



**COMMISSION IMPLEMENTING REGULATION (EU) 2025/60**

**of 15 January 2025**

**imposing a definitive anti-dumping duty, definitively collecting the provisional duty imposed on imports of erythritol originating in the People's Republic of China and levying the definitive anti-dumping duty on the registered imports of erythritol originating in the People's Republic of China**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Article 9(4) thereof,

Whereas:

**1. PROCEDURE**

**1.1. Initiation**

- (1) On 21 November 2023, the European Commission ('the Commission') initiated an anti-dumping investigation with regard to imports of erythritol 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* <sup>(2)</sup> ('the Notice of Initiation').
- (2) The Commission initiated the investigation following a complaint lodged on 9 October 2023 by Jungbunzlauer S.A. ('the complainant'). The complaint was made by the Union industry of erythritol 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) 2024/1608 <sup>(3)</sup> ('the registration Regulation').

**1.3. Provisional measures**

- (4) In accordance with Article 19a of the basic Regulation, on 21 June 2024, the Commission provided parties with a summary of the proposed duties and details about the calculation of the dumping margins and the margins adequate to remove the injury to the Union industry. Interested parties were invited to comment on the accuracy of the calculations within three working days. Within this period, the complainant submitted a request for the Commission to re-check export data, while two importers/users submitted comments with a focus on registration issues. Only the sampled exporting producer Dongxiao Biotechnology Co., Ltd submitted comments on the accuracy of the calculations, namely concerning the level of refundable VAT and benchmarks for two by-products. The Commission corrected the calculation mistakes identified by Dongxiao Biotechnology Co., Ltd.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21, ELI: <http://data.europa.eu/eli/reg/2016/1036/oj>.

<sup>(2)</sup> OJ C, C/2023/1020, 21.11.2023, ELI: <http://data.europa.eu/eli/C/2023/1020/oj>.

<sup>(3)</sup> Commission Implementing Regulation (EU) 2024/1608 of 5 June 2024 making imports of erythritol originating in the People's Republic of China subject to registration (OJ L, 2024/1608, 6.6.2024, ELI: [http://data.europa.eu/eli/reg\\_impl/2024/1608/oj](http://data.europa.eu/eli/reg_impl/2024/1608/oj)).

- (5) The Commission imposed provisional anti-dumping duties on imports of erythritol originating in the PRC by Commission Implementing Regulation (EU) 2024/1959 <sup>(4)</sup> ('the provisional Regulation').

#### 1.4. Subsequent procedure

- (6) Following the disclosure of the essential facts and considerations on the basis of which a provisional anti-dumping duty was imposed ('provisional disclosure'), a sampled exporting producer referred to in the provisional Regulation as Sanyuan Biotechnology Co., Ltd stated that its name should be corrected into Shandong Sanyuan Biotechnology Co., Ltd. In light of the information submitted by the company in the course of the investigation, the Commission accepted the request.
- (7) Following the provisional disclosure, a sampled exporting producer Shandong Sanyuan Biotechnology Co., Ltd, the complainant and users Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International, filed individual submissions on the provisional findings within the deadline provided by Article 2(1) of the provisional Regulation. Likewise, the China Chamber of Commerce for Metals, Minerals and Chemicals Importers and Exporters ('CCCMC'), having been empowered by four exporting producers to represent them <sup>(5)</sup>, submitted comments on injury, causality and Union interest within the deadline.
- (8) The parties who so requested were granted an opportunity to be heard. Hearings took place with CCCMC, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International.
- (9) The Commission continued to seek and verify all the information it deemed necessary for its definitive findings. When reaching its definitive findings, the Commission considered the comments submitted by interested parties and revised its provisional conclusions where appropriate.
- (10) The Commission informed all interested parties of the essential facts and considerations on the basis of which it intended to impose a definitive anti-dumping duty on imports of erythritol originating in the PRC ('final disclosure'). All parties were granted a period within which they could make comments on the final disclosure.
- (11) Following final disclosure, the Commission found a clerical error when establishing the reasonable amount for profit under Article 2(6a)(a) of the basic Regulation. On 7 November 2024, the Commission informed interested parties of the correction of that clerical error and of corrections resulting from the claims referred to in recitals (47) to (50) below. All parties were granted a period within which they could make comments on the additional final disclosure.
- (12) Following final disclosure, a hearing with the Hearing Officer took place on 14 November 2024 at the request of Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International. The issues brought forward in this hearing by the two parties pertained to substantive rather than rights of defence issues. The parties expressed doubts about the dumping and injury calculations, requested that the retroactive application of the definitive measures not be implemented before 1 July 2024, and pleaded for the exclusion from the measures of certain types of products. The Commission clarified the methodology for the calculations and took note of the concerns and requests of the parties. They are addressed below.

#### 1.5. Claims on initiation

- (13) CCCMC considered that the procedural claims in its initial submission had not been sufficiently addressed by the Commission in the provisional Regulation. CCCMC reiterated its concerns inter alia regarding missing economic indicators in the complaint and a deficient non-confidential summary. It further claimed that a better quality of non-confidential summaries in the provisional Regulation does not substitute the original data in the complaint and does not allow CCCMC to fulfil their breached right of defence at the stage of initiation.

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<sup>(4)</sup> Commissions 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](http://data.europa.eu/eli/reg_impl/2024/1959/oj)).

<sup>(5)</sup> Baolingbao Biology Co., Ltd., Dongxiao Biotechnology Co., Ltd., Shandong Sanyuan Biotechnology Co., Ltd and Yusweet Co., Ltd.

- (14) The Commission reiterated that, as explained in recital (11) of the provisional Regulation, the complaint contained sufficient information that was reasonably available to the complainant and that the non-confidential summary of the complaint did contain the relevant factors and indices having a bearing on the state of the Union industry, as required by Article 5(2) of the basic Regulation. It had also explained in Recital (17) of the provisional Regulation that in view of the fact that Union industry consists of a single producer it was understandable that injury factors were given in ranges and in indexed form in the complaint. Thus, the Commission does not agree that the rights of defence of the companies represented by CCCMC were breached at the stage of initiation.

#### 1.6. Sampling

- (15) After provisional disclosure an importer questioned the representativity of sampled exporting producers on the grounds that smaller Chinese exporters differ in multiple respects from the large players. The claim was both unsubstantiated, and made too late in the proceeding, and was consequently dismissed.
- (16) No other comments were received concerning sampling. Therefore, the conclusions in recitals (19) to (26) of the provisional Regulation were confirmed.

#### 1.7. Individual examination

- (17) No comments were received concerning individual examination. Therefore, the conclusions in recital (27) of the provisional Regulation were confirmed.

#### 1.8. Investigation period and period considered

- (18) Rio Mints & Sweeteners B.V. criticised the investigation period selected on the grounds that it had been unique in terms of low prices from Chinese suppliers, low shipping costs and very high raw material and energy costs in the Union. The Commission noted that the claim was made too late in the proceeding and, in any event, dismissed it because the investigation period is in line with the Commission's normal practice of choosing an investigation period immediately prior to the initiation of a proceeding.
- (19) Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH criticised the Commission's reasoning above on the grounds that the Commission had failed to demonstrate if and how it had complied with its legal obligation to account for exceptional circumstances, no matter when the claim on exceptional circumstances was made. These parties specifically asserted that the investigation period saw exceptionally high energy costs in the Union and very low shipping costs. The Commission noted that the parties' claim at that stage did not put into question the appropriateness of Commission's practice in selecting the investigation period, which was also applied in this case. The Commission further noted that by examining trends relevant for the assessment of injury over a longer period, running from 1 January 2020 to 30 September 2023, it had indeed taken into account circumstances that may have been exceptional during the investigation period.
- (20) No other comments were received concerning the investigation period and the period considered described in recital (33) of the provisional Regulation. The investigation period and the period considered described in that recital were thus confirmed.

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

- (21) Rio Mints & Sweeteners B.V. claimed that the Commission has not investigated blended products and that such products are not subject to dumping and should be kept outside of the scope of the investigation. Following final disclosure, Rio Mints & Sweeteners B.V. insisted on its initial claim while alleging that the Commission had not investigated blended products as no calculation of the comparison for blended products was shown to the party. Hamburg Fructose GmbH echoed the same claim both for blended and organic products. Both parties noted that the complainant did not offer ready-for-consumer-to-use-packaging formats.

- (22) The Commission recalled that both dumping and injury margins had been calculated at the level of Product Control Numbers (PCNs) which distinguish between pure and blended products. When blank questionnaires were made available at initiation stage, no party claimed that PCNs should isolate organic products. Therefore, the normal value and export prices were established for both pure and blended products on the basis of this distinction, while the 'organic' feature was accounted for in the normal value. Neither the complainant nor sampled exporting producers sold erythritol in jars or sticks in the Union during the investigation period. The detailed calculations contained sensitive data and were disclosed only to the parties that could meaningfully comment on them. Their methodology was however explained to the two parties in the hearing referred to in recital (12).
- (23) The Commission also noted that pure and blended products, while distinguishable at a laboratory, have the same basic physical and chemical characteristics.
- (24) Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH claimed that the above statement was irrelevant because the important properties for blends were 'other factors', namely sensorial properties. The Commission reiterated that, on the basis of objective and non-disputed criteria, a fair comparison of prices had been ensured as explained above.
- (25) Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International further pleaded respectively that at least functional blends in ready to use consumer products and organic erythritol should be excluded from the scope of the measures. The Commission noted that its conclusion in recital (22) holds, and that notwithstanding financial impact on the two parties in question, there is no justification for such exclusions.

### 2.1. Conclusion

- (26) Accordingly, the conclusions regarding the product concerned and the like product reached in recitals (34) to (39) as amended of the provisional Regulation were confirmed.

## 3. DUMPING

- (27) Following provisional disclosure, the sampled exporting producer Shandong Sanyuan Biotechnology Co., Ltd, CCCMC, the complainant and users commented on the provisional dumping findings.

### 3.1. Normal value

- (28) The details of the calculation of the normal value were set out in recitals (40) to (227) of the provisional Regulation.

#### 3.1.1. Existence of significant distortions

- (29) CCCMC contested the Commission's considerations about the existence significant market distortions in the PRC. To support its position, it claimed that: (i) the Report fails to meet the standards of impartial and objective evidence and evidence of sufficient probative value, not least because it has been prepared by the Commission with the specific purpose of facilitating Union industries to lodge a complaint in the area of trade measures; (ii) according to the Appellate body jurisprudence<sup>(6)</sup>, the Commission is required to positively establish the existence of dumping practices; (iii) Article 2(6a) of the basic Regulation is incompatible with WTO legislation, since there is no reference to the concept of significant distortions in Article 2.2 ADA, since Article 2.2 only permits using the cost of production in the country of origin plus a reasonable amount for administrative, selling and general costs and profits, since Article 2.2.1.1 requires that costs shall normally be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sales of the product under consideration, and since the WTO jurisprudence, in particular DS473 and DS494 establishes that investigating authorities must use the product costs actually incurred by producers or exporters for the calculation of constructed normal values.

<sup>(6)</sup> DS379, US – Definitive Antidumping and Countervailing Duties on Certain Products from China, Appellate Body Report, para 354.

- (30) These arguments could not be accepted. As to CCCMC's first and second argument, the Commission pointed out that, in order to assess the existence and potential impact of the significant distortions, it has, in line with Article 2(6a)(e) of the basic Regulation, collected the data necessary to determine the existence and impact of significant distortions and the consequent use of the methodology prescribed by Article 2(6a)(a) of the basic Regulation. The data collected by the Commission and the resulting determinations are presented in detail in Section 3.2.2. of the provisional Regulation. That Section contains the Commission's full assessment concerning the existence of significant distortions, including substantial additional evidence specific to the investigation not included in the Report. Concerning the Report itself, 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 Chinese authorities, third party reports from international organisations, academic studies and articles by scholars, and other reliable independent sources. The Report was placed on the investigation file so that any interested party would have ample opportunity to rebut, supplement or comment on it and the evidence on which it is based. CCCMC did not provide any such rebuttal, other than the generic comments of the Report not being impartial and objective.
- (31) Concerning CCCMC's third argument, the Commission reiterated its view expressed in recital (159) of the provisional Regulation that the methodology pursuant to Article 2(6a) of the basic Regulation is fully consistent with the Union's WTO obligations. In particular, there is no need for WTO Members to use the exact terms of the WTO Agreements in their implementing legislation. Therefore, the fact that the terms 'significant distortions' as such are not present in the ADA does not restrict the EU's use of those terms. Moreover, the WTO law as interpreted by the Appellate Body in DS473, allows the use of data from a third country, duly adjusted when such adjustment is necessary and substantiated. In addition, in relation to the DS494, the Panel Report specifically considered the provisions in Article 2(6a) of the basic Regulation to be outside the scope of the dispute. Moreover, the Commission pointed out that both the EU and the Russian Federation appealed the findings of the Panel, which are not final and therefore, according to standing WTO case-law, have no legal status in the WTO system, since they have not been endorsed by the Dispute Settlement Body through a decision by the WTO Members. Therefore, CCCMC's claim was rejected.
- (32) No other comments were received concerning the existence of significant distortions in the PRC. Therefore, the findings in recitals (40) to (162) of the provisional Regulation were confirmed.

### 3.1.2. *Representative country*

- (33) Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH claimed that xylitol's production costs were more comparable to the production costs of the product under investigation than the production costs of citric acid. The claim was dismissed as unsubstantiated and made at a very late stage of the proceeding.
- (34) No comments were received as to the finding that Colombia met the criteria laid down in Article 2(6a)(a), first indent of the basic Regulation in order to be considered as an appropriate representative country. The conclusions in recitals (163) to (184) of the provisional Regulation were confirmed.

### 3.1.3. *Sources used to establish undistorted costs and benchmarks*

- (35) After provisional disclosure, an importer stated that products other than citric acid could have been taken as an appropriated proxy. The claim, which was unsubstantiated, was made at a too late stage of the proceeding <sup>(7)</sup> and dismissed.

<sup>(7)</sup> The second note on the sources for the determination of the normal value of 12 April 2024 notes that no party contested the Commission's conclusion that citric acid was an appropriate product in the same general category and/or sector as the product under investigation with a view to identify an undistorted value in a representative country with a similar level of economic development as China for the same factors of production used in the production of erythritol (t24.003150).

- (36) The complainant noted a difference between the value for corn/maize in the note to the file on the relevant sources that the Commission intended to use for the determination of the normal value dated 21 December 2023 ('the First Note') versus the value for corn/maize in table 1 of the provisional Regulation. The Commission confirmed to have made a new extraction of raw data for the purpose of the provisional Regulation which resulted in the value in table 1 therein.
- (37) The complainant requested an upward adjustment of 6,5 % for the benchmark value of corn/maize used on the grounds that Chinese corn was not genetically modified ('non-GM') and that non-GM corn attracts a premium in the market, and submitted evidence about the lower productivity of non-GM corn. The premium was calculated based on market intelligence available to the applicant. The investigation confirmed that non-GM products attract a price premium, that the main import sources of corn into Colombia widely adopted transgenic corn <sup>(8)</sup> and that Chinese erythritol is produced from non-GM corn. The Commission thus agreed to a 6,5 % upward adjustment to the benchmark value for corn/maize presented in table 1 of the provisional Regulation. The updated benchmark value for corn/maize is 2,277 CNY/kg while the benchmark value for organic corn/maize is 2,732 CNY/kg.
- (38) With regard to the dry substance content in liquid glucose, the complainant deemed the content ratio of 71 % put forward by a sampled exporting producer as underestimation. The Commission dismissed the claim in light of the information verified at the level of the sampled exporting producers concerned.
- (39) The complainant criticised the values for by-products/waste in table 1 of the provisional Regulation on the grounds that it was public knowledge that liquid protein is significantly more expensive than corn germ and corn fibre and that the value of corn germ would be at least two times bigger than the one for corn fibre. The Commission noted that the complainant's claim was at odds with the price variation at which sampled Chinese producers sold liquid protein domestically. As to the complainant's claim that the value of corn fibre is higher than the one of corn germ, no adjustment could be granted. The GTA benchmark value used by the Commission is a mix of products and it remained unsubstantiated whether such value was closer to corn germ or to corn fibre.
- (40) The complainant alleged that for organic production the Commission had failed to apply an upcharge to auxiliaries or for higher production costs linked to additional cleaning. The Commission noted that it had taken into consideration in its calculations the specificities of organic production, which was not the bulk of production, to the extent possible, such as in terms of different auxiliaries and manpower. The Commission dismissed the complainant's allegation.
- (41) The complainant alleged a possible under-reporting of costs by Chinese sampled producers, namely those vertically integrated, and proposed a series of cross-checks. The Commission confirmed the findings of the verification visits at sampled Chinese producers, found no under-reporting issues on this point and dismissed the complainant's claim.
- (42) Shandong Sanyuan Biotechnology Co., Ltd asked the average unit price of Colombia's imports from Argentina to be used as the benchmark for the prices of corn, glucose and corn starch on the grounds that Argentina was a main source of imports and that the average unit price of Colombia's imports of corn, glucose and corn starch from Argentina varied little from the weighted average unit price of the main importing countries. Shandong Sanyuan Biotechnology Co., Ltd alleged a possible price distortion in Colombia's imports of corn starch from Brazil as prices of such imports were much higher than those for corn from Brazil or for corn starch from Argentina and added that imports of corn starch from Brazil, France and the United States of America ('USA') should be excluded as they would be the only countries departing from the average prices of the main importing countries. CCCMC echoed the request to exclude imports of corn starch from Brazil on the grounds that Brazil is not among the top world exporters of corn starch and that Brazil exports corn starch mostly to destinations other than Colombia.

<sup>(8)</sup> For Brazil and Argentina, see <https://biotec-latam.com/en/>. For the USA, see <https://www.fda.gov/food/consumers/agricultural-biotechnology>.

- (43) Shandong Sanyuan Biotechnology Co., Ltd did not claim that imports from the specific countries were distorted nor did it provide any reasons for price differences that could justify any of the exclusions requested. The Commission noted that the mere fact that the import prices differed from one source to the other does not per se entail that import prices of more expensive (or cheaper) sources were abnormal and/or should be disregarded. On the contrary, the Commission found for instance that corn starch production in France <sup>(9)</sup> is a competitive activity with significant exports and also that Brazil has significant supply, demand <sup>(10)</sup> and exports of corn starch. The Commission found no distortions behind the differences noted by the parties nor reasons why import prices of corn from Brazil and/or USA, the top two corn producers in the world, should be disregarded. The fact that Brazil is not among the top world exporters of corn starch or that Colombia is not Brazil's main corn starch export market is not tantamount to Brazilian export prices being abnormal or to be dismissed. Therefore, in the absence of a reasoned justification to exclude specific import sources, the Commission confirmed benchmark prices for corn, glucose and corn starch based on all relevant imports of corn, glucose and corn starch into Colombia.
- (44) Following final disclosure, CCCMC urged the Commission to exclude the Brazilian import price of corn starch from the benchmark calculation on the grounds that it was abnormally high as the delta between corn starch and corn in Brazil was higher than in Argentina. For CCCMC, the inclusion of higher imports prices for Brazilian corn starch rendered the overall GTA import price of corn starch in Colombia unrepresentative, while discriminating Chinese exporters whose main input material was corn starch. The complainant stated that there was a contradiction in CCCMC's arguments on the grounds that CCCMC argued that including Brazil for the corn benchmark is right, but wrong for the corn starch when Brazil is the largest exporter of both corn and corn starch to Colombia. The complainant concluded that Brazilian prices of corn were too low and that producers of corn starch from corn and glucose from corn enjoyed high margins. The investigation did not find that the delta between corn and corn starch in Brazil was unreasonable. Thus, the Commission confirmed the benchmark price for corn starch based on all relevant imports of corn starch into Colombia.
- (45) Following final disclosure, Shandong Sanyuan Biotechnology Co., Ltd submitted that the value of corn starch used by the Commission was inappropriate. The party confirmed not to question whether import prices were distorted or unreliable. The party alleged that the Commission had failed to provide reasoned explanations to justify pricing variances among countries and added that the only plausible explanations regarding higher prices of corn starch from USA, France and Brazil was that corn starch was sold as a consumer good.
- (46) As highlighted by the party itself, HS codes for corn starch did not allow distinguishing between corn starch used as a consumer good and corn starch used as an input material. In the absence of this information or any other supporting evidence about the price gap (if any) of corn starch sold as a consumer good versus corn starch sold as an input in Colombia during the investigation period, the Commission confirmed the benchmark price for corn starch based on all relevant imports of corn starch into Colombia as the best methodology to avoid a cherry-pick of normal value elements that best suit specific interests. Mover, as confirmed by the General Court in CCCME, the use of HS codes to establish undistorted prices of certain factors of production inevitably involves a certain degree of approximation <sup>(11)</sup>.
- (47) Following final disclosure, Shandong Sanyuan Biotechnology Co., Ltd requested a review of calculations on the grounds that the benchmark for cost of labour was double-counted as regards social security costs.

<sup>(9)</sup> Details and statistics about French corn starch are available, inter alia, at <https://www.usipa.fr/chiffres-cles/>.

<sup>(10)</sup> <https://www.euromonitor.com/starches-and-starch-products-in-brazil-isic-1532/report>.

<sup>(11)</sup> Judgment of 2 October 2024, *CCCME and Others v Commission*, T-263/22, ECLI:EU:T:2024:663, para. 77.

- (48) The Commission accepted the claim. The amount of 23,04 CNY/man-hour shown in the note to the file of 19 July 2024 <sup>(12)</sup> explaining the methodology for the determination of undistorted costs and profit incorrectly included twice amounts such as social security expenses incurred by the employer. The Commission confirmed that the 18 CNY/man-hour referred to in table 1 and recital (209) of the provisional Regulation reflected the hourly wage in the industry sector in Colombia in the investigation period including contributions such as the social security paid by the employer.
- (49) Following final disclosure, Shandong Sanyuan Biotechnology Co., Ltd stated that there was an error in the calculation of consumables for its part, resulting in an excessively high value to the company's disadvantage.
- (50) The Commission accepted the claim and corrected the clerical error.
- (51) Rio Mints & Sweeteners B.V. claimed that the normal value should be checked against other sources, such as published price lists, official import statistics and customs returns. The Commission recalled that the normal value was established pursuant to the methodology in the basic Regulation (and also described in section 3.1 of the provisional Regulation) and dismissed the claim.
- (52) The clerical error referred in recital (11) led to an update of the percentages in recital (227) of the provisional Regulation. The updated SG&A costs expressed as a percentage of the Costs of Goods Sold ('COGS') and applied to the undistorted costs of production, amounted to 21,4 %. The updated profit expressed as a percentage of the COGS and applied to the undistorted costs of production, amounted to 13,9 %.
- (53) In the absence of other comments, further to the updated percentages for SG&A costs and profit, the corrections summarised in recital (11) and the updated benchmarks for (organic) corn/maize referred to in recital (37) above, findings regarding the normal value as set out in recitals (40) to (227) of the provisional Regulation were confirmed. For clarity purposes, the Commission presents below table 1 of the provisional Regulation as updated at definitive stage:

Table 1

Factor of Production	Commodity Code	Source of data	Value (CNY)	Unit of measurement
MAIN RAW MATERIALS				
Corn/maize	1005 90 11/1005 90 00 90	GTA + 6,5 %	2,277	kg
Corn/maize, organic	1005 90 11/1005 90 00 90	GTA Value + 6,5 % + 20 % ( <sup>13</sup> )	2,732	kg
Corn starch	1108 12 00 00	GTA	6,294	kg
Corn starch, organic	1108 12 00 00	GTA Value + 20 % ( <sup>14</sup> )	7,553	kg
Glucose/Glucose monohydrate	1702 30 10/1702 30 00 00	GTA	7,448	kg

(<sup>12</sup>) t24.006198.

(<sup>13</sup>) The mark-up for *organic* corn/maize is based on the weighted average difference in prices between purchased corn/maize of standard quality and purchase corn/maize of *organic* quality from sampled exporting producers in the PRC.

(<sup>14</sup>) The mark-up for *organic* corn starch is based on the weighted average difference in prices between purchased corn starch of standard quality and purchased corn starch of *organic* quality from sampled exporting producers in the PRC.



Factor of Production	Commodity Code	Source of data	Value (CNY)	Unit of measurement
ANCILLARY MATERIALS				
Active yeast	2102 10 00 00	GTA	22,889	kg
Inactive yeast	2102 20 11	GTA	49,569	kg
Ammonium citrate	2918 15 00 00	GTA	17,525	kg
Ammonium liquor	2814 10 00	GTA	4,798	kg
Ammonium Sulphate	3102 21 00	GTA	1,65	kg
Amylase/ $\alpha$ -amylase/ Saccharifying enzyme/Cellulase	3507 90 90 00	GTA	97,257	kg
Activated carbon in any form	3802 10 00 00	GTA	25,351	kg
Polydimethylsiloxane (Defoamer)	3910 00 00	GTA	72,375	kg
Magnesium Carbonate	2519 10 00	GTA	14,757	kg
Magnesium sulphate	2833 21 00	GTA	9,751	kg
Citric acid	2918 14 00 00	GTA	15,282	kg
Salt	2501 00 00	GTA	0,474	kg
Monk Fruit sweetener	2938 90 90 90	GTA	500,721	kg
Stevia	2938 90 90 90	GTA	500,721	kg
LABOUR				
Labour	[N/A]	ILO	18	Labour Hour
ENERGY				
Natural gas	[N/A]	<a href="https://www.globalpetrolprices.com/natural_gases_prices/">https://www.globalpetrolprices.com/natural_gases_prices/</a>	RMB 3,85/m <sup>3</sup> (on the basis of 0,3658 per kWh and it takes 10,55 kWh per m <sup>3</sup> of gas) (or 5 364,43 per MT)	Cubic meter
Electricity	[N/A]	<a href="https://www.enel.com.co/es/personas/tarifas-energia-enel-distribucion.html/">https://www.enel.com.co/es/personas/tarifas-energia-enel-distribucion.html/</a>	RMB 1,3646 per kWh	kWh
Steam	[N/A]	<a href="https://www.globalpetrolprices.com/natural_gases_prices/">https://www.globalpetrolprices.com/natural_gases_prices/</a>	RMB 263,55 (based on price of 1 m <sup>3</sup> of gas to produce 1 tonne of steam)	Cubic meter of gas required to produce steam
Water	[N/A]	<a href="https://www.acueducto.com.co">https://www.acueducto.com.co</a>	RMB 16,93	Cubic meter

Factor of Production	Commodity Code	Source of data	Value (CNY)	Unit of measurement
BY-PRODUCT/WASTE				
Yeast	2102 10 00 00	GTA	1 - 4 <sup>(15)</sup>	kg
Filtration residue (protein) aimed at animal feed	2308 00 00	GTA	1,363	kg
Erythritol mother liquor	2905 49 00	GTA	0,1	kg
Corn steep Water/Corn germ/Corn fibre	2303 10 00	GTA	5,049	kg
Liquid protein/Protein powder	2308 00 00	GTA	1,363	kg

### 3.2. Export price

- (54) The complainant contested the volume and the price of Chinese imports considered for the purpose of the calculations. The complainant invited the Commission to make additional cross-checks. The Commission made internal cross-checks to the extent possible but could not confront other interested parties with the allegations and data that the complainant provided to the Commission only in confidence. Following final disclosure, the complainant disagreed with the approach followed by the Commission by calling for 'full' checks and by stating that the Commission had on its hand detailed data putting figures submitted by Baolingbao Biology Co., Ltd. into question, including Rio Mints & Sweeteners B.V.'s remarks that Baolingbao Biology Co., Ltd.'s prices were not higher than the prices of the other exporters. The Commission noted that the information provided for Baolingbao Biology Co., Ltd. by the complainant to the Commission only in confidence and the information verified and confirmed by the Commission at Baolingbao Biology Co., Ltd.'s premises could by no means be reconciled and therefore they were not further considered. The Commission noted as well that Rio Mints & Sweeteners B.V.'s remarks about Baolingbao Biology Co., Ltd.'s prices were not necessarily representative of Baolingbao Biology Co., Ltd.'s export prices as a whole. The Commission confirmed its provisional findings and dismissed the above claims.
- (55) In the absence of other comments, the conclusions set out in recital (228) of the provisional Regulation were confirmed.

### 3.3. Comparison

- (56) In light of the evolution of shipping costs over time, Rio Mints & Sweeteners B.V. questioned the level of the adjustment for transport referred to in recital (230) of the provisional Regulation. The Commission noted that the adjustment considered transport costs as reported by sampled exporting producers themselves and dismissed the claim.
- (57) In the absence of other comments, the conclusions set out in recitals (229) to (230) of the provisional Regulation were confirmed.

### 3.4. Dumping margins

- (58) As described in recital (53), following claims from interested parties, the Commission recalculated the dumping margins.
- (59) The user Rio Mints & Sweeteners B.V. requested to inspect the dumping calculations. The party reiterated its request after final disclosure. Hamburg Fructose GmbH also requested to inspect the dumping calculations after final disclosure. The Commission noted that dumping calculations, given their confidential nature, are only disclosed to the exporting producers concerned. The Commission dismissed the requests. The Commission nevertheless explained to the two parties the methodology for the calculations in the hearing referred to in recital (12).

<sup>(15)</sup> Company specific values due to its ratio between its price of primary material and its price of waste material derived therefrom.

- (60) Rio Mints & Sweeteners B.V. found the disparity amongst dumping margins unfair. The Commission noted that the margins are influenced not only by variations in export prices and product mixes but also by differences in the constructed normal values, which reflect the undistorted production costs of the individual sampled exporting producers, who used different inputs at varying rates. Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH called for a review of the gap between individual dumping margins resulting from the methodology used to construct normal values, namely the fact that input materials varied amongst exporting producers. The parties asked to consider rather the cost level of exporting producers in the PRC. The Commission recalled recital (159) of the provisional Regulation, which read that the existence of significant distortions giving rise to the application of Article 2(6a) of the basic Regulation is established on a country-wide level and, if established, it renders costs and prices in the exporting country inappropriate for the construction of normal value. The claims were therefore dismissed.
- (61) The definitive dumping margins expressed as a percentage of the cost, insurance and freight (CIF) Union frontier price, duty unpaid, are as follows:

Company	Definitive dumping margin (%)
Baolingbao Biology Co., Ltd.	34,4
Dongxiao Biotechnology Co., Ltd.	78,4
Shandong Sanyuan Biotechnology Co., Ltd.	185,5
Other cooperating companies	160,8
All other imports originating in the People's Republic of China	233,3

#### 4. INJURY

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

- (62) In the absence of comments on the determination of the Union industry and Union production, the Commission confirmed its conclusions set out in recitals (236) to (238) of the provisional Regulation.

##### 4.2. Union consumption

- (63) In the absence of comments on the Union consumption, the Commission confirmed its conclusions set out in recitals (239) to (241) of the provisional Regulation.

##### 4.3. Imports from the country concerned

- (64) CCCMC claimed that since the Commission did not disclose in the provisional Regulation the specialised market intelligence provider that had furnished the data concerning the Chinese imports, it is unable to verify the validity of the figures provided by the Commission under recital (247) of the provisional Regulation, which according to CCCMC gives rise to concerns regarding its rights of defence. CCCMC further posited that such data is not reliable and may not be considered as positive evidence suitable for objective examination of injury factors.
- (65) The Commission noted regarding the above claim that it had provided in the provisional Regulation full and non-indexed data regarding the imports of erythritol from the PRC. CCCMC was therefore enabled to check the data against its sources or any other import data it has access to. It is also noted that, as indicated in recital (243) of the provisional Regulation, the data in question provided by the market intelligence provider was cross-checked with other available statistical sources and with the sampling questionnaire replies of the co-operating Chinese exporting producers. In view of the above, the Commission disagreed that the rights of defence of CCCMC were not respected.
- (66) In the absence of any other comments on this section, recitals (242) to (248) of the provisional Regulation were confirmed.

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

- (67) In the absence of comments on the price of the imports from the country concerned, price undercutting and price suppression, the Commission confirmed its conclusions set out in recitals (249) to (257) of the provisional Regulation.

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

##### 4.4.1. *General remarks*

- (68) CCCMC considered that the functioning of the erythritol market and the behaviour of its producers are influenced by erythritol being a typical commodity good, and that consequently also price-setting for erythritol is global, not dependent on local market conditions.
- (69) The Commission noted that irrespective of whether or not erythritol is a commodity, the claim that price-setting for erythritol is global contradicts the fact that Chinese exporting producers were selling the product in the EU market at dumped prices which undercut and suppressed the prices of the Union producer.
- (70) CCCMC further claimed that the sole Union producer has the power to make decisions impacting the entire Union market, which in its view calls into question the reliability, representativity and objectivity of the macro- and microeconomic performance data submitted in reply to the Union producer questionnaire.
- (71) The Commission observed that the ability of the Union producer to influence the entire Union market was limited by the fact that it had been subject to significant competition from unfairly priced imports from the PRC, which consistently held a market share above 60 % during the period considered. The Commission also noted that all the data had been objectively verified in the course of the investigation, and that no concerns over its reliability or objectivity had arisen. As regards representativity, the Commission noted that data furnished by the sole Union producer is by definition representative of the Union industry.

##### 4.4.2. *Macroeconomic indicators – Microeconomic indicators*

- (72) CCCMC suggested that the Union producer had decided to invest more than 20 million euro into expanded production capacity as part of a strategy to prepare for the present anti-dumping investigation and to obtain a favourable outcome thereof.
- (73) The Commission noted that it had verified that the investment decision of the Union producer had been taken in 2019, i.e. more than four years before the present investigation was initiated. It also observed that in light of the market situation, notably strong growth in Union consumption (39 % in 2021) and a very high capacity utilisation (83 % in 2020, 100 % in 2021), the investment decision did not appear illogical. The Commission therefore concluded that CCCMC's allegation was not only unsubstantiated but also unfounded. Following final disclosure, Rio Mints & Sweeteners B.V. claimed that factors of 2020 and 2021 cannot be used to assess the soundness of an investment decision that had taken place in 2019. The Commission noted that in addition to the timing, it had also verified that the Union producer had justified the investment decision by forecasts for strong market growth and high levels of capacity utilization. The data from 2020 and 2021, which were available as part of the period considered, were used for illustrating that those forecasts corresponded with actual developments of the market conditions.
- (74) CCCMC also claimed that the Commission did not question whether the production halt of the Union producer was indeed a strategic corporate decision in the context of launching the present investigation.

- (75) The Commission noted that the production halt occurred in the investigation period and followed a consistent increase in the market share of Chinese imports from [62-70] % to [77-87] % over the period considered, with prices of those imports falling sharply in the investigation period (-19 % compared to 2022 and -36 % compared to 2021). The Commission therefore confirmed its finding in the provisional Regulation that the almost complete suspension of production of the Union producer was caused by its inability to compete against dumped imports from the PRC which as from 2022 came in at prices significantly below the Union industry's cost of production.
- (76) CCCMC further claimed that the Commission did not verify whether the Union producer had not used the spare capacity for erythritol production for the production of other compounds.
- (77) The Commission noted that contrary to what CCCMC alleges, it had verified that the Union producer had effectively halted erythritol production line, and not redeployed it to the production of other compounds. Following final disclosure, Rio Mints & Sweeteners B.V. claimed that the Commission should conversely have investigated whether such redeployment would have saved costs of the Union industry, and adjusted costs accordingly. The Commission noted that the scope of the present proceeding is limited to the product concerned.
- (78) The claims by CCCMC were therefore dismissed, and in the absence of any other comments regarding the macro-microeconomic indicators the conclusions set out in recitals (262) to (287) of the provisional Regulation are confirmed.

#### 4.4.3. *Conclusion on injury*

- (79) All claims of the parties following the provisional Regulation were rejected. The Commission therefore concluded, based on the findings disclosed in the provisional Regulation, that the Union industry suffered material injury within the meaning of Article 3(5) of the basic Regulation.

### 5. CAUSATION

#### 5.1. **Comments on causation**

- (80) CCCMC claimed that the problems of the Union producer were caused by the rise in raw material and energy costs rather than dumped imports from the PRC. CCCMC further asserted that imports increased only as a result of the almost complete suspension of production of the Union producer to meet market demand.
- (81) As set out in the provisional Regulation, the Commission acknowledged that the rise in raw material and energy costs contributed to problems for the Union producer, notably by increasing its unit production cost. However, the peak in energy and maize (main raw material for glucose) prices occurred in 2022, and in that year the Union producer was, by raising sales prices, still able to maintain a level of domestic sales equivalent to 2020, a production level 14 % higher than in 2020 and a healthy level of profitability [7-10 %]. During the investigation period this was however no longer possible given a sharp decrease in the price and a notable increase in the market share of imports from the PRC, as set out in recital (75). As a consequence, the Union industry had to halt production, because to keep selling it would have had to lower its selling price below the cost of production. Furthermore, as set out in recital (75), imports from the PRC had consistently gained market share already in previous years and did not increase as a result of the production halt of the Union producer.

#### 5.2. **Conclusion on causation**

- (82) All claims of the parties following the provisional Regulation were rejected. The Commission therefore concluded, based on the findings disclosed in the provisional Regulation, that the dumped imports from the PRC caused material injury to the Union industry and that the other factors, considered individually or collectively, did not attenuate or break the causal link between the dumped imports and the material injury.

## 6. LEVEL OF MEASURES

### 6.1. Injury margin

- (83) In the absence of any comments justifying the revision of the injury margins, the final injury elimination level for the cooperating exporting producers and all other companies is as follows:

Company	Definitive injury margin (%)
Baolingbao Biology Co. Ltd	86,8
Dongxiao Biotechnology Co. Ltd	169,2
Shandong Sanyuan Biotechnology Co. Ltd	156,7
Other cooperating companies	152,9
All other imports originating in the People's Republic of China	316,3

## 7. UNION INTEREST

### 7.1. Interest of the Union industry

- (84) In the absence of comments on the interest of the Union industry recitals (334) to (335) of the provisional Regulation are confirmed.

### 7.2. Interest of unrelated importers

- (85) In the absence of comments from Union importers recitals (338) to (339) of the provisional Regulation are confirmed.

### 7.3. Interest of users, consumers or suppliers

- (86) Users alleged that because of the measures they will need to increase their selling price to up to more than double their previous level, which would ultimately result in large retailers delisting their erythritol-based sugar replacement products, denying many consumers a healthier diet.
- (87) As explained in recital (342) of the provisional Regulation, the consumption of erythritol in 2021 was not affected by the Chinese prices when they were 56 % higher than in the investigation period, a year that recorded the highest consumption within the period considered. Thus, the Commission maintains that possible higher prices would not dissuade users or final consumers from consuming erythritol.
- (88) One user claimed that the measures would affect a higher percentage of their turnover than the figures stated in recital (342) of the provisional Regulation. It further claimed that this will have a significant negative impact on their economic situation and is, therefore, opposing the measures. In this regard it is noted that the figures quoted in this recital concerned the overall cost of goods sold. Moreover, as the turnover of users would depend on the level of the Union consumption, turnover is not expected to be significantly affected by the imposition of measures, as explained in the previous recital (87).

### 7.4. Conclusion on Union interest

- (89) All claims of the parties following the provisional Regulation were rejected, and the Commission confirmed its provisional finding that there are no compelling reasons to conclude that it would not be in the Union interest to impose measures on imports of erythritol originating in the PRC.

## 8. DEFINITIVE ANTI-DUMPING MEASURES

## 8.1. Definitive measures

- (90) In view of the conclusions reached with regard to dumping, injury, causation, level of measures and Union interest, and in accordance with Article 9(4) of the basic Regulation, definitive anti-dumping measures should be imposed in order to prevent further injury being caused to the Union industry by the dumped imports of the product concerned.
- (91) On the basis of the above, the definitive anti-dumping duty rates, expressed on the CIF Union border price, customs duty unpaid, should be as follows:

Company	Dumping margin (%)	Injury margin (%)	Definitive anti-dumping duty (%)
Baolingbao Biology Co., Ltd.	34,4	86,8	34,4
Dongxiao Biotechnology Co., Ltd.	78,4	169,2	78,4
Shandong Sanyuan Biotechnology Co., Ltd.	185,5	156,7	156,7
Other cooperating companies	160,8	152,9	152,9
All other imports originating in the People's Republic of China	233,3	316,3	233,3

- (92) 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 in respect to these companies. These duty rates are thus exclusively applicable to imports of the product under investigation originating in the country concerned and produced by the named legal entities. Imports of the product concerned manufactured by any other company not specifically mentioned in the operative part of this Regulation, including entities related to those specifically mentioned, cannot benefit from these rates and should be subject to the duty rate applicable to 'all other imports originating in the People's Republic of China'.
- (93) A company may request the application of these individual anti-dumping duty rates if it changes subsequently the name of its entity. The request must be addressed to the Commission <sup>(16)</sup>. The request must contain all the relevant information enabling to demonstrate that the change does not affect the right of the company to benefit from the duty rate which applies to it. If the change of name of the company does not affect its right to benefit from the duty rate which applies to it, a regulation about the change of name will be published in the *Official Journal of the European Union*.
- (94) Users proposed a fixed duty on the erythritol content alone on bulk imports for all Chinese suppliers. In their view, a fixed duty would ensure fairer treatment for imports of blends and thus keep healthier sweetening alternatives available to consumers.
- (95) The Commission noted that applying a measure on the erythritol content alone would be subject to significant risk of circumvention. In addition, over time, a measure based on fixed duties risks becoming either ineffective or excessively restrictive as a function of how import prices evolve, which in turn is affected by overall inflation and in particular fluctuations in the prices of main cost drivers of the product concerned. In the case of erythritol these are maize/corn and energy, which have both seen significant fluctuations. Given that the share of blends in EU consumption is not more than 7 %, and as users can shift to selling other sweeteners or possibly buying erythritol-based blends from the Union producer, in the Commission's view the risks mentioned above outweigh the interest of the users. The Commission therefore concluded that an *ad valorem* duty remains the most appropriate form of measure.

<sup>(16)</sup> European Commission, Directorate-General for Trade, Directorate G, Rue de la Loi/Wetstraat 170, 1040 Bruxelles/Brussel, BELGIQUE/BELGIË.

- (96) To minimise the risks of circumvention due to the difference in duty rates, special measures are needed to ensure the proper application of the individual anti-dumping duties. The application of individual anti-dumping duties is only applicable upon presentation of a valid commercial invoice to the customs authorities of the Member States. The invoice must conform to the requirements set out in Article 1(3) of this Regulation. Until such invoice is presented, imports should be subject to the anti-dumping duty applicable to 'all other imports originating in the People's Republic of China'.
- (97) 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 should 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 rate of duty is justified, in compliance with customs law.
- (98) Should the exports by one of the companies benefiting from lower individual duty rates increase significantly in volume, in particular after the imposition of the measures concerned, such an increase in volume could be considered as constituting in itself a change in the pattern of trade due to the imposition of measures within the meaning of Article 13(1) of the basic Regulation. In such circumstances, an anti-circumvention investigation may be initiated, provided that the conditions for doing so are met. 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.
- (99) To ensure a proper enforcement of the anti-dumping duties, the anti-dumping duty for all other companies should apply not only to the non-cooperating exporting producers in this investigation, but also to the producers which did not have exports to the Union during the investigation period.
- (100) Exporting producers that did not export the product concerned to the Union during the investigation period should be able to request the Commission to be made subject to the anti-dumping duty rate for cooperating companies not included in the sample. The Commission should grant such request provided that three conditions are met. The new exporting producer would have to demonstrate that: (i) it did not export the product concerned to the Union during the investigation period; (ii) it is not related to an exporting producer that did so; and (iii) has exported the product concerned thereafter or has entered into an irrevocable contractual obligation to do so in substantial quantities.

## 8.2. Definitive collection of the provisional duties

- (101) In view of the dumping margins found and given the level of the injury caused to the Union industry, the amounts secured by way of provisional anti-dumping duties imposed by the provisional Regulation, should be definitively collected.

## 8.3. Retroactivity

- (102) As mentioned in section 1.2, the Commission made imports of the product under investigation subject to registration.
- (103) During the definitive stage of the investigation, the data collected in the context of the registration was assessed. The Commission analysed whether the criteria under Article 10(4) of the basic Regulation were met for the retroactive collection of definitive duties.
- (104) The criteria for whether duties can be collected during the period of registration are set out in Article 10(4) of the basic Regulation.
- (105) The Commission considers that the registration Regulation complies with criterion (a), namely that the imports of have been registered in accordance with Article 14(5) of the basic Regulation.
- (106) The Commission considers that importers have been given an opportunity for comment under criterion (b) with the publication of the provisional Regulation and with the publication of the registration Regulation.



### 8.3.1. *History of dumping or awareness of the dumping or injury by the importer*

- (107) Pursuant to Article 10(4)(c) of the basic Regulation, there needs to be 'a history of dumping over an extended period, or the importer was aware of, or should have been aware of, the dumping as regards the extent of the dumping and the injury alleged or found'. In the present case, the Commission considers that the importers were aware, or should have been aware of, the dumping as regards the extent of the dumping and the injury alleged or found since the date of initiation of the investigation.
- (108) The Notice of Initiation and the non-confidential version of the complaint contained a number of statements and items of evidence supporting and stating the extent of the dumping and injury alleged. Consequently, the Commission considered that the importers and users were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury.
- (109) Moreover, the complainant submitted evidence which would demonstrate that importers and distributors in the EU were made aware of the anti-dumping investigation and were incited to buy and import erythritol before the imposition of provisional measures. Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International claimed that as they have not seen this evidence their rights of defence are harmed. The Commission noted that the evidence submitted by the complainant was both of confidential<sup>(17)</sup> and non-confidential nature<sup>(18)</sup>.
- (110) Finally, it is noted that this criterion was adequately analysed in recitals (8) to (11) of the registration Regulation.
- (111) It is thus concluded that this criterion of retroactive collection of duties has been met.

### 8.3.2. *A further substantial rise in imports likely to undermine the remedial effect of the definitive anti-dumping duty*

- (112) Pursuant to Article 10(4)(d) of the basic Regulation, there needs to be 'a further substantial rise in imports in addition to the level of imports which caused injury during the investigation period'.
- (113) The average monthly import volume from the PRC during the investigation period was 1 097 tonnes. According to data (which at the time of the assessment were available up to and including August 2024), the average monthly import volume from the PRC in the period starting in the first full month after publication of the Notice of initiation of the investigation in the *Official Journal of the European Union* and ending in the last full month preceding the imposition of provisional measures (December 2023 - June 2024) was 1 749 tonnes, i.e. 59 % higher than in the investigation period. In the same period, the total volume of imports was 12 240 tonnes.
- (114) Taking the period as from the first full month following initiation and including the month in which provisional measures were imposed (i.e. December 2023 - July 2024) renders a monthly average import volume of 1 586 tonnes, which is 45 % higher than the monthly average in the investigation period.
- (115) Both analyses demonstrate that indeed there was a substantial increase in import volumes after initiation.
- (116) Users that commented following the registration of imports admitted that they had to resort to stockpiling of erythritol in order to be able to fulfil their contractual obligations, notably to large retail chains. Following final disclosure, Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International contested this, but admitted that they ordered goods in order to fulfil their contractual obligations at pre-agreed prices. The Commission noted that such behaviour does amount to stockpiling in anticipation of the implementation of measures.

<sup>(17)</sup> t24.003137 – Erythritol – Jungbunzlauer – Request for the registration of imports (Annex\_Information\_from\_importers\_open).

<sup>(18)</sup> t24.006674 – Erythritol – Comments on provisional disclosure – sensitive and open (Annex 12, 05\_2024\_04\_07\_Promptly Purchase Erythritol before The EU Anti-Dumping Duties is Announced).

- (117) The analysis of consumption in the period December 2023 to July 2024 shows a monthly average increase of 50 % in relation to the monthly average of the investigation period. In the same period, while the Union producer resumed production, its sales did not show an increase in relation to 2022, a year of the period considered when sales were not affected by its production closure. The Union industry's market share decreased by 12 percentage points in comparison to the same year 2022. This is a clear sign of further injury to the Union industry.
- (118) In terms of volumes, imports in the registration period were included in the assessment of the 'further increase in imports' and imports in the registration period in isolation fell as compared to pre-registration levels but were still substantial in terms of volumes.
- (119) Further, import prices in the period December 2023 to July 2024 continued to fall more than those of the Union producer. The average import price in that period was 7 % below the average import price in the investigation period. Consequently, undercutting in the registration period further increased to [45 % to 65 %] on average.
- (120) As indicated in recital (116), the Commission found evidence of stockpiling after the initiation of the investigation.
- (121) In the hearing referred to in recital (12), Rio Mints & Sweeteners B.V. and Hamburg Fructose GmbH International contested this conclusion, claiming that since the volume has already entered the market and is being sold at contractually agreed prices, retro-active application of anti-dumping duties does not contribute anything against dumping and does not influence market prices. In contrast, they claimed it only harms them significantly. The Commission dismissed this claim in light of the evidence presented in recitals (107) to (120) and confirmed the conclusion that the further substantial rise in imports, in light of its timing and volume, as well as its further decreasing average prices, has seriously undermined the remedial effect of the definitive anti-dumping duty.
- (122) On this basis, the Commission concluded that the conditions as set out in Article 10(4) of the basic Regulation for the retroactive application of the definitive anti-dumping duty are met. A definitive anti-dumping duty should therefore be levied on the product concerned, which was made subject to registration by Implementing Regulation (EU) 2024/1608. The level of the duty to be collected retroactively should be set at the level of the provisional duties imposed under Implementing Regulation (EU) 2024/1959, to the extent that they are lower than the level of the definitive duties imposed under the present Regulation.

## 9. FINAL PROVISION

- (123) In view of Article 109 of Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council <sup>(19)</sup>, when an amount is to be reimbursed following a judgment of the Court of Justice of the European Union, the interest to be paid should be the rate applied by the European Central Bank to its principal refinancing operations, as published in the C series of the *Official Journal of the European Union* on the first calendar day of each month.
- (124) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

<sup>(19)</sup> Regulation (EU, Euratom) 2024/2509 of the European Parliament and of the Council of 23 September 2024 on the financial rules applicable to the general budget of the Union (OJ L, 2024/2509, 26.9.2024, ELI: <http://data.europa.eu/eli/reg/2024/2509/oj>).

HAS ADOPTED THIS REGULATION:

#### Article 1

1. A definitive anti-dumping duty is imposed on imports of erythritol, in its pure form or contained in blends containing less than 10 % of other products by weight, currently falling under CN code ex 2905 49 00 for erythritol in its pure form and CN codes ex 2106 90 92 and ex 2106 90 98 for blended products (TARIC codes 2905 49 00 15, 2106 90 92 65, and 2106 90 98 15), and originating in the People's Republic of China.

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

Company	Definitive anti-dumping duty rate (%)	TARIC additional code
Baolingbao Biology Co., Ltd.	34,4	89BG
Dongxiao Biotechnology Co., Ltd.	78,4	89BH
Shandong Sanyuan Biotechnology Co., Ltd.	156,7	89BI
Other cooperating companies listed in the Annex	152,9	
All other imports originating in the People's Republic of China	233,3	C999

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 name and function, drafted as follows: 'I, the undersigned, certify that the volume in kilogrammes of erythritol 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 companies shall apply.

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

#### Article 2

The amounts secured by way of the provisional anti-dumping duty under Implementing Regulation (EU) 2024/1959 imposing a provisional anti-dumping duty on imports of erythritol originating in the People's Republic of China shall be definitively collected.

#### Article 3

1. A definitive anti-dumping duty is levied on imports of erythritol, in its pure form or contained in blends containing less than 10 % of other products by weight, currently falling under CN code ex 2905 49 00 for erythritol in its pure form and CN codes ex 2106 90 92 and ex 2106 90 98 for blended products (TARIC codes 2905 49 00 15, 2106 90 92 65, and 2106 90 98 15), and originating in the People's Republic of China, which have been registered in accordance with Article 1(1) of Implementing Regulation (EU) 2024/1608.

2. The rate of the anti-dumping duty applicable to the net, free-at-Union-frontier price, before duty, of the products described in Article 1(1) of Implementing Regulation (EU) 2024/1608 and produced by the companies listed below, shall be as follows:

Company	Anti-dumping duty rate (%)	TARIC additional code
Baolingbao Biology Co., Ltd.	31,9	89BG
Dongxiao Biotechnology Co., Ltd.	76,9	89BH
Shandong Sanyuan Biotechnology Co., Ltd.	156,5	89BI
Other cooperating companies listed in the Annex	152,9	
All other imports originating in the People's Republic of China	233,3	C999

#### Article 4

Article 1(2) may be amended to add new exporting producers from the People's Republic of China and make them subject to the appropriate weighted average anti-dumping duty rate for cooperating companies not included in the sample. A new exporting producer shall provide evidence that:

- (a) it did not export the goods described in Article 1(1) during the period of investigation (1 October 2022 to 30 September 2023);
- (b) it is not related to an exporter or producer subject to the measures imposed by this Regulation, and which could have cooperated in the original investigation; and
- (c) it has either actually exported the product concerned or has entered into an irrevocable contractual obligation to export a significant quantity to the Union after the end of the period of investigation.

#### Article 5

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, 15 January 2025.

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

ANNEX

Cooperating exporting producers in the People’s Republic of China not sampled

Name	TARIC additional code
Shandong Xiangchi Jianyuan Bio-Tech Co., Ltd.	89BJ
Yusweet Co., Ltd.	89BK