3.2021, p. 154, ELI: http://data.europa.eu/eli/reg_impl/2021/441/oj).

([8]) Implementing Regulation (EU) 2024/1959, recitals 161-162; Implementing Regulation (EU) 2023/2180, recitals 89-90; Implementing Regulation (EU) 2023/752, recital 70.

([9]) Implementing Regulation (EU) 2024/1959, recitals 103-113; Implementing Regulation (EU) 2023/2180, recitals 46-50; Implementing Regulation (EU) 2023/752, recital 49.

([10]) Implementing Regulation (EU) 2024/1959, recitals 114-122; Implementing Regulation (EU) 2023/2180, recitals 51-55; Implementing Regulation (EU) 2023/752, recitals 50-54. While the right to appoint and to remove key management personnel in SOEs by the relevant State authorities, as provided for in the Chinese legislation, can be considered to reflect the corresponding ownership rights, CCP cells in enterprises, state owned and private alike, represent another important channel through which the State can interfere with business decisions. According to the PRC's company law, a CCP organisation is to be established in every company (with at least three CCP members as specified in the CCP Constitution) and the company shall provide the necessary conditions for the activities of the party organisation. In the past, this requirement appears not to have always been followed or strictly enforced. However, since at least 2016 the CCP has reinforced its claims to control business decisions in SOEs as a matter of political principle. The CCP is also reported to exercise pressure on private companies to put 'patriotism' first and to follow party discipline. In 2017, it was reported that party cells existed in 70 % of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have a final say over the business decisions within their respective companies. These rules are of general application throughout the Chinese economy, across all sectors, including to the producers of the product under review and the suppliers of their inputs.

([11]) Implementing Regulation (EU) 2024/1959, recitals 123-133; Implementing Regulation (EU) 2023/2180, recitals 56-65; Implementing Regulation (EU) 2023/752, recitals 55-63.

Article 2(6a)(b), fourth indent of the basic Regulation, thus generating distortions in particular when maintaining insolvent firms afloat and when allocating land use rights in the PRC ([12]). In the same vein, the Commission found distortions of wage costs in the chemical sector in the sense of Article 2(6a)(b), fifth indent of the basic Regulation ([13]), as well as distortions in the financial markets in the sense of Article 2(6a)(b), sixth indent of the basic Regulation, in particular concerning access to capital for corporate actors in the PRC ([14]).

(50) Like in previous investigations concerning the chemical sector in the PRC, the Commission examined in the present investigation whether it was appropriate or not to use domestic prices and costs in the PRC, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. The Commission did so on the basis of the evidence available on the file, including the evidence contained in the complaint, and in the Commission Staff Working Document on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations ([15]) ('Report'), which relies on publicly available sources. That analysis covered the examination of the substantial government interventions in the PRC's economy in general, but also the specific market situation in the relevant sector including the product under investigation. The Commission further supplemented these evidentiary elements with its own research on the various criteria relevant to confirm the existence of significant distortions in the PRC as also found by its previous investigations in this respect.

(51) The complaint alleged that significant distortions exist in the Chinese choline chloride sector. It referred to the Report and in particular to the PRC's economic system being a 'socialist market economy' and the active role of the Chinese Communist Party ('CCP') in both the public and private sectors in the PRC.

(52) More specifically, the complaint pointed out that:

— The Chinese choline chloride industry can be characterised by State ownership and a high level of State control/interference. Several choline chloride producers have close ties with the GOC, regional or local governments, either directly or through associations. For example, one Chinese choline chloride producer, Liaoning Biochem, was formerly a State-owned company under the Ministry of Agriculture of China. Another choline chloride producer, Jining Choline Factory, is wholly owned by the local government (i.e., Nanzang Village People's Government) ([16]).

— The GOC and the Chinese CCP maintain structures that ensure their continued influence and control over enterprises, in particular State-owned enterprises ('SOEs'). Generally, the GOC actively formulates and oversees the implementation of general economic policies by individual companies as well as participates in operational decision-making through the rotation of cadres between government authorities and companies, the presence of CCP members on executive bodies and through the shaping of the corporate structure. For example, the founder and chairperson of the Chinese choline chloride producer Arshine Group has close ties to the GOC

([12]) Implementing Regulation (EU) 2024/1959, recitals 134-138; Implementing Regulation (EU) 2023/2180, recitals 66-69; Implementing Regulation (EU) 2023/752, recital 64.

([13]) Implementing Regulation (EU) 2024/1959, recitals 139-142; Implementing Regulation (EU) 2023/2180, recitals 71-72; Implementing Regulation (EU) 2023/752, recital 65.

([14]) Implementing Regulation (EU) 2024/1959, recitals 143-152; Implementing Regulation (EU) 2023/2180, recitals 72-81; Implementing Regulation (EU) 2023/752, recital 66.

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

([16]) See page 13 of the complaint (open version).

through her political party affiliation. Additionally, choline chloride producers such as GHW International Group, Tai'an Havay Group Co., Ltd., and the Arshine Group are known to have hosted CCP delegations on their premises. The GOC also exerts influence on choline chloride producers by installing so-called CCP cells in individual companies and via representative industry associations, such as the China Petrochemical and Chemical Industry Federation ('CPCIF') and the China Chemical Enterprise Management Association. As such, both public and private companies in the choline chloride industry in the PRC are subject to policy supervision and guidance, which prevents these companies from operating under market conditions ([17]).

— Chinese choline chloride producers receive subsidies and funding from government agencies at different levels, have preferential access to financing and production factors and are shielded from competition. In particular, several Chinese choline chloride producers are recognised as High and New Technology Enterprises (e.g., NB Group, Shandong Aocter, Shandong Yinfeng, and Hangzhou Donglou), which entitles them to ample subsidisation in the form of preferential loans, tax benefits, and preferential access to land ([18]).

— There are public policies or measures applicable to the Chinese choline chloride industry that discriminate in favour of domestic suppliers or otherwise influence free market forces. Specifically, the chemical industry is regarded as a strategic industry by the GOC, as explained in the 14th Five-Year Plan ('FYP'). The chemical industry is also considered a key industry under the Made in China 2025 Roadmap, which gives Chinese producers access to strategic support mechanisms. Other plans or measures providing support to the Chinese choline chloride industry include, among others, the Catalogue of Industries Encouraging Foreign Investment (2022 edition), the Guiding Catalogue for Industry Structural Adjustment (2019 edition), the 14th 5-Year Development Plan for the Petrochemical and Chemical Industry, and the State Council Guidelines on Promoting Enterprise Technological Transformation (2012). There are also such public policies or measures implemented by the GOC at the provincial or local level. For example, the Shandong 14th 5-Year Plan on the Development of Chemical Industry benefits choline chloride producers in the Shandong province, which is where most of the known choline chloride producers are located. Similar plans were adopted by the Jiangsu and Jiangxi provinces and the Hebei and Zhejiang provinces have set up industrial zones with preferential policies supporting chemical companies, including choline chloride producers ([19]).

— The costs of essentially all factors of production of choline chloride are distorted in China and as such the Chinese costs and prices are not driven by market forces. Several raw materials for the production of choline chloride, including ethylene oxide, methanol, ammonia and hydrochloric acid, are chemical raw materials subject to the same distortions as the choline chloride industry itself. In addition, the GOC intervenes significantly and systematically in the Chinese power market so that energy prices are also distorted. State policies also bring down the cost of equipment and machinery for encouraged industries, such as the chemical industry, including the choline chloride industry. The GOC also often covers the costs of research and development in the chemical sector through policy schemes. Finally, chemical producers are generally subject to top-down distortions arising from the discriminatory application of property laws and wage costs in the PRC. Considering the above, it can be concluded that the GOC exerts a significant influence over price setting in and the development of the choline chloride industry in the PRC ([20]).

([17]) See pages 13-15 of the complaint (open version).

([18]) See page 15 of the complaint (open version).

([19]) See pages 15-18 of the complaint (open version).

([20]) See pages 18-23 of the complaint (open version).

— Access to finance and capital in the chemical industry, including the choline chloride industry, in the PRC is granted by institutions, often State-owned, that implement public policy objectives or otherwise do not act independently of the State. Bonds and credit ratings are often distorted and borrowing costs are kept artificially low to stimulate investment growth. Finally, Chinese bankruptcy laws are not strictly enforced in the chemical sector, of which the choline chloride sector is part, which generates distortions by maintaining insolvent firms afloat ([21]).

(53) In conclusion, the complaint took the position that prices or costs, including the costs of raw materials, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation. On that basis, according to the complaint, it is not appropriate to use domestic prices and costs to establish normal value in this case.

(54) The Commission examined whether it was appropriate or not to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation. That analysis covered the examination of the substantial government interventions in China's economy in general, but also the specific market situation in the relevant sector including the product concerned.

(55) In this regard, the Commission first assessed whether the choline chloride sector in the PRC is being served to a significant extent by enterprises which operate under the ownership, control or policy supervision or guidance of the Chinese authorities, within the meaning of the first indent of Article 2(6a)(b) of the basic Regulation. The sector of the product concerned is served by both private companies, such as Aocter Group ([22]), Tai'an Hanwei Group (owned by the GHW International Group) ([23]), Shandong Yinfeng Biological Technology Co., Ltd. ([24]), and by SOEs such as Sinochem Group ([25]) and Sinopec Group ([26]). The exact ratio of private versus state-owned producers in the choline chloride market could not be determined. However, the Commission found that several producers are directly controlled by the State. Examples include Tianli Energy ([27]), which is controlled by Shandong Kechuang Group ([28]), a wholly state-owned enterprise. Furthermore, Sinochem Group ([29]) and Sinopec Group ([30]), both central enterprises controlled by the State Council's State Asset Supervision and Administration Commission ('SASAC') ([31]), produce ethylene oxide, which is an input used to produce choline chloride. Additionally, Shandong Hualu Huasheng Chemical Co., Ltd. ([32]), of which 32,08% of the shares are state-owned ([33]) is the largest Chinese domestic producer ([34]) of trimethylamine, another input to produce choline chloride.

([21]) See pages 23-25 of the complaint (open version).
([22]) See at: http://www.aocter.net/about/495351.html (accessed on 16 April 2025).
([23]) See at: https://www.goldenhighway.com/shengchanjidi-guonei.html (accessed on 17 April 2025).
([24]) See at: https://www.yinfengbio.cn/ (accessed on 15 April 2025).
([25]) See at: https://www.sinochem.com/sinochem/guwm/qygk/jj/A031002001001Gone1.html (accessed on 15 April 2025).
([26]) See at: http://spc.sinopec.com/spc/en/pro_service/main_pro/Chemical_pro/ (accessed on 16 April 2025).
([27]) See at: https://www.kytl.com/#page6 (accessed on 15 April 2025).
([28]) See at: https://www.kczg.org.cn/org/orgdetail?id=276602 (accessed on 16 April 2025).
([29]) See at: http://www.sinochemhx.com/shxschina/ywgl/zycp/A074003001Gone1.html (accessed on 16 April 2025).
([30]) See at: http://ypc.sinopec.com/ypc/pro_service/pro_presentation/borm/ (accessed on 16 April 2025).
([31]) See at: http://wap.sasac.gov.cn/n2588045/n27271785/n27271792/c14159097/content.html (accessed on 16 April 2025).
([32]) See at: https://www.hl-hengsheng.com/Product/2.html (accessed on 16 April 2025).
([33]) See Shandong Hualu Hengsheng Co. Ltd. 2024 Annual report, page 60, available at: http://file.finance.sina.com.cn/211.154.219.97:9494/MRGG/CNSESH_STOCK/2025/2025-3/2025-03-29/10821388.PDF (accessed on 16 April 2025).
([34]) See at: http://www.newsijie.com/chanye/huagong/jujiao/2019/0625/11248363.html (accessed on 16 April 2025).

(56) Moreover, CCP interventions into operational decision-making have become the norm, not only in SOEs but also in private companies ([35]), with the CCP claiming leadership over virtually every aspect of the country's economy. Indeed, the State's influence by means of CCP structures within companies effectively results in economic operators being under the government's control and policy supervision, given how far the State and Party structures have grown together in China.

(57) The investigation found that the industry national association covering the chemical sector is the CPCIF. The CPCIF adheres to the overall leadership of the CCP, carries out Party activities, and provides necessary conditions for the activities of party organizations ([36]). Moreover, the 'registration and management authority of the Association is the Ministry of Civil Affairs' ([37]) and the conditions to be eligible as a representative of the CPCIF include to 'adhere to the leadership of the CCP, support socialism with Chinese characteristics, resolutely implement the Party's line, principles, and policies, and possess good political qualities' ([38]).

(58) Sinochem Group and Sinopec Group are members of CPCIF ([39]).

(59) More specifically, the national industry association representing the producers of choline chloride is the China Feed Industry Association ('CFIA') ([40]). Article 3 of CFIA's Articles of Association ([41]) sets out: '[t]he purpose of the CFIA is to […] hold high the great banner of socialism with Chinese characteristics, to be guided by Deng Xiaoping Theory […] to implement the principles and policies of the Party and the State, […] and to promote the comprehensive, coordinated and sustainable development of China's feed industry'. Moreover, Article 4 mandates that 'CFIA accepts the business guidance and supervision of the Ministry of Civil Affairs and the Ministry of Agriculture of the People's Republic of China'. Also, the conditions to be eligible as a 'president, vice president and secretary general of [CFIA]' include to '[a]dhere to the Party's line, principles and policies and possess good political qualities.'

(60) The Shandong Aocter Group is a member of CFIA's board of directors ([42]).

(61) Both public and privately owned enterprises in the chemical sector are subject to policy supervision and guidance. The latest Chinese policy documents concerning the chemical and petrochemical sector confirm the continued importance which the GOC attributes to the sector, including the intention to intervene in the sector to shape it in line with the government policies. This is exemplified by the 14th FYP on Economic and Social Development and 2035 Perspectives, according to which the GOC intends to 'accelerate the transformation and upgrading of key industries such as chemicals' ([43]).

([35]) See Article 33 of the CCP Constitution, Article 19 of the Chinese Company Law. See also the Report, Chapter 3, p. 47-50.
([36]) See CPCIF Articles of Association, Article 3, available at: http://www.cpcif.org.cn/detail/40288043661e27fb01661e386a3f0001?e=1 (accessed on 17 April 2025).
([37]) Ibid.
([38]) See CPCIF Articles of Association, Article 36, available at: http://www.cpcif.org.cn/detail/40288043661e27fb01661e386a3f0001?e=1 (accessed on 17 April 2025).
([39]) See at: http://www.cpcif.org.cn/list/40288043661dc14701661ddbe0980010 (accessed on 17 April 2025).
([40]) See at: http://www.chinafeed.org.cn/hyzq/ (accessed on 16 April 2025).
([41]) See at: http://www.chinafeed.org.cn/hyzq/hytl/201912/P020191224420392181435.pdf (accessed on 16 April 2025).
([42]) See at: https://www.chemball.cn/factory/uza7zr/detail.html (accessed on 16 April 2025).
([43]) See Section III.8.3 of the 14th FYP on economic and social development and 2035 perspectives, available at: https://www.gov.cn/xinwen/2021-03/13/content_5592681.htm (accessed on 17 April 2025).

(62) Additionally, the Guiding Opinion on Promoting the High-Quality Development of the Petrochemical and Chemical Industries during the 14th FYP ([44]) ('the Guiding Opinion') also stipulates that the GOC will 'accelerate the transformation and upgrading of traditional industries, vigorously develop new chemical materials and fine chemicals, […]and foster China's transition from a large petrochemical and chemical country into a strong petrochemical and chemical power. […] By 2025, […] [t]he production concentration of bulk chemical products will be further improved, and the capacity utilization rate will reach more than 80 %; the supply security of ethylene equivalent will be greatly improved, and the supply security of new chemical materials will reach more than 75 %' ([45]). In addition, the GOC shall '[p]romote industrial structure adjustment: strengthen specific measures and scientifically regulate the scale of the industry' ([46]).

(63) Similar examples of the intention of the Chinese authorities to supervise and guide the developments of the choline chloride sector can be found at the provincial level, such as in the Shandong 14th FYP on the Development of the Chemical Industry seeking to '[c]omprehensively promote the upgrading of industrial foundation and modernization of industrial chain, accelerate the withdrawal of backward and inefficient production capacity, and promote the development of chemical products in the direction of functionalization, refinement and differentiation. Guide enterprises to merge and reorganize, optimize resource allocation and industrial chain structure, and improve production efficiency and profitability' ([47]).

(64) This Shandong 14th FYP was later complemented with the Shandong Management Measures Applicable to Feed and Feed Additives ([48]), which provide that '[t]he people's government at or above the county level shall strengthen the leadership of feed industry development […], incorporate the feed industry into the local national economic and social development plan, [and] coordinate the resolution of major issues in the development of the feed industry' ([49]).

(65) As to the GOC being in a position to interfere with prices and costs through State presence in firms in the sense of Article 2(6a)(b), second indent of the basic Regulation, the Commission found that 'the demonstration and leading role of the party branches of leading enterprises such as Aocter Group' ([50]) is reported as an example to be followed by other cities in the Shandong province.

(66) The chairman of Shandong Kechuang Group also serves as the secretary of the Party Committee ([51]).

(67) Sinochem Group's chairman of the board of directors serves as the secretary of the Party committee and several members of the board of directors serve as deputy secretaries of the Party committee ([52]). Also, Sinochem Group presents itself as a company that 'adheres to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, effectively strengthens the Party's overall leadership over the enterprise, deepens Party building, [and] gives full play to the role of Party organizations at all levels' ([53]).

([44]) See at: https://www.gov.cn/zhengce/zhengceku/2022-04/08/content_5683972.htm#msdynttrid=WRmyf07ph0z74SHmXoOLKjRWl09BdZ4lGdYp9fiI9xU (accessed 17 April 2025).
([45]) Ibid., Section I.3.
([46]) Ibid., Section III.4.
([47]) See Section II.2.4, available at: https://huanbao.bjx.com.cn/news/20211201/1191133.shtml (accessed on 17 April 2025).
([48]) See at: http://xm.shandong.gov.cn/art/2024/1/4/art_105151_10332205.html?xxgkhide=1 (accessed on 17 April 2025).
([49]) Ibid., Article 3.
([50]) See at : http://commerce.shandong.gov.cn/art/2022/8/15/art_21475_10306981.html (accessed on 17 April 2025).
([51]) See at: http://www.sdskjzx.org.cn/show-2333.html (accessed on 17 April 2025).
([52]) See at: https://www.sinochem.com/sinochem/guwm/zlzz/ds/A031002002002Gone1.html, (accessed on 17 April 2025).
([53]) See at: https://www.sinochem.com/sinochem/dzyjj/dj11/A031007001Gone1.html (accessed on 17 April 2025).

(68) Similarly, Sinopec Group's chairman of the board of directors is the secretary of the Party committee and several members of the board serve as deputy secretaries of the Party committee ([54]). Sinopec Group stated that it intends to 'focus on the company's new mission and new tasks on the new journey, carry forward the party's self-revolutionary spirit, strengthen the party's leadership and party building in an all-round and integrated manner, and systematically promote comprehensive and strict party governance, so as to provide a strong guarantee for writing a new chapter of China's modern petrochemical industry' ([55]).

(69) It was not possible to systematically establish the existence of personal connections between all of the Chinese choline chloride producers and the CCP. However, given that the product under investigation represents a subsector of the chemical sector, the Commission considered that the information established in the recent investigations concerning the chemical sector, as indicated in recital (49), is relevant also to the product under investigation.

(70) Further, policies discriminating in favour of domestic producers or otherwise influencing the market in the sense of Article 2(6a)(b), third indent of the basic Regulation, are in place in the choline chloride sector. The Commission identified several documents demonstrating that the choline chloride industry benefits from the governmental guidance and intervention into the chemical sector, given that choline chloride represents a subsector of the chemical sector.

(71) The chemical industry is consistently regarded as a key industry by the GOC ([56]). This is confirmed in the numerous plans, directives and other documents focused on chemicals, which are issued at national, regional, and municipal level. Under the 14th FYP, the GOC earmarked the chemical industry for optimization and upgrade ([57]). Similarly, the 14th FYP on Developing the Raw Materials Industry stipulates that the GOC will 'Optimize the organizational structure: Make leading enterprises bigger and stronger. […] [S]upport enterprises to accelerate cross-regional and cross-ownership mergers and reorganizations, increase industrial concentration, and conduct international operations. In the chemical, petrochemical, steel, non-ferrous metals, building materials and other industries, cultivate a group of leading enterprises in the industrial chain with ecological dominance and core competitiveness' ([58]).

(72) More specifically, Tai'an Hanwei Group was selected twice among the Top 50 Tai'an Industry Leading Enterprises. 'After being selected, [companies] will receive priority support from the municipal party committee, municipal government and relevant departments in enhancing social honor, supporting growth, financial fund support, land and electricity guarantee, talent and intellectual support, brand cultivation and construction, policy protection support, project investment incentives, entrepreneur team building, and optimizing service environment' ([59]).

(73) Additionally, Tai'an Hanwei Group 'has been awarded the title of National Manufacturing Single Champion Enterprise, National Specialized "Little Giant" Enterprise, and National Green Factory. With the care and support of Party committees and governments at all levels, the construction of Hanwei Industrial Park is being accelerated, with a total investment of RMB 2 billion yuan and a planned land area of more than 400 acres. Phase I of the project has been completed and put into production. Phase II will be built in the second half of this year and Phase III will be built the year after. The output value is expected to exceed 10 billion after all of them are put into production' ([60]).

([54]) See at: http://www.sinopecgroup.com/group/gsglc/index.shtml, (accessed on 17 April 2025).
([55]) See at: http://www.sinopecgroup.com/group/000/000/041/41878.shtml (accessed on 17 April 2025).
([56]) The Report, Part III, Chapter 16.
([57]) Ibid., Section 16.3.
([58]) See Section IV.1.3, available at: https://www.gov.cn/zhengce/zhengceku/2021-12/29/content_5665166.htm (accessed on 6 December 2024).
([59]) See at: https://www.goldenhighway.com/id49442987.html (accessed on 17 April 2025).
([60]) See at: http://www.scio.gov.cn/xwfb/dfxwfb/gssfbh/sd_13840/202504/t20250414_890548.html (accessed on 17 April 2025).

(74) Moreover, Tai'an Hanwei Group also benefitted from preferential tax policies: 'The company's ability to quickly realize the transformation of scientific research results and quickly occupy domestic and foreign markets is inseparable from the strong support of the tax department. The tax department not only accurately and quickly implemented the tax preferential policies, but also provided high-quality, efficient and considerate services, which is a solid backing for our rapid development' ([61]).

(75) Furthermore, in 2025, Sinochem Group signed a Strategic Cooperation Agreement with the Shanghai Municipality seeking to 'better serve the construction of a new development pattern, and promote Sinochem to build an innovative enterprise and a world-class comprehensive chemical enterprise' ([62]). Also, Sinochem Group's representative 'thanked the Shanghai Municipal Party Committee and Municipal Government for their long-term strong support and help to Sinochem, and introduced Sinochem's investment and business layout in Shanghai. He said that Sinochem shoulders the responsibility and mission of assisting the high-quality development of agriculture and addressing the shortcomings of new chemical materials, and is highly consistent with the direction of Shanghai's industrial development in agricultural technology, fine chemicals and other aspects' ([63]).

(76) Similarly, Shandong Hualu Huasheng Chemical Co., Ltd. signed a Cooperation Agreement with the Shandong branch of the state-owned Bank of China on 'key industry investment and financing projects' ([64]).

(77) 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 the product under investigation. Such measures impede market forces from operating freely.

(78) The present investigation has not revealed any evidence that the discriminatory application or inadequate enforcement of bankruptcy and property laws in the chemical sector, according to Article 2(6a)(b), fourth indent of the basic Regulation would not affect the manufacturers of the product under investigation.

(79) Further, the product under investigation is also affected by the distortions of wage costs in the sense of Article 2(6a)(b), fifth indent of the basic Regulation, as referred to above in recital (49). Those distortions affect the sector both directly (when producing the product under investigation or the main inputs), as well as indirectly (when having access to inputs from companies subject to the same labour system in the PRC) ([65]).

(80) Moreover, no evidence was submitted in the present investigation demonstrating that the choline chloride sector is not affected by the government intervention in the financial system in the sense of Article 2(6a)(b), sixth indent of the basic Regulation. The abovementioned Guiding Opinion requiring to 'improve supporting policies, strengthen the coordination between fiscal, financial, regional, investment, import and export […] policies with the industry policies [to] give full play to the national cooperation platform between industry and finance and [to] foster the connection between enterprises and banks' ([66]) also exemplifies this type of government intervention very well. Therefore, the substantial government intervention in the financial system leads to the market conditions being severely affected at all levels.

(81) Finally, the Commission recalls that in order to produce the product under investigation, a number of inputs is needed. When the producers of the product under investigation purchase/contract these inputs, the prices they pay (and which are recorded as their costs) are clearly exposed to the same systemic distortions mentioned before. For instance, suppliers of inputs employ labour that is subject to the distortions. They may borrow money that is subject to the distortions on the financial sector/capital allocation. In addition, they are subject to the planning system that applies across all levels of government and sectors.

([61]) See at: https://shandong.chinatax.gov.cn/art/2023/8/21/art_23_809595.html (accessed on 18 April 2025).
([62]) See at: https://cpnn.com.cn/news/dfny/202502/t20250218_1773301.html (accessed on 17 April 2025).
([63]) Ibid.
([64]) See at: https://www.hl-hengsheng.com/zcxx_dt/378.html (accessed on 17 April 2025).
([65]) Implementing Regulation (EU) 2024/1959, recitals 153-157 and Implementing Regulation (EU) 2023/2180, recitals 82-84; Implementing Regulation (EU) 2023/752, recital 67.
([66]) See Section VIII.16, available at: https://www.gov.cn/zhengce/zhengceku/2022-04/08/content_5683972.htm#msdynttrid=WRmyf07ph0z74SHmXoOLKjRWl09BdZ4lGdYp9fiI9xU (accessed on 18 April 2025).

(82) As a consequence, not only the domestic sales prices of the product under investigation are not appropriate for use within the meaning of Article 2(6a)(a) of the basic Regulation, but all the input costs (including raw materials, energy, land, financing, labour, etc.) are also affected because their price formation is affected by substantial government intervention, as described in Parts I and II of the Report. Indeed, the government interventions described in relation to the allocation of capital, land, labour, energy and raw materials are present throughout the PRC. This means, for instance, that an input that in itself was produced in the PRC by combining a range of factors of production is exposed to significant distortions. The same applies for the input to the input and so forth.

(83) In sum, the evidence available showed that prices or costs of the product under investigation, including the costs of raw materials, land, energy and labour, are not the result of free market forces because they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic Regulation, as shown by the actual or potential impact of one or more of the relevant elements listed therein.

3.2.2. *Arguments raised by interested parties*

(84) The GOC did not comment or provide evidence supporting or rebutting the existing evidence on the case file, including the Report and the additional evidence provided by the complainant, on the existence of significant distortions and/or appropriateness of the application of Article 2(6a) of the basic Regulation in the case at hand.

(85) The Commission received comments concerning the significant distortions affecting the choline chloride industry from Shandong FY Feed Technology Co., Ltd. and the CFNA.

(86) Shandong FY Feed Technology Co., Ltd. argued that the application of Article 2(6a) of the basic Regulation is inconsistent with Article 2.2 of the WTO Anti-Dumping Agreement ('ADA'). In particular, it stated that Article 2.2 of the WTO does not recognize the concept of 'significant distortions' and that, even if the concept were to fall within the ambit of Article 2.2 of the WTO ADA, the EU's calculation of the constructed normal value should still be in conformity with Article 2.2.1.1 of the WTO ADA and with the Appellate Body's interpretation thereof, notably as provided in the *EU – Biodiesel (Argentina)* case. It follows that the normal value can be constructed only if there are no sales in the ordinary course of trade or if there is a particular market situation, which do not seem applicable in the present investigation.

(87) Furthermore, according to Shandong FY Feed Technology Co., Ltd., there is no provision in the WTO ADA that would allow the use of data from a third country which does not appropriately reflect the prices or cost level of the exporting country. The company refers to the Panel Report in *EU – Cost Adjustment Methodologies and Certain Anti-Dumping Measures on Imports from Russia* to argue that the normal value can only be constructed based on the sales data or production cost factors of the exporting producers in the country of origin. As such, the Commission should not apply Article 2(6a) of the basic Regulation in the present investigation, but rather should use the data of the exporting choline chloride producers in the PRC to construct the normal value.

(88) Finally, Shandong FY Feed Technology Co., Ltd. also considered that the evidence set out in the complaint on the existence of significant distortions in China is inadequate. The company referred to the burden of proof that lies with the investigating authority concerning alleged price distortions in the exporting country, as confirmed by the Appellate Body in *US – Countervailing Measures (21.5 – China)*, which would require the Commission to bring forward factual data and a detailed analysis of the government intervention that directly affects the Chinese choline chloride sector. It argues that mere references to Chinese government 'plans', 'guiding opinions' or other Chinese policy initiatives cannot be equated to actual government intervention in the market which directly impacts producers' pricing of their products.

(89) First, the Commission considers that the provisions of Article 2(6a) of the basic Regulation are fully consistent with the European Union's WTO obligations and the jurisprudence cited above. At the outset, the Commission notes that the WTO Report on *EU – Biodiesel* did not concern the application of Article 2(6a) of the basic Regulation, but of a specific provision of Article 2(5) of the basic Regulation. In any event, WTO law as interpreted by the WTO Panel and the Appellate Body *in EU – Biodiesel*, allows the use of data from a third country, duly adjusted when such adjustment is necessary and substantiated. The existence of significant distortions renders costs and prices in the exporting country inappropriate for the construction of normal value. In these circumstances, Article 2(6a) envisages the construction of costs of production and sale on the basis of undistorted prices or benchmarks, including those in an appropriate representative country with a similar level of development as the exporting country. The claims by Shandong FY Feed Technology Co., Ltd. on the incompatibility with the WTO ADA of Article 2(6a) of the basic Regulation were therefore rejected.

(90) With regard to Shandong FY Feed Technology Co., Ltd.'s reference to *EU – Cost Adjustment*, the Commission recalls that both the EU and the Russian Federation appealed the findings of the Panel, which are not final and therefore, according to standing WTO jurisprudence, have no legal status in the WTO system, since they have not been endorsed through decisions by WTO Members. In any event, the Panel Report in this dispute specifically considered the provisions in Article 2(6a) of the basic Regulation to be outside the scope of the dispute. The claim was therefore rejected.

(91) Second, in response to the claims on sufficient evidence at initiation stage, the Commission recalls that point 3 of the Notice of Initiation referred to a number of *prima facie* elements in the Chinese choline chloride market to substantiate that the market was affected by distortions across the choline chloride value chain in the PRC. The Commission considered that the evidence listed in the Notice of Initiation was sufficient to warrant initiation of an investigation on the basis of Article 2(6a) of the basic Regulation. Indeed, while the determination on the actual existence of significant distortions and the consequent use of the methodology prescribed by Article 2(6a)(a) only occurs at the time of the provisional and/or definitive disclosure, Article 2(6a)(e) lays down an obligation to collect the data necessary for the application of this methodology when the investigation has been initiated on this basis. In this case, the Commission deemed the *prima facie* evidence submitted by the complainant on the significant distortions sufficient to initiate the investigation on this basis. The Notice of Initiation clearly specified this at point 3 in accordance with the obligation stated in Article 2(6a)(e) of the basic Regulation. Therefore, the Commission took the steps necessary to enable it to apply the methodology under Article 2(6a) of the basic Regulation in case the existence of significant distortions would be confirmed during the investigation. The claim by Shandong FY Feed Technology Co., Ltd. was thus rejected.

(92) The Commission further recalls that the case *US – Countervailing Measures* did not concern the application of Article 2(6a) of the basic Regulation, which is the relevant legal basis for the determination of normal value in this investigation, nor even the area of dumping. That dispute concerned a different factual situation and concerned the interpretation of the WTO Agreement on Subsidies and Countervailing Measures, not the ADA. In any event, as explained above, the evidence put forward at initiation stage clearly related to the Chinese choline chloride market and thus to the product under investigation in the case at hand. Moreover, as explained in more detail in Section 3.2.1 above, the Commission's investigation at this stage found evidence of significant distortions affecting the Chinese choline chloride industry, thus warranting the application of the methodology of Article 2(6a) of the basic Regulation to construct the normal value. Therefore, this claim was rejected.

(93) CFNA submitted comments concerning the significant distortions in the Chinese choline chloride industry. It argued that the documents cited in the complaint do not establish the existence of the alleged distortions supposedly affecting the Chinese choline chloride industry. In this regard, CFNA indicated that most of the major producers of choline chloride in China are privately owned and thus not SOEs. To the extent the GOC does own shares in choline chloride companies, these give entitlement to investment rights only (such as dividends), but do not allow for direct participation in the company's operation. It also submitted that the GOC has neither participated nor supported the choline chlorine industry, and that the complaint does not establish the existence of significant distortions effecting the Chinese choline chloride industry.

(94) The CFNA also argued that the application of Article 2(6a) of the basic Regulation in relation to the choline chloride industry in China is not compatible with the WTO ADA and the jurisprudence of the WTO Dispute Settlement Body ('DSB'). In particular, there is no reference to the concept of 'significant distortions' in the WTO ADA. Article 2.2 of the WTO ADA, which provides alternative calculation methods for normal values in limited conditions and which do not include 'significant distortions', only permits using the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and profits. Article 2(6a) of the basic Regulation therefore violates Article 2.2 of the WTO ADA by allowing the Commission to disregard the cost of productions and sales in the exporting country and to use such data of third country producers instead.

(95) Additionally, the CNFA submitted that the complaint and the Notice of Initiation lack evidence to prove the 'significant distortions' in relation to the choline chloride industry. Both relied heavily on the Report, which fails to meet the standards of impartial and objective evidence and evidence of sufficient probative value. Additionally, the Report does not address the Chinese choline chloride industry per se. It only refers to the distortions in the Chinese chemical sector, which is an upstream sector of the choline chloride sector. CNFA pointed out that the Chinese choline chloride industry is a market-oriented industry with most producers being privately owned.

(96) Finally, CNFA requested that the Commission's assessment on the issue of 'significant distortions' is done for each Chinese exporting producer separately. The Commission should make a case-by-case analysis on whether: (i) the significant distortions apply to each sampled producer; (ii) each input and factor of production reported by this specific producer has been distorted and therefore should be replaced by the data from another source; and (iii) why the data from another source concerning each input or factor of production are considered undistorted. According to the CNFA, the Commission cannot make a country-wide or industry-wide determination on significant distortions.

(97) In light of the above, CNFA concluded that the Article 2(6a) of the basic Regulation should not apply in the present investigation and that the Commission should accept the domestic prices and costs reported by the cooperating Chinese choline chloride producers.

(98) First, as regards CNFA's claim that the complaint and Notice of Initiation did not provide sufficient evidence to justify any findings of 'significant distortions' in the Chinese choline chloride industry, the Commission considered that the *prima facie* evidence submitted by the complainant on the significant distortions, which was listed in the Notice of Initiation, was sufficient to warrant initiation of an investigation on the basis of Article 2(6a) of the basic Regulation, as also explained in more detail above in Section 3.2.1.

(99) Furthermore, as regards the evidentiary value of the Report, the Commission recalled that it is a comprehensive document based on extensive objective evidence, including legislation, regulations and other official policy documents published by the GOC, third party reports from international organisations, academic studies and articles by scholars, and other reliable independent sources. The report was first published in December 2017 and thoroughly updated in April 2024. All parties had ample opportunity to rebut, supplement, or submit comments on the Report in accordance with Article 2(6a)(c) of the basic Regulation, but the Commission received no such comments or evidence which would invalidate the Report.

(100) Additionally, the Commission recalled that the existence of the significant distortions giving rise to the application of Article 2(6a) of the basic Regulation is not linked to the existence, in the Report, of a specific sectoral chapter or information regarding a specific market covering the product under investigation, or specific companies. The Report describes different types of distortions present in the PRC, which are cross-cutting and applicable throughout the Chinese economy ([67]) and affect the prices and/or the raw materials and costs of production of the product under investigation ([68]). Additionally, the Report includes a chapter on the chemical industry, which is relevant for the Commission's assessment on the choline chloride sector, which is a subsector of the chemical sector. Furthermore, the Report is not the only source of evidence used by the Commission for its determination, as there are additional probationary elements used for this purpose. As explained in Section 3.2.1 above, the choline chloride industry is

([67]) Part I of the Report.
([68]) Part II of the Report.

subject to a number of governmental interventions (such as State presence and supervision in key industry actors ([69]), coverage by the FYPs and other documents ([70]), and interventions in the financial sector ([71])), which also affect the costs of production of choline chloride, including raw materials, energy, land, capital and labour. This argument was therefore dismissed.

(101) Second, as regards CNFA's claim on the incompatibility of Article 2(6a) of the basic Regulation with the EU's obligations under the WTO, the Commission considered that the provisions of Article 2(6a) are fully consistent with the European Union's WTO obligations and the jurisprudence of the WTO DSB, as explained in more detail in Section 3.2.1 above. The Commission also recalled that the basic Regulation, including Article 2(6a), is an act of secondary EU law as provided in Article 288 of the Treaty on the Functioning of the European Union. There is no requirement under EU law that its sources, including secondary law such as regulations, be based on international law or be linked to obligations stemming from international law such as the WTO ADA.

(102) Finally, as regards CNFA's claim that the assessment on significant distortions should be done separately for each sampled exporting producer, the Commission recalled that once it is determined that due to the existence significant distortions in the exporting country in accordance with Article 2(6a)(b) of the basic Regulation it is not appropriate to use domestic prices and costs in the exporting country, the normal value is constructed for each exporting producer by reference to undistorted prices or benchmarks in an appropriate representative country according to Article 2(6a)(a) of the basic Regulation. Article 2(6a)(a) allows the use of domestic costs only if they are positively established not to be distorted. However, no costs of production and sale of the product under investigation could be established as undistorted in light of the evidence available on the factors of production of individual exporting producers. The CNFA's claim was therefore rejected.

3.2.3. *Conclusion*

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

3.2.4. *Representative country*

3.2.4.1. General remarks

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

— A level of economic development similar to the PRC. For this purpose, the Commission used countries with a gross national income per capita similar to the PRC on the basis of the database of the World Bank ([72]);

— Production of the product under investigation in that country;

([69]) See recitals 8-22 of the regulation.
([70]) See recitals 14-17 and 24-30 of the regulation.
([71]) See recital 33 of the regulation.
([72]) World Bank Open Data – Upper Middle Income, https://data.worldbank.org/income-level/upper-middle-income.

— Existence of relevant readily available data in the representative country.

— Where there is more than one possible representative country, preference was given, where appropriate, to the country with an adequate level of social and environmental protection.

(105) As explained in recitals (37) to (44), the Commission issued two notes for the file on the sources for the determination of the normal value. These notes described the facts and evidence underlying the relevant criteria, and also addressed the comments received by the parties on these elements and on the relevant sources. In the Second Note, the Commission informed interested parties of its intention to consider Brazil as an appropriate representative country in the present case if the existence of significant distortions pursuant to Article 2(6a) of the basic Regulation would be confirmed.

3.2.4.2. A level of economic development similar to the PRC where production of choline chloride takes place

(106) In the First Note, the Commission identified Brazil, Malaysia, Mexico and Thailand as countries with a similar level of economic development as the PRC according to the World Bank, i.e. they are all classified by the World Bank as 'upper-middle income' countries on a gross national income basis where production of the product under investigation was known to take place.

(107) No comments were received concerning the countries identified in that note.

3.2.4.3. Existence of relevant readily available data in the representative country

(108) As mentioned in the Second Note, the Commission was unable to identify any producers of the product under investigation in Thailand and Malaysia. As regards Mexico, the Commission considered that the financial information for the year 2023 that is readily available for the Mexican company Petroleos Mexicanos ('PEMEX'), a petrochemical producer that, among others, manufactures ethylene oxide, which is one of the identified factors of production required to produce the product under investigation, would in principle be appropriate to use. It is noted that no choline chloride producers could be identified in any of the four potential representative countries Brazil, Malaysia, Mexico and Thailand.

(109) Moreover, as mentioned in recital (44), the Commission found readily available financial data of two Brazilian companies, active in the broader chemical sector, namely Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A. On balance, the Commission found the financial data available from these two companies most comprehensive and most appropriate, not least because it was based on the data of two companies, and not only one as in Mexico.

(110) When looking at the availability of import statistics for the main identified factors of production, the Commission explained in the First and Second Note that no imports of trimethylamine were reported by Mexico during the investigation period according to the GTA database. It is to be noted that the cost of trimethylamine represents [30 – 45 %] of the total manufacturing cost of the product concerned.

(111) In light of the above considerations, the Commission informed the interested parties with the Second Note that it intended to use Brazil as an appropriate representative country and the readily available financial data of Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A., in accordance with Article 2(6a)(a), first indent of the basic Regulation in order to establish undistorted costs of production and sale for the calculation of normal value.

(112) Interested parties were invited to comment on the appropriateness of Brazil as a representative country and of the use of data of Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A. No comments were received in respect of the use of the data of these companies. With regard to the use of benchmarks for the identified factors of production that were based on Brazilian import data, SYB and SFY submitted several comments, which are addressed in Section 3.2.5.1 below.

3.2.4.4. Level of social and environmental protection

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

3.2.4.5. Conclusion

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

3.2.5. *Sources used to establish undistorted costs*

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

(116) Subsequently, in the Second Note, the Commission stated that, in order to construct the normal value in accordance with Article 2(6a)(a) of the basic Regulation, it would use GTA to establish the undistorted cost of most of the factors of production, notably the raw materials. In addition, the Commission stated that it would use the International Labour Organisation ('ILO') statistics for establishing undistorted costs of labour ([73]) and national statistics of Brazil for establishing undistorted energy costs (notably electricity and gas) ([74]).

(117) In the Second Note, the Commission also informed the interested parties that due to the negligible weight of steam as a factor of production in the total cost of production, steam was grouped under 'consumables'. Further, the Commission informed that it will calculate the percentage of the consumables on the total cost of raw materials and apply this percentage to the recalculated cost of raw materials when using the established undistorted benchmarks in the appropriate representative country.

(118) Further to the Second Note, SFY and SYB commented that steam should not be considered a consumable as it constituted one of the primary energy sources for the production of finished choline chloride.

(119) Upon further analysis, the Commission found that the overall cost share of steam was albeit negligible similarly important as those of gas or electricity and therefore agreed with SFY and SYB. As such, the Commission calculated a separate benchmark for steam, which is indicated in Table 1 below.

3.2.5.1. Factors of production

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

([73]) https://rshiny.ilo.org/dataexplorer40/?lang=en&id=BRA_A.
([74]) https://www.globalpetrolprices.com/Brazil/.

Table 1

Factors of production of product under investigation

Factor of Production	Commodity Code	Undistorted value	Unit of measurement
Raw materials			
Choline chloride, 50 % liquid	2923 10	19,28	kilograms
Trimethylamine (TMA)	2921 11	10,22	kilograms
Ethylene Oxide	2910 10	16,53	kilograms
Silicon Dioxide	2811 22	17,26	kilograms
Corncob Powder	2308 00	4,54	kilograms
Hydrogen Chloride	2806 10	1,70	kilograms
Consumables			
Labour			
Labour	n/a	97,98	Labour cost per hour
Energy			
Natural Gas	2711 11	0,65	kWh
Electricity	[n/a]	0,73	kWh
Steam	[n/a]	586,62	tonne

(121) The Commission included a value for manufacturing overhead costs in order to cover costs not included in the factors of production referred to above. To establish this amount, the Commission used the verified data reported by the sampled exporting producers and added research and development costs as they were incurred and accounted by the exporting producers.

3.2.5.1.1. Raw materials

(122) In order to establish the undistorted price of raw materials as delivered at the gate of a representative country producer, the Commission used as a basis the weighted average import price to the representative country as reported in the GTA to which import duties and transport costs were added. An import price in the representative country was determined as a weighted average of unit prices of imports from all third countries excluding the PRC and third countries listed in Annex 1 of Regulation (EU) 2015/755 of the European Parliament and of the Council ([75]). The Commission decided to exclude imports from the PRC into the representative country as it concluded in Sections 3.2.1 to 3.2.3 above. that it is not appropriate to use domestic prices and costs in the PRC due to the existence of significant distortions in accordance with Article 2(6a)(b) of the basic Regulation. Given that there is no evidence showing that the same distortions do not equally affect products intended for export, the Commission considered that the same distortions affected export prices.

([75]) 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, ELI: http://data.europa.eu/eli/reg/2015/755/oj). Article 2(7) of the basic Regulation considers that domestic prices in those countries cannot be used for the purpose of determining normal value.

(123) With regard to the raw materials identified by the Commission, SFY and SYB commented further to the Second Note that the import prices of trimethylamine and ethylene oxide were unreasonably high and even higher than the unit prices paid in trade between Member States within the EU internal market.

(124) The Commission clarified that EU internal market prices would not be covered under any of the three indents of the second subparagraph of Article 2(6a)(a) of the basic Regulation. Nevertheless, the Commission accepted that the benchmark price for trimethylamine established on the basis of Brazilian statistics seemed unreasonably high due to the extremely low import volumes, amounting to just over 22 000 kg during the investigation period. With such volume, less than 1 % of the Chinese export volumes to the EU could be produced. Therefore, the Commission found the import volume of trimethylamine into Brazil not representative and changed the source used for trimethylamine from the Brazilian unit import price (at the level of the Harmonised System) to an international benchmark covering all imports reported by all trading partners excluding China and third countries listed in Annex 1 of Regulation (EU) 2015/755 ([76]). To establish the benchmark price for ethylene oxide, the Commission changed the source used from the Brazilian unit import price (at the level of the Harmonised System) to the unit import price reported by Mexico at the level of the applicable 8-digit customs code. The Commission found for Mexico much more representative import volumes than for Brazil, which were very low and therefore not considered a reliable source to establish a benchmark price.

(125) With regard to corncob powder, SFY and SYB claimed that the Brazilian import price used by the Commission was potentially distorted by the existence of subsidies granted to the Brazilian corn industry. This claim was not further substantiated by any evidence. Nevertheless, the import volumes of corncob powder reported for Brazil were very low and therefore not considered a reliable source to establish a benchmark price. As such, the Commission changed the source used for the corncob powder benchmark to the unit export price from Brazil of all material included under the 8-digit tariff line that also covers corncob powder.

(126) For a number of factors of production, the actual costs incurred by the cooperating exporting producers represented a negligible share of total raw material costs in the review investigation period. As the value used for these had no appreciable impact on the dumping margin calculations, regardless of the source used, the Commission decided to include those costs into consumables as explained in the recitals (117) to (119).

(127) Where the applied benchmarks are based on import prices from Brazil and Mexico respectively, import duties are duly included in the benchmark values listed in Table 1.

(128) The Commission expressed the transport cost incurred by the sampled cooperating exporting producers for the supply of raw materials as a percentage of the actual cost of such raw materials and then applied the same percentage to the undistorted cost of the same raw materials in order to obtain the undistorted transport cost. The Commission considered that, in the context of this investigation, the ratio between the exporting producer's raw material and the reported transport costs could be reasonably used as an indication to estimate the undistorted transport costs of raw materials when delivered to the company's factory.

3.2.5.1.2. Labour

(129) The ILO publishes detailed information on wages in the industrial sector as a whole in Brazil. The Commission used the latest available statistics covering the year 2022, for average labour cost in the chemical sector in Brazil ([77]).

3.2.5.1.3. Electricity

(130) The price of electricity for companies (industrial users) in Brazil is published by Global Petrol Prices. The Commission used the data on the industrial electricity prices in the corresponding consumption band in CNY/kWh as published in June 2024.

([76]) Ibid.

([77]) https://rshiny.ilo.org/dataexplorer40/?lang=en&id=BRA_A.

3.2.5.1.4. Natural gas

(131) The price of natural gas for companies (industrial users) in Brazil is published by Global Petrol Prices. The Commission used the data on the industrial gas prices in the corresponding consumption band in CNY/kWh as published in June 2024.

3.2.5.1.5. Steam

(132) The benchmark for steam was assessed by using the cost of natural gas expressed in kWh (see previous recital (131) and the quantity of gas expressed in kWh that is required to produce 1 tonne of steam. For this sake, the Commission assumed that the steam the sampled exporting producers had purchased from external suppliers was produced on the basis of natural gas.

3.2.5.1.6. Manufacturing overhead costs, SG & A and profits

(133) 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.

(134) The manufacturing overheads incurred by the sampled cooperating exporting producers were expressed as a share of the costs of manufacturing actually incurred by these producers. As mentioned in recital (121), the Commission included research and development costs in the manufacturing overheads. The resulting percentage was applied to the undistorted costs of manufacturing.

(135) For establishing an undistorted and reasonable amount for SG & A and profit, the Commission relied on the financial data for the year 2023 for Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A. as extracted from Orbis.

(136) 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.

(137) First, the Commission established the undistorted manufacturing costs. The Commission applied the undistorted unit costs to the actual consumption of the individual factors of production of the cooperating exporting producer. These consumption rates were verified during the verification. The Commission multiplied the usage factors by the undistorted costs per unit observed in the representative country, as listed in Table 1 above.

(138) Once the undistorted manufacturing cost were established, the Commission added manufacturing overheads, as explained in recital (134), to the undistorted cost of manufacturing in order to arrive at the undistorted costs of production.

(139) Then the Commission applied the SG & A and profit rates as noted in recital (140). They were determined on the basis of the financial statements of the companies Dexxos Participacoes S.A. and Prox Do Brasil Produtos Quimicos S.A. as explained in recitals (111) and (112).

(140) SG & A expressed as a percentage of the Costs of Goods Sold ('COGS') and applied to the undistorted costs of production, amounted to 6,65 %. The profit expressed as a percentage of the COGS and applied to the undistorted costs of production, amounted to 14,62 %.

(141) 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.

3.3. **Export price**

(142) The sampled exporting producers exported to the Union either directly to independent customers or through related companies, acting as traders.

(143) For the sampled exporting producers that exported the product concerned directly to independent customers in the Union, the export price was the price actually paid or payable for the product concerned when sold for export to the Union, in accordance with Article 2(8) of the basic Regulation.

(144) For the exporting producers that exported the product concerned to the Union through related companies, acting as traders, the export price was established based on the price at which the imported product was first resold to independent customers in the Union, in accordance with Article 2(9) of the basic Regulation.

(145) In this respect, established case-law clarifies that adjustments pursuant to Article 2(9) of the basic Regulation include costs incurred by an entity located outside the European Union, provided that such an entity appears to be associated with the importer or exporter and that the costs in question would normally be borne by an importer ([78]). With regard to the types of costs for which adjustments may be made under this provision, case-law equates them with costs related to sales activities carried out by subsidiaries, insofar as such costs reduce the amount received by the exporting producer and are typically borne by the importer ([79]). Indeed, the General Court in *Azot* agreed with the Commission that 'there may be cases where costs incurred by intermediaries before importation form part of the export price actually paid. Otherwise, exporting producers could use several related intermediaries established outside the European Union in order to artificially inflate export prices' ([80]). This approach was confirmed by the Court of Justice, to pursue the objective of Article 2(9) of the basic Regulation. According to the Court of Justice, that objective would not be achieved if an exporting producer could simply structure its sales in such a way as to ensure the involvement, prior to the importation of the product concerned into the European Union, of an intermediary associated with it which would assume responsibility for the costs normally borne by an importer, so as to increase the export price actually paid by the importer ([81]).

(146) In light of the above, the Commission noted that traders related to the exporting producers located either in the PRC or in third countries 'assumed responsibility for the costs […] which are normally borne by an importer, within the meaning of Article 2(9) of the basic [R]egulation, which justifies an adjustment in that regard' ([82]). Moreover these costs form part of, and thereby increase, the export price actually paid.

(147) The SG & A costs used for the purpose of the adjustment were based on the data provided by the related parties. With regard to the adjustment for profit, for confidentiality reasons, details on assessing the applied profit margin could only be disclosed to the company concerned.

3.4. **Comparison**

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

([78]) See judgment of 7 March 2024, *AO Nevinnomysskiy Azot and AO Novomoskovskaya Aktsionernaya Kompania NAK 'Azot' v European Commission*, C-725/22 P, ECLI:EU:C:2024:217, paragraphs 67 and 72.

([79]) Judgment of 14 March 1990, *Gestetner Holdings plc v Council and Commission of the European Communities*, C-156/87, ECLI:EU:C:1990:116, paragraph 31.

([80]) Judgment of 14 September 2022, *AO Nevinnomysskiy Azot and AO Novomoskovskaya Aktsionernaya Kompania NAK 'Azot' v European Commission*, T-865/19, ECLI:EU:T:2022:559, paragraph 99.

([81]) Judgment of 7 March 2024, *AO Nevinnomysskiy Azot and AO Novomoskovskaya Aktsionernaya Kompania NAK 'Azot' v European Commission*, C-725/22 P, ECLI:EU:C:2024:217, paragraph 66.

([82]) Judgment of 14 September 2022, *AO Nevinnomysskiy Azot and AO Novomoskovskaya Aktsionernaya Kompania NAK 'Azot' v European Commission*, T-865/19, ECLI:EU:T:2022:559, paragraph 117.

3.4.1. *Adjustments made to the normal value*

(149) As explained in recital (46), the normal value was established at the ex-works level of trade by using costs of production together with amounts for SG & A and for profit, which were considered to be reasonable for that level of trade. Therefore, no adjustments were necessary to net the normal value back to the ex-works level.

3.4.2. *Adjustments made to the export price*

(150) In order to net the export price back to the ex-works level of trade, adjustments were made on the account of: freight, insurance, handling loading and ancillary expenses and other expenses, such as product testing expenses and customs clearance fees.

(151) Allowances were made for the following factors affecting prices and price comparability: credit cost and bank charges.

3.5. **Dumping margins**

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

(153) On this basis, the provisional weighted average dumping margins expressed as a percentage of the CIF Union frontier price, duty unpaid, are as follows:

Company	Provisional dumping margin (%)
Shandong Aocter Feed Additives Co., Ltd.	211,5
Shandong FY Feed Technology Co., Ltd.	558,2
Shandong Yinfeng Biological Technology Co., Ltd.	558,2

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

(155) On this basis, the provisional dumping margin of the cooperating exporting producers outside the sample is 392,3 %.

(156) The level of cooperation in this case is high because the exports of the cooperating exporting producers constituted more than 95 % of the total imports during the investigation period. On this basis, the Commission decided to establish the dumping margin for non-cooperating exporting producers at the level of the cooperating sampled individually examined company with the highest dumping margin.

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

Company	Provisional dumping margin (%)
Shandong Aocter Feed Additives Co., Ltd.	211,5
Shandong FY Feed Technology Co., Ltd.	558,2
Shandong Yinfeng Biological Technology Co., Ltd.	558,2
Other cooperating companies	392,3
All other imports originating in the People's Republic of China	558,2

4. INJURY

4.1. Definition of the Union industry and Union production

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

(159) The total Union production during the investigation period was established at [60 000-65 000] tonnes. The Commission established the figure on the basis of the verified data contained in the complainants' questionnaire replies and the macro-questionnaire reply submitted by the legal representative of the complainants, which also included the relevant data of the third Union producer, Algry Quimica. The Commission provided a range, for the reasons explained in recital (183) below.

(160) CFNA submitted that independent dryers should be considered as producers of choline chloride, because the drying process constitutes a substantial production activity.

(161) The Commission rejected the claim for the following reasons. First, the Commission noted that, prior to the initiation of the investigation, the two known dryers had not replied to the standing form which the Commission had sent to all known producers and dryers. In addition, when the Commission contacted the known independent dryers again at initiation stage, only one of them came forward very late and registered as an interested party. However, it did not cooperate further with the investigation. That party declared to consider itself a user.

(162) Second, according to the complaint and confirmed by the investigation, the decisive production stage during which the use, to which the raw materials of choline chloride are to be put, becomes definite, and where they are given their specific qualities is the one explained in recital (26) above and leading to the production of liquid choline chloride. In contrast, the drying process described in recital (27) above consists of converting choline chloride from its liquid form into solid choline chloride. Thus, the drying process is much simpler and mechanical, and does not result in any (meaningful) changes to the chemical composition or usages of the choline chloride. Dryers therefore convert the product under investigation from one product form to another.

(163) Third, the three producers that constitute the Union industry are two fully integrated producers that manufacture both liquid and solid choline chloride and one producer that manufactures only liquid choline chloride. Therefore, even if the independent dryers purchased from the Union producers and imported from China, their sales data would be already covered by the total consumption established and their additional inclusion would raise an issue of double counting regarding capacity, production and sales volumes, while their inclusion would only increase employment of the Union industry. Therefore, even if the dryers were to be considered as part of the Union industry, the injury indicators would not differ significantly due to the marginal impact of the independent dryers on those indicators.

(164) CFNA also submitted that the Commission should carry out a segmented injury analysis of liquid and solid choline chloride, as it considered that a collective investigation of these different product categories cannot accurately reflect the actual dumping situation of each of them.

(165) The Commission noted that a segmented injury analysis may be needed when: a) the products in question are not 'sufficiently interchangeable'; b) 'there is a particular situation characterised by a high concentration of domestic sales and dumped imports in separate segments and by price differences which are very significant between those segments'; and c) imports are 'overwhelmingly concentrated in one of the market segments' ([83]).

([83]) Case C-478/21 P, *CCCME and Others v Commission*, paragraphs 167-169.

(166) In this respect, the Commission found in the present investigation that the prices of choline chloride in liquid and solid form are comparable and that consumers may buy the product under investigation both in liquid or solid form, depending on their business needs and taking into account of market trends and developments, thus showing a sufficient interchangeability between the two types of choline chloride. For the considerations above, the Commission rejected the claim of CFNA.

4.2. **Union consumption**

(167) The Commission established the Union consumption on the basis of the EU sales data concerning choline chloride included in a market intelligence report provided in the complaint ([84]), updated with the verified sales volumes of the Union industry, and making use of Eurostat import figures. The detailed methodology is explained in a Note to the File ([85]).

(168) Total Union consumption, as well as market shares and sales volumes in subsequent tables, is provided in ranges for the reasons explained in recital (183) below.

(169) Union consumption developed as follows:

Table 2

Union consumption (tonnes)

	2021	2022	2023	IP
Total Union consumption	[70 300–76 300]	[72 900–78 900]	[60 900–66 900]	[61 225–67 225]
Index	*100*	*102*	*87*	*88*

Source: Complaint, Union industry, Eurostat.

(170) Union consumption increased from 2021 to 2022 following the recovery from the Covid-19 pandemic, then decreased in 2023 and slightly picked up in the investigation period.

4.3. **Imports from the country concerned**

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

(171) Choline chloride is imported under several CN codes, some of which also including other products. The Chinese share of total choline chloride imports under the relevant customs codes was established on the basis of its share in imports under TARIC code 2923 10 00 90, as this TARIC code concerns choline chloride only ([86]).

(172) On that basis, imports into the Union from the country concerned developed as follows:

Table 3

Import volume and market share

	2021	2022	2023	IP
Volume of imports from the country concerned (tonnes)	18 078	14 088	20 024	22 626
Index	*100*	*78*	*111*	*125*

([84]) Annex 10 to the complaint (open version).
([85]) Details can be found in Note to the File t25.005185.
([86]) Ibid.

	2021	2022	2023	IP
Market share (%)	[23–26]	[17–20]	[29–33]	[32–37]
Index	*100*	*76*	*128*	*142*

Source: Eurostat.

(173) Imports from the PRC decreased in 2022 compared to the previous year by 4 000 tonnes, however they increased sharply by 6 000 tonnes in 2023. Over the period considered, the market share of Chinese exports gained [6-14] percentage points in market share from 2022 passing from [23 %-26 %] to [32 %-37 %].

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

(174) The Commission established the prices of imports from the country concerned on the basis of prices of imports under TARIC code 2923 10 00 90, which is the only customs code that covers only the product under investigation. Price undercutting of the imports was established on the basis of the verified data provided by the sampled exporting producers in the PRC and the two complainants.

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

Table 4

Import prices (EUR/ tonne)

	2021	2022	2023	IP
PRC	1 047	2 057	1 029	959
Index	*100*	*197*	*98*	*92*

Source: Eurostat.

(176) Import prices from the PRC almost doubled in 2022 due to high freight costs, causing a significant decrease in import volumes from the country concerned. Thanks to this temporary circumstance and the favourable conditions of the market, the Union industry could defend its market share in 2022. In 2023, import price dropped by half compared to the previous year, going slightly below the level of 2021. The descending trend continued during the investigation period, with the import price decreasing by another 7 % from the previous year. Such decrease can be explained by the aggressive market strategy adopted by the Chinese exporters.

(177) The Chinese landed prices remained below the Union industry's prices throughout the period considered, with the exception of 2022 when China was impacted by domestic energy crises and Covid-19 restrictions and the exports of choline chloride to the Union decreased.

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

(1) the weighted average prices per product type of the imports from the sampled cooperating Chinese producers to the first independent customer on the Union market, established on a Cost, insurance, freight (CIF) basis, with appropriate adjustments for customs duties and post-importation costs; and

(2) the corresponding weighted average sales prices per product type of the complainants charged to unrelated customers on the Union market, adjusted to an ex-works level.

(179) The price comparison was made on a type-by-type basis for transactions at the same level of trade, duly adjusted where necessary, and after deduction of rebates and discounts. The result of the comparison was expressed as a percentage of the complainants' theoretical turnover during the investigation period. It showed a weighted average undercutting margin of between 35 % and 41 % by the imports from the country concerned on the Union market.

(180) The Commission further considered other price effects, in particular the existence of significant price suppression. As mentioned in the recitals (191) and (201), after 2021 the Union industry saw a marked increase in its unit production costs, driven notably by a strong increase in the cost of energy and higher fixed costs on a per unit basis due to a lower capacity utilisation rate. Before and during the investigation period, the price of imports from China decreased significantly whereas the relevant volumes increased significantly, and therefore the Union industry was unable to increase its selling price to cover its cost of production. This price suppression resulted in loss of profitability to the Union industry during the investigation period.

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

4.4.1. *General remarks*

(181) 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.

(182) For the injury determination, the Commission distinguished between macroeconomic and microeconomic injury indicators.

(183) The Commission evaluated the macroeconomic indicators on the basis of data contained in the macro-questionnaire reply; these data related to all Union producers. The macro-economic data are provided in ranges, as there are only three Union producers of the like product and the third producer is very small as compared to the two complainants. That party, Algry Química S.L., did not provide a questionnaire reply but it provided the required data for the macro questionnaire reply of the Union industry as a whole. Therefore, to provide the precise macro-data would allow each of the complainants to have a very good view on their direct competitors' operations.

(184) The Commission evaluated the microeconomic indicators on the basis of data contained in the questionnaire replies from the two complainants.

(185) Both sets of data were found to be representative of the economic situation of the Union industry.

(186) 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.

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

4.4.2. *Macroeconomic indicators*

4.4.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2021	2022	2023	IP
Production quantity (tonnes)	[87 500–92 500]	[87 500–92 500]	[65 000–70 000]	[60 000–65 000]
Index	*100*	*102*	*74*	*71*
Production capacity (tonnes)	[125 000–135 000]	[125 000–135 000]	[125 000–135 000]	[125 000–135 000]
Index	*100*	*100*	*100*	*100*
Capacity utilisation (%)	[65–70]	[65–70]	[50–55]	[45–50]
Index	*100*	*102*	*74*	*71*

Source: Macro-questionnaire reply.

(189) During the period considered, the total Union production remained stable from 2021 to 2022. It then significantly decreased in 2023 by more than 25 % and it continued to decrease in the investigation period. The Union industry's production capacity tailored for choline chloride remained at the same level throughout the period considered.

(190) Due to the sharp decrease in production while the production capacity remained unmodified, the capacity utilisation followed the same descending pattern of production.

(191) As a direct consequence of the considerations above in recitals (189) to (190), the unit production cost grew significantly, with an overall increase of [20 %-35 %] over the period considered.

4.4.2.2. Sales quantity and market share

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

Table 6

Sales quantity and market share

	2021	2022	2023	IP
Total sales quantity on the Union market (tonnes)	[48 000–54 000]	[49 000–55 000]	[39 000–45 000]	[38 000–44 000]
Index	*100*	*101*	*78*	*77*
Market share (%)	[65–70]	[64–69]	[58–64]	[56–62]

Source: Macro-questionnaire reply, Eurostat.

(193) During the period considered, the Union sales quantity remained stable in the first year, with an increase by 1 % in 2022. In 2023, the Union industry sales volume on the Union market dropped dramatically by 22 % as compared to the previous year. This drop coincided with a strong increase of Chinese imports, by 6 000 tonnes, and fall in consumption, by 15 %. Consequently, the Union industry's market share decreased rapidly from [65 %-70 %] in 2021 to [58 %-64 %] in 2023. In the investigation period the Union industry continued to lose sales volumes and market share.

4.4.2.3. Growth

(194) The Union consumption decreased by 15 % over the period considered and the sales volume of the Union industry on the Union market decreased by [3-14] percentage points, while the imports from the PRC increased by more than 4 500 tonnes or 42 %.

4.4.2.4. Employment and productivity

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

Table 7

Employment and productivity

	2021	2022	2023	IP
Number of employees (FTEs)	[160–175]	[165–180]	[165–180]	[160–175]
Index	*100*	*102*	*102*	*99*
Productivity (tonnes/FTE)	[520–550]	[520–550]	[370–400]	[370–400]
Index	*100*	*100*	*72*	*72*

Source: Macro-questionnaire reply.

(196) The Union industry maintained a stable workforce, with a minor increase in 2023 and a slight decrease in the investigation period. This evolution reflects the trend in production and sales of the preceding year, as temporary workers were contractually stabilised following the positive trend of 2022 production and sales.

(197) Productivity followed the reduction of quantity produced while employment remained stable; this triggered a drastic decline of productivity, which dropped by 32 % over the period considered.

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

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

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

4.4.3. *Microeconomic indicators*

4.4.3.1. Prices and factors affecting prices

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

Table 8

Sales prices in the Union

	2021	2022	2023	IP
Average unit sales price in the Union on the total market (EUR/ tonne)	[975–1 120]	[1 365–1 670]	[1 195–1 465]	[970–1 190]
Index	*100*	*139*	*122*	*99*
Unit cost of production (EUR/ tonne)	[860–1 060]	[1 150–1 410]	[1 110–1 360]	[1 080–1 325]
Index	*100*	*133*	*129*	*125*

Source: Questionnaire replies of the two complainants.

(201) In 2022, the cost of production increased by 33 % as compared to the previous year due to the surge of energy prices and the Union industry was able to reflect that cost increase in its sales prices, which increased by 39 %. In 2023 and the investigation period, however, the Union industry's sales prices dropped by 29 % as compared to 2022 whereas its cost of production decreased much less, by 6 %. The deterioration as from 2023 was due to a strong increase of low priced Chinese imports after a slowdown in 2022 (notably due to high transportation costs), and that increase of Chinese imports eventually resulted in price suppression which started in 2023 and aggravated during the investigation period.

4.4.3.2. Labour costs

(202) The average labour costs of the complainants developed over the period considered as follows:

Table 9

Average labour costs per employee

	2021	2022	2023	IP
Average labour costs per employee (EUR)	[74 550–77 590]	[82 335–85 700]	[90 120–93 800]	[91 580–95 320]
Index	*100*	*110*	*121*	*123*

Source: Questionnaire replies of the two complainants.

(203) During the period considered, the average labour costs per employee increased by 23 %. The increase stems from the decline in productivity, while the workforce remained stable, as explained in recitals (196) and (197).

4.4.3.3. Inventories

(204) Stock levels of the complainants developed over the period considered as follows:

Table 10

Stocks

	2021	2022	2023	IP
Closing stock (tonnes)	[2 845–3 480]	[4 320–5 285]	[3 825–4 675]	[2 545–3 110]
Index	*100*	*152*	*134*	*89*
Closing stock as a percentage of production	[3,2–4]	[5–5,8]	[6,2–7]	[4,2–5]
Index	*100*	*150*	*183*	*127*

Source: Questionnaire replies of the two complainants.

(205) Over the period considered, the level of inventories decreased by 11 %, following the overall trend of decrease in production. The closing stock as percentage of production experienced a significant increase in 2023, when the Union industry sales volumes plummeted following the strong increase of Chinese imports and weakening of demand.

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

(206) Profitability, cash flow, investments and return on investments of the complainants developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investments

	2021	2022	2023	IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	[8–9]	[13–16]	[6–7]	[- 11 – - 13]
Index	*100*	*171*	*76*	*- 139*
Cash flow (EUR)	[3 600 000–4 000 000]	[14 000 000–17 300 000]	[3 200 000–4 000 000]	[- 7 100 000– - 8 800 000]
Index	*100*	*389*	*90*	*- 198*
Investments (EUR)	[2 140 000–2 630 000]	[2 410 000–2 955 000]	[1 315 800–1 610 000]	[2 077 750–2 540 000]
Index	*100*	*112*	*61*	*97*
Return on investments (%)	[13–16]	[67–82]	[8 %–10 %]	[- 47 – - 57]
Index	*100*	*500*	*63*	*- 351*

Source: Questionnaire replies of the two complainants.

(207) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. After the peak year 2022, the Union industry's profitability deteriorated rapidly and in the investigation period, the Union industry had become heavily loss-making. The decline of profitability, and the other key financial indicators addressed below, went in parallel with the increase of Chinese imports at low prices and the subsequent price suppression caused by them.

(208) The net cash flow is the ability of the Union industry to self-finance its activities. The trend in net cash flow developed negatively in a similar manner as profitability, starting a sharp decline in 2023 to arrive to the inability of self-financing their activities in the investigation period, showing a negative cash-flow with a decrease of 98 percentage points.

(209) Net investments fluctuated, during most of the period considered in line with the level of production and sales, except for the investigation period, when they increased despite lower sale volumes. A significant portion of investments made in the investigation period was related to scheduled replacement and rationalisation of equipment used for the production of the product under investigation.

(210) The return on investments is the profit in percentage of the net book value of investments. It developed following the trend of sales and profitability, with a good performance in 2022 and going through an important deterioration in 2023, with a decrease of 87 %. In the investigation period, the return on investments turned negative, losing 351 percentage points throughout the entire period considered.

(211) The complainants' ability to raise capital was adversely affected by the significant deterioration of cash flow and profitability observed in the period considered.

4.5. **Conclusion on injury**

(212) All the main injury indicators showed a negative trend as from 2023 onwards and the overall situation of the Union industry became injured in the investigation period.

(213) The Union industry's production declined by 29 % and sales in the Union sales went down by 23 %, largely exceeding the drop in consumption by 12 %. At the same time, the Union industry was confronted with an increase in its cost of production by [20 %-35 %] and in the investigation period it could reflect not even a part of that cost increase in its sales prices. Consequently, the Union industry had become heavily loss-making and the strong deterioration of the situation of the Union industry, in particular as from 2023, was also reflected in the development of other key indicators, such as market share, productivity and capacity utilisation.

(214) On the basis of the above, the Commission concluded at this stage that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

5. **CAUSATION**

(215) In accordance with Article 3(6) of the basic Regulation, the Commission examined whether the dumped imports from the country concerned caused material injury to the Union industry. In accordance with Article 3(7) of the basic Regulation, the Commission also examined whether other known factors could at the same time have injured the Union industry. The Commission ensured that any possible injury caused by factors other than the dumped imports from the country concerned was not attributed to the dumped imports. These factors are: imports from other third countries, export performance of the Union producers, increase of raw materials and energy prices and the decrease of consumption.

5.1. **Effects of the dumped imports**

(216) As set out in recital (172), the import volumes of the product concerned from China increased by 25 %, translating into an increase of [6-14] percentage points in the market share of the Chinese imports into the Union during the period considered. During the same period, as set out in Section 4.4.2.2 above, the Union industry was not able to compete with the Chinese exporting producers and saw its sales volume decrease by 23 % and its market share by [3-14] percentage points. This happened in a context where Union consumption decreased strongly as from 2023 and by 12 % during the period considered.

(217) As shown in recital (179), the Chinese imports were significantly undercutting the Union industry prices in the investigation period and their prices were below the prices of the Union industry even when the Union industry as from 2023 decreased its prices beyond the small decrease in production cost to due to the increased presence of low priced Chinese imports on the Union market. The Chinese imports thus resulted in a strong price suppression in 2023 and the investigation period, as a result of which the Union industry became heavily loss-making in the investigation period.

(218) Therefore, the Commission concluded that a significant increase in dumped imports from China at prices that were significantly undercutting and suppressing Union prices, caused material injury to the Union industry.

5.2. **Effects of other factors**

5.2.1. *Imports from third countries*

(219) For establishing the import volumes of choline chloride from other third countries, the Commission applied the same methodology as for imports from China and explained in recital (171) above. Thus, for other third countries, the share of total choline chloride imports under the relevant customs codes was established on the basis of their share in imports under TARIC code 2923 10 00 90, as this TARIC code concerns choline chloride only ([87]).

(220) Also in line with the methodology used with regard to China (see Table 4 above), with regard to prices of imports from other countries, the Commission established the prices of imports on the basis of prices of choline chloride imports under TARIC code 2923 10 00 90.

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

Table 12

Imports from third countries

Country		2021	2022	2023	IP
India	Quantity (tonnes)	1 168	2 598	1 672	1 709
	Index	*100*	*222*	*143*	*146*
	Market share (%)	[1,2–2,0]	[3,1–3,8]	[2,3–2,9]	[2,3–2,9]
	Average price (EUR/ tonne)	2 194	2 930	2 925	2 625
	Index	*100*	*134*	*133*	*120*
Other countries	Quantity (tonnes)	3 415	6 916	2 290	1 380
	Index	*100*	*203*	*67*	*40*
	Market share (%)	[4,3–5]	[8,5–9,8]	[3,0–4,0]	[1,8–2,4]
	Average price (EUR/ tonne)	2 402	2 714	5 028	4 828
	Index	*100*	*113*	*209*	*201*

([87]) Details can be found in Note to the File t25.005185.

Country		2021	2022	2023	IP
Total of all third countries except the country concerned	Quantity (tonnes)	4 583	9 514	3 962	3 089
	Index	*100*	*208*	*86*	*67*
	Market share (%)	[5,4–7,0]	[11,8–13,2]	[5,4–7,0]	[4,1–5,3]
	Average price (EUR/ tonne)	2 495	2 902	4 150	3 627
	Index	*100*	*116*	*166*	*145*

Source: Eurostat.

(222) According to the information in the complaint, choline chloride is, apart from the Union and China, known to be produced in the United States of America, India and Mexico.

(223) Over the period considered, India was the only country other than China that consistently had a market share of more than 2 %. It reached a market share of [2,3 %-2,9 %] in the investigation period. However, prices of those imports were significantly higher than prices from China and the Union industry.

(224) Imports from other third countries were mainly imports from the United States of America and Vietnam. Their aggregated market share fluctuated around 3 %-4 %, with the exception of 2022 when, due to the strong demand in the Union and a temporary drop in imports from China, imports from the United States of America soared.

5.2.2. *Export performance of the Union industry*

(225) The volume of exports of the Union industry developed over the period considered as follows:

Table 13

Export sales

	2021	2022	2023	IP
Export volume (tonnes)	[37 000–39 000]	[37 000–39 000]	[25 000–27 000]	[23 000–25 000]
Index	*100*	*100*	*69*	*63*
Average price (EUR/tonnes)	[845–1 033]	[1 285–1 571]	[1 086–1 327]	[875–1 069]
Index	*100*	*152*	*128*	*103*

Source: Macro-questionnaire reply and questionnaire reply from the two complainants.

(226) The average sales prices for exports followed a similar trend to that of domestic sales, but the drop in sales prices as from 2023 was less pronounced than the drop observed in the Union industry's home markets. As a consequence, the export sales volume of the Union industry, which represented [32 %-47 %] of the total production volume throughout the period considered, dropped even more from 2023 than its sales volumes on the Union market (by 37 % as compared to by 23 %). According to information in the complaint, the Union industry also suffered competition from low-priced Chinese imports in their export markets. This illustrates that in the difficult market situation due to the Chinese imports, the Union industry's focus was on preserving as much market share as possible on its most important market in size, i.e. the Union market.

(227) Therefore, the Commission provisionally concluded that the export performance of the Union industry may have contributed to the injury found as the lost volumes were significant. However, it did not attenuate the genuine and substantial causal link between the dumped imports from the country concerned and the material injury found.

5.2.3. *Increase of raw materials and energy prices*

(228) In 2022, the energy price surged significantly ([88]) following the international turmoil due to geopolitical instability, showing an increase of 35 % as compared to 2021. Similarly, the inflation rate surged in 2022 and 2023 ([89]), leading to an increase of price of raw materials. Such overall price increase impacted directly the cost of production of the Union producers, marking an increase of 33 % in 2022 from previous year. The Union industry could however pass on the significant cost increase caused by this hike in raw materials and energy prices by increasing the sale price to customers by 39 % in the same year and it recorded a healthy profit. Subsequently, in 2023 and during the investigation period, energy prices and cost of production of choline chloride decreased to levels comparable to the beginning of the period considered.

(229) Therefore, the Commission provisionally concluded that the increased cost of production caused by the hike in energy and raw material prices in the Union, if at all, have not contributed to the material injury found.

5.2.4. *Decrease in consumption*

(230) During the period considered, consumption decreased by 12 %. The Commission analysed whether this drop in consumption was causing the injury to the Union industry.

(231) The Commission thoroughly looked into at the development of consumption in the period considered and found that the drop in consumption occurred in 2023, and in that year, the Union industry was still making a profit of [6 %-7 %]. It was in the investigation period, when consumption slightly went up, that the Union industry's financial indicators turned negative. At the same time, imports from China, which already had strongly increased in 2023, continued to increase by a further 13 % in the investigation period. On that basis the Commission concluded that the drop in consumption may have contributed to the found injury, but that it did not attenuate the causal link between the dumped imports and injury.

5.2.5. *Other factors*

(232) At this stage of the investigation, the Commission did not identify or was made aware of other relevant factors which contributed to the determination of injury to the Union industry.

5.3. **Conclusion on causation**

(233) The above analysis shows that as from 2023 there was a major increase in the volume of the imports originating in China. The low prices of these dumped Chinese imports rapidly resulted in a significant and continuous reduction of its market share, in spite of the Union industry lowering its sales prices to unsustainable levels. That in its turn resulted in a severe deterioration of its financial situation and the Union industry became therefore significantly loss-making in the investigation period. The Commission established thus a genuine and substantial causal link between the dumped imports from China and the injury suffered by the Union industry.

(234) The Commission distinguished and separated the effects of all known factors on the situation of the Union industry from the injurious effects of the dumped imports. The effect of these factors on the Union industry's negative developments was however non-existent or limited at most.

([88]) *Source*: International Energy Agency – https://www.iea.org/reports/electricity-2025/prices.
([89]) *Source*: European Central Bank – https://www.ecb.europa.eu/stats/macroeconomic_and_sectoral/hicp/html/index.en.html.

(235) On the basis of the above, the Commission concluded at this stage that the dumped imports from the country concerned caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate the causal link between the dumped imports and the material injury. The injury consists of, *inter alia*, loss of production, sales, market share and profitability.

6. **LEVEL OF MEASURES**

(236) To determine the level of the measures, the Commission examined whether a duty lower than the margin of dumping would be sufficient to remove the injury caused by dumped imports to the Union industry.

6.1. **Injury margin**

(237) The injury would be removed if the Union Industry were able to obtain a target profit by selling at a target price in the sense of Articles 7(2c) and 7(2d) of the basic regulation.

(238) In accordance with Article 7(2c) of the basic Regulation, for establishing the target profit, the Commission took into account the following factors: the level of profitability before the increase of imports from the country under investigation, the level of profitability needed to cover full costs and investments, research and development (R & D) and innovation, and the level of profitability to be expected under normal conditions of competition. Such profit margin should not be lower than 6 %.

(239) As a first step, the Commission established a basic profit covering full costs under normal conditions of competition. As the Union industry's profitability was affected by the steep increase of imports at low prices in 2023 and the investigation period, the Commission considered it appropriate to establish as a basic profit the average profit realized during the two preceding years, when imports were not yet as such that they depressed the Union industry's profitability. The weighted average profit of the two complainants in 2021 and 2022 was 7,3 %.

(240) One of the complainants provided evidence that its level of investments, research and development (R & D) and innovation during the period considered would have been higher under normal conditions of competition. The Commission verified this information on the basis of investment plans and postponed projects of the Union industry. Indeed, the claims of this company were found to be warranted. To reflect this in the target profit, the Commission calculated the difference between investments, R & D and innovation ('IRI') expenses under normal conditions of competition as provided by the Union industry and verified by the Commission with actual IRI expenses over the period considered. Such difference, expressed as a percentage of turnover, was 0,1 % for the company concerned which was added to its basic profit of 7,3 % mentioned in the recital (239), resulting in a target profit of 7,3 % to 7,4 %.

(241) On this basis, the non-injurious price is [1 048-1 307] EUR per tonne, resulting from applying the above-mentioned profit margin of 7,3 % to 7,4 % to the cost of production during the investigation period of the two complainants.

(242) In accordance with article 7(2d) of the basic Regulation, as a final step, the Commission assessed the future costs resulting from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia that the Union industry will incur during the period of the application of the measure pursuant to Article 11(2). Based on the evidence available verified during the on-spot verifications, the Commission established an additional cost of [3,5-4,5] EUR per tonne for one of the companies concerned. This difference was added to the non-injurious price mentioned in recital (241).

(243) On this basis, the Commission calculated a non-injurious price of [1 191-1 316] EUR per tonne for the like product of the Union industry by applying the above-mentioned target profit margin (see recital (240)) to the cost of production of the two complainants during the investigation period. and then adding the adjustments under Article 7(2d) on a type-by-type basis.

(244) The Commission then determined the injury margin level on the basis of a comparison of the weighted average import price of the sampled cooperating exporting producers in the country concerned, as established for the price undercutting calculations, with the weighted average non-injurious price of the like product sold by the two complainants on the Union market during the investigation period. Any difference resulting from this comparison was expressed as a percentage of the weighted average import CIF value.

(245) The injury elimination level for 'other cooperating companies' and for 'all other imports originating in country concerned' is defined in the same manner as the dumping margin for these companies and imports (see recitals (154) to (156)).

Company	Dumping margin (%)	Injury margin (%)
Shandong Aocter Feed Additives Co., Ltd.	211,5	120,8
Shandong FY Feed Technology Co., Ltd.	558,2	95,4
Shandong Yinfeng Biological Technology Co., Ltd.	558,2	95,4
Other cooperating companies	392,3	99,8
All other imports originating in the People's Republic of China	558,2	120,8

7. **UNION INTEREST**

(246) Having decided to apply Article 7(2) of the basic Regulation, the Commission examined whether it could clearly conclude that it was not in the Union interest to adopt measures in this case, despite the determination of injurious dumping, in accordance with Article 21 of the basic Regulation.

(247) The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers, and users.

7.1. **Interest of the Union industry**

(248) The two complainants cooperated fully in the investigation, whereas the third producer, Algry Quimica, cooperated in the investigation by providing data for the completion of the macro-questionnaire reply. All of them expressed being in favour of the imposition of measures.

(249) The investigation has shown that the Union industry is suffering material injury caused by the dumped imports from the country concerned. These imports exercised significantly price suppression, forcing the Union industry to sell below costs. As a result, the Union industry was making significant losses in the investigation period. Furthermore, Chinese imports significantly undercut the Union industry's prices, and the volume increase of these imports caused a significant loss of Union industry sales volumes and market share.

(250) The imposition of measures will result in higher import prices and restore the level playing field on the Union market. As such in can be expected that the measures will put a break on the rise of low priced Chinese imports. This would in turn enable the Union industry to regain market share and, thus, sales volumes, and restore its sales prices to sustainable levels, thereby also allowing the Union industry to proceed with the necessary scheduled investments. Without measures, the losses of the Union industry will increment as the current volumes and prices of Chinese imports have proven to be heavily injurious. The necessary investments can then not anymore be made. The Union industry's downward spiral of decreasing sales volumes and increasing costs will consequently be accelerated. Therefore, the viability of the Union industry, whose profitability had already reached unsustainable levels during the investigation period, will be at stake.

(251) The Commission therefore concluded that imposing measures against imports from China would be in the interest of the Union industry.

7.2. Interest of unrelated importers

(252) The two unrelated importers that are active in the food grade segment, Van Eeghen and Kirsch Pharma GmbH, provided a questionnaire reply. They indicated that they oppose the imposition of measures. However, an analysis of the data they provided, notably the reported turnover and profitability, overall and on choline chloride, and the (low) volume of their choline chloride purchases, did not suggest that either one of them would be materially affected by the imposition of measures.

(253) Absent further information provided by unrelated importers, in the light of the above, it is provisionally concluded that the imposition of any anti-dumping measures is unlikely to seriously affect the situation of the unrelated importers.

7.3. Interest of users, consumers or suppliers

(254) One user argued in favour of the imposition of measures aimed at ensuring a level-playing field of the EU market of choline chloride.

(255) The imposition of measures to restore a level-playing field will ensure a stable supply chain of choline chloride in the EU market in favour of EU users.

(256) Absent further information provided by users, in the light of the above, it is provisionally concluded that the imposition of any anti-dumping measures are unlikely to seriously affect the situation of the users.

7.4. Conclusion on Union interest

(257) On the basis of the above, the Commission concluded that there were no compelling reasons that it was not in the Union interest to impose measures on imports of choline chloride originating in country concerned at this stage of the investigation.

8. PROVISIONAL ANTI-DUMPING MEASURES

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

(259) Provisional anti-dumping measures should be imposed on imports of product originating in the country concerned, in accordance with the lesser duty rule in Article 7(2) of the basic Regulation. The Commission compared the injury margins and the dumping margins in recital (245) above. The amount of the duties was set at the level of the lower of the dumping and the injury margins.

(260) On the basis of the above, the provisional anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Provisional anti-dumping duty (%)
Shandong Aocter Feed Additives Co., Ltd.	120,8
Shandong FY Feed Technology Co., Ltd.	95,4
Shandong Yinfeng Biological Technology Co., Ltd.	95,4
Other cooperating companies	99,8
All other imports originating in the People's Republic of China	120,8

(261) The individual company anti-dumping duty rates specified in this Regulation were established on the basis of the findings of this investigation. Therefore, they reflect the situation found during this investigation with respect to these companies. These duty rates are exclusively applicable to imports of the product concerned originating in the countries concerned and produced by the named legal entities. Imports of the product concerned produced by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, should be subject to the duty rate applicable to 'all other imports originating in country concerned'. They should not be subject to any of the individual anti-dumping duty rates.

(262) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the application of the individual anti-dumping duties. The application of individual anti-dumping duties is only applicable upon presentation of a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Until such invoice is presented, imports should be subject to the anti-dumping duty applicable to 'all other imports originating in country concerned'.

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

(264) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume after the imposition of the measures concerned, a percentage may be introduced, depending on the case, although not advisable such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances and provided the conditions are met an anti-circumvention investigation may be initiated. This investigation may, inter alia, examine the need for the removal of individual duty rate(s) and the consequent imposition of a country-wide duty.

9. **REGISTRATION**

(265) As mentioned in recital (3), the Commission made imports of the product concerned subject to registration. Registration took place with a view to possibly collecting duties retroactively under Article 10(4) of the basic Regulation.

(266) In view of the findings at provisional stage, the registration of imports should be discontinued.

(267) No decision on a possible retroactive application of anti-dumping measures has been taken at this stage of the proceeding.

10. **INFORMATION AT PROVISIONAL STAGE**

(268) In accordance with Article 19a of the basic Regulation, the Commission informed interested parties about the planned imposition of provisional duties. This information was also made available to the general public via DG TRADE's website. Interested parties were given three working days to provide comments on the accuracy of the calculations specifically disclosed to them.

(269) Several comments were received. The comments received, however, did not concern the accuracy of the calculations, but rather the methodologies used by the Commission in the determination of the dumping and injury margins. Those comments will therefore be considered, together with all other submissions, after the publication of provisional measures.

11. **FINAL PROVISIONS**

(270) In the interests of sound administration, the Commission will invite the interested parties to submit written comments and/or to request a hearing with the Commission and/or the Hearing Officer in trade proceedings within a fixed deadline.

(271) The findings concerning the imposition of provisional duties are provisional and may be amended at the definitive stage of the investigation,

HAS ADOPTED THIS REGULATION:

Article 1

1. A provisional anti-dumping duty is imposed on imports of choline chloride, in all forms and purities, whether or not on a carrier, with a minimum choline chloride content of 30 % by weight, excluding calcium phosphoryl choline chloride tetrahydrate with CAS number 72556-74-2, currently falling under CN codes ex 2923 10 00, ex 2309 90 31, ex 2309 90 96 and ex 3824 99 96 (TARIC additional codes as listed in paragraph 2 and in Annex to this regulation) and originating in the People's Republic of China.

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

Company	Provisional anti-dumping duty (%)	TARIC additional code
Shandong Aocter Feed Additives Co., Ltd., Liaocheng City, Shandong Province, PRC	120,8	89RB
Shandong FY Feed Technology Co., Ltd, Binzhou City, Shandong Province, PRC	95,4	89RC
Shandong Yinfeng Biological Technology Co., Ltd. Zouping City, Shandong Province, PRC	95,4	89RD
Other cooperating companies listed in Annex I	99,8	See Annex
All other imports originating in the People's Republic of China	120,8	89YY

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: *'I, the undersigned, certify that the (volume in tonnes) of choline chloride sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.'* Until such invoice is presented, the duty applicable to all other imports originating in country concerned shall apply.

4. The release for free circulation in the Union of the product referred to in paragraph 1 shall be subject to the provision of a security deposit equivalent to the amount of the provisional duty.

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

Article 2

1. Interested parties shall submit their written comments on this regulation to the Commission within 15 calendar days of the date of entry into force of this Regulation.

2. Interested parties wishing to request a hearing with the Commission shall do so within 5 calendar days of the date of entry into force of this Regulation.

3. Interested parties wishing to request a hearing with the Hearing Officer in trade proceedings are invited to do so within 5 calendar days of the date of entry into force of this Regulation. The Hearing Officer may examine requests submitted outside this time limit and may decide whether to accept to such requests if appropriate.

Article 3

1. Customs authorities are hereby directed to discontinue the registration of imports established in accordance with Article 1 of Implementing Regulation (EU) 2025/92.

2. Data collected regarding products which entered the EU for consumption not more than 90 days prior to the date of the entry into force of this regulation shall be kept until the entry into force of possible definitive measures, or the termination of this proceeding.

Article 4

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

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

Done at Brussels, 27 June 2025.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Chinese cooperating exporting producers not sampled

Name	TARIC additional code
Liaoning Biochem Co., Ltd	89RE
Be-Long (North) Corporation	89RF
Shandong Jujia Biotech Co., Ltd	89RG
Taian Havay Chemicals Co., Ltd	89RH