II

(Non-legislative acts)

REGULATIONS

COUNCIL IMPLEMENTING REGULATION (EU) No 135/2014

of 11 February 2014

repealing the anti-dumping duty on imports of dicyandiamide originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic Regulation'), and in particular Articles 11(2), 11(6) and 9 thereof,

Having regard to the proposal from the European Commission after consulting the Advisory Committee,

Whereas:

1. PROCEDURE

1.1. Measures in force

(1) The Council, following an anti-dumping investigation ('the original investigation'), imposed by Regulation (EC) No 1331/2007 [2] a definitive anti-dumping duty on imports of 1-cyanoguanidine (dicyandiamide) originating in the People's Republic of China ('China' or 'the country concerned') ('the definitive anti-dumping measures'). The measures took the form of an *ad valorem* duty at the level of 49,1 %.

1.2. Request for an expiry review

(2) Following the publication of a notice of impending expiry of the definitive anti-dumping measures in force [3], the Commission received on 14 August 2012 a request for the initiation of an expiry review of these measures pursuant to Article 11(2) of the basic Regulation. The request was lodged by AlzChem AG ('the applicant'), representing 100 % of the total Union production of dicyandiamide.

(3) The application submitted was based on the grounds that the expiry of the definitive anti-dumping measures would be likely to result in continuation of dumping and recurrence of injury to the Union industry.

1.3. Initiation of an expiry review

(4) Having determined, after consulting the Advisory Committee, that sufficient evidence existed for the initiation of an expiry review, the Commission announced on 15 November 2012, by a notice published in the *Official Journal of the European Union* [4] ('the Notice of initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

1.4. Investigation

1.4.1. *Review investigation period and period considered*

(5) The investigation of a continuation of dumping covered the period from 1 October 2011 to 30 September 2012 ('the review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of recurrence of injury covered the period from 1 January 2009 to the end of the review investigation period ('the period considered').

(6) After final disclosure, the applicant argued that the period considered should have started in 2008 because 2009 would result in unrepresentative findings. It should firstly be noted that the Commission enjoys a broad discretion when determining the period to be taken into account for the purpose of verifying injury. Secondly, the applicant has made this claim at a stage too late to change the period. The period considered was announced early in the process, but the applicant did not contest it then. The period cannot be changed at such a

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 296, 15.11.2007, p. 1.
[3] OJ C 116, 20.4.2012, p. 3.
[4] OJ C 349, 15.11.2012, p. 10.

late stage of the process for practical reasons and because a modification on the basis of the collected evidence would be against the impartial conduct of an investigation. The claim was, therefore, rejected.

1.4.2. *Parties concerned by the investigation*

(7) The Commission officially advised the applicant, exporting producers in the country concerned, unrelated importers, users in the Union known to be concerned, and the representatives of the exporting country of the initiation of the expiry review. Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set out in the Notice of initiation.

(8) In view of the apparent large number of exporting producers in the country concerned and unrelated importers, it was considered appropriate, in accordance with Article 17 of the basic Regulation, to examine whether sampling should be used. In order to enable the Commission to decide whether sampling would be necessary and, if so, to select a sample, those parties were requested, pursuant to Article 17 of the basic Regulation, to make themselves known within 15 days of the initiation of the review and to provide the Commission with the information requested in the Notice of initiation.

(9) Twelve known exporting producers in Chinawere contacted. As only one exporting producer from Chinacame forward with the requested information it was not necessary to select a sample of exporting producers.

(10) With regard to importers, some 10 unrelated importers of dicyandiamide in the Union were identified and invited to provide sampling information. Only two of them came forward and were willing to cooperate in the current review. Consequently, no sampling was necessary for unrelated importers.

(11) The Commission sent questionnaires to all parties known to be concerned and to those who made themselves known within the deadlines set in the Notice of initiation. Replies were received from the Union producer, the cooperating exporting producer in China, two unrelated importers and one user in the Union.

(12) Additional representations were received from two unrelated importers/traders and three users in the Union.

(13) The Commission sought and verified all the information it deemed necessary for a determination of the likelihood of a continuation of dumping and likelihood of recurrence of injury and of the Union interest. Verification visits were carried out at the premises of the following interested parties:

(a) Union producer:

— AlzChem AG, Trostberg, Germany

(b) Exporting producer in China:

— Ningxia Jiafeng Chemicals Co., Ltd Shizuishan, China

(c) Unrelated importer in the Union:

— Helm AG, Hamburg, Germany

(d) User in the Union:

— Merck Santé S.A.S., Lyon, France

2. PRODUCT CONCERNED AND LIKE PRODUCT

2.1. Product concerned

(14) The product concerned by this review is the same as the one in the original investigation, i.e. 1-cyanoguanidine (dicyandiamide) ('DCD') originating in the People's Republic of China ('the product concerned'), currently falling within CN code 2926 20 00. It is produced from quick lime and carbon black, and appears after several production steps. It is a solid substance in the form of a fine, white, crystalline powder, usually odourless.

(15) DCD is usually used as an intermediate to produce a broad range of other chemical intermediates, such as pharmaceuticals, various industrial applications — water, pulp and paper, textile, leather — and diverse fields of epoxy applications. It is a key element of the nitrogen — carbon — nitrogen (NCN) chain, with niche end-products such as guanidine nitrate and other NCN derivatives.

(16) Most of the DCD sold on the Union market is standard. Only a limited amount is of a smaller particle size (the so-called micro DCD). The cooperating Chinese exporting producer provided data for the standard type only.

2.2. Like product

(17) One user questioned whether Union DCD and Chinese DCD were unlike products on the basis that the standard type of DCD produced by the Union industry is, allegedly, of higher quality than that produced by the Chinese exporting producers. In particular, this user claimed that the water content of the Chinese DCD would be significantly higher and more volatile compared to the water content of the DCD produced in the Union. Moreover, Chinese DCD would also have a higher content of impurities.

(18) As in the original investigation, the investigation showed, however, that while there may be certain quality differences, these cannot be quantified and moreover, they do not affect the basic chemical, physical and technical characteristics of DCD produced and sold by the Union industry in the Union and the product concerned, which were found to be the same and to have the same end-uses.

(19) Another user argued that micro DCD should be excluded from the product scope of the anti-dumping measures due to the alleged differences in physical characteristics, end-uses and prices from standard DCD.

(20) The investigation showed, however, that both types share the basic chemical, physical and technical characteristics. The further processing of standard DCD to produce micro DCD involves a straightforward physical process (milling), but no chemical processing. In addition, even though the prices of micro DCD are higher than those of standard DCD, both types have the same basic end-uses and can normally be interchanged.

(21) The investigation confirmed that, as in the original investigation, the product concerned and the products manufactured and sold on the domestic market in China, as well as those manufactured and sold in the Union by the Union producer, have the same basic physical and technical characteristics as well as the same uses and are, therefore, considered to be like products within the meaning of Article 1(4) of the basic Regulation.

3. LIKELIHOOD OF CONTINUATION OF DUMPING

3.1. Preliminary remarks

(22) In accordance with Article 11(2) of the basic Regulation, it was examined whether the expiry of the existing measures would be likely to lead to a continuation of dumping.

(23) As mentioned in recital 9, due to the fact that only one company cooperated, it was not necessary to select a sample of exporting producers in China. This company covered more than 35 % of the imports of product concerned from China to the Union during the RIP. This company did not export during the IP of the original investigation and therefore did not cooperate in the original investigation.

3.2. Dumping of imports during the RIP

3.2.1. *Analogue country*

(24) In accordance with Article 2(7)(a) of the basic Regulation, normal value had to be determined on the basis of the prices or constructed value in an appropriate market economy third country (the 'analogue country'), or the price from such a third country to other countries, including the Union, or, where those are not possible, on any other reasonable basis, including the price actually paid or payable in the Union for the like product, duly adjusted if necessary to include a reasonable profit margin.

(25) In the absence of production of the product concerned outside the Union and China, the Commission indicated in the Notice of initiation its intention to base the normal value on the prices actually paid or payable in the Union for the like product, as had also been done in the original investigation.

(26) The like product was sold by the Union industry in representative quantities. However, the Union industry's domestic sales were loss-making, albeit close to break even. Therefore, the normal value was based on the Union industry's manufacturing costs plus a reasonable amount for selling, general and administrative costs (SGA) and profit. SGA and profit were determined using the same method as in the original investigation. Pursuant to Article 11(9), adjustments were made on the Union industry's manufacturing costs so as to offset the additional transport costs due to the physical separation between production units, no direct access to raw materials, which must be transported from remote production sites and disposal of the by-product (black lime). These adjustments were also made in the original investigation.

3.2.2. *Export price*

(27) All export sales of the cooperating exporting producer to the Union were made directly to independent customers established in the Union. In accordance with Article 2(8) of the basic Regulation the export price was established on the basis of the prices actually paid or payable.

3.2.3. *Comparison*

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

(29) For the purpose of ensuring a fair comparison between the normal value and the export price of the cooperating exporting producer, and in accordance with Article 2(10) of the basic Regulation, due allowance in the form of adjustments was made with regard to differences in transport, insurance, taxes and credit costs which affected prices and price comparability.

3.2.4. *Dumping margin*

(30) As provided for under Article 2(11) of the basic Regulation, the dumping margin was established on the basis of a comparison of the weighted average normal value with the weighted average export price.

(31) For the cooperating exporting producer that comparison showed the existence of dumping although significantly lower than the level of dumping established in the original investigation.

3.3. **Development of imports should measures be repealed**

3.3.1. *Preliminary remark*

(32) Further to the finding of the existence of dumping during the RIP, the likelihood of continuation of dumping should measures be repealed was investigated and the following elements were analysed: production capacity and spare capacity in China; volume and prices of dumped imports from China; the attractiveness of the Union market in relation to imports from China.

(33) In this regard, it should be noted that the cooperating exporting producer represented more than 30 % of the total production of Chinaduring the RIP.

3.3.2. *Production capacity and spare capacity of the Chinese producers*

(34) Since little public information is available about the Chinese DCD industry, conclusions in relation to spare capacity relied mainly on the information contained in the request for review and on information obtained from the single cooperating producer, cross-checked where possible against publicly available information.

(35) On this basis, it is assumed that total installed capacity in Chinaincreased between 2007 and 2012. Actual production during the RIP was however limited to 80 000 tonnes, indicating that some spare capacity may be available. The Chinese installed capacity during the RIP represents more than the global demand for DCD and spare capacity may represent more than the total Union consumption during the RIP while the domestic Chinese consumption during the RIP amounted only to 40 000 tonnes, i.e. half of actual Chinese production.

(36) In relation to spare capacity, the information gathered on spot during the investigation shows that the single cooperating producer, representing more than 20 % of the total installed capacity of Chinain 2012, has been granted approval to expand its capacity by 50 % in 2014. It is expected that this new capacity will, inter alia, further serve this producer's own production processes (captive use of DCD) and the Chinese domestic market, which during the RIP absorbed around half of the DCD production of the single cooperating producer. Information obtained from the single cooperating producer showed that future investments in capacity will be used to supply, inter alia, the Chinese domestic market which is large and rapidly growing.

(37) Chinais thus in a position to produce large quantities for export, in particular because there are no indications that the domestic market could absorb all the spare capacity.

3.3.3. *Volume and prices of dumped imports from China*

(38) According to Eurostat and verified import data, the volume of imports from China sharply decreased when the measures were introduced in 2007 and started increasing again slightly between 2009 and the end of the RIP, but never reached the level of 2007. This is also reflected in the market share of the Chinese imports which dropped from 40-45 % in 2007 to 10-15 % in 2009 and reached again a level of 15-20 % at the end of the RIP, despite the increase in Chinese prices by 73 %.

3.3.4. *Attractiveness of the Union market*

(39) The Union market is a relatively large market accounting for around 18 % of the world consumption of DCD, but it is not necessarily the most attractive or the only attractive market in terms of sale segments and prices (see recital 74). Indeed, the information available suggests that Chinese producers anticipate a growing demand from the pharmaceutical industry, e.g. in India, that uses DCD for instance as an input for the production of a diabetes medicine (metformin). Therefore, this new demand will potentially be able to absorb a large part of Chinese spare capacity. Based on the above, it is considered that the Union market is not the only attractive market for Chinese exporters.

3.3.5. *Conclusion of the likelihood of continuation of dumping*

(40) The investigation has confirmed that Chinese imports continued to enter the Union market at dumped prices during the RIP. Given the continued dumping, the fact that the Union market is a large market which was quite attractive for the Chinese exporters in the past, as well as the spare capacities available in China, going beyond the total Union consumption, it can be concluded there is a likelihood of continuation of dumping should measures be removed. It should however be noted that the current level of dumping is significantly lower than that established in the original investigation.

4. **SITUATION IN THE UNION MARKET**

4.1. **Preliminary remark**

(41) As the analysis concerns only one company, for reasons of confidentiality most indicators are given in indexed form or ranges.

4.2. **Union industry**

(42) The production of the Union producer AlzChem AG represents 100 % of the DCD produced in the Union. It is therefore considered that AlzChem AG constitutes the Union industry within the meaning of Articles 4(1) and 5(4) of the basic Regulation.

4.3. **Consumption in the Union market**

(43) Union consumption was established on the basis of the non-captive sales volumes of the Union industry on the Union market and import data from Eurostat, cross-checked with other statistical sources. Over the period considered it developed as follows:

Table 1

	2009	2010	2011	RIP
Union consumption (tonnes)	11 042	13 712	14 338	14 146
Index (2009 = 100)	100	124	130	128

(44) Apart from the free market consumption presented above, it is noted that over the period considered the captive use of DCD by the Union industry ranged between 10 % and 20 % of the Union production and developed as follows:

Table 2

	2009	2010	2011	RIP
Captive use — Index (2009 = 100)	100	123	124	127

4.4. **Imports into the Union from China**

(45) Bearing in mind that only one exporter cooperated with the investigation, it was found that the Eurostat data were the best information source for import volumes and prices. The Eurostat data refers to EU27 and was cross-checked to other sources such as Chinese exports statistics, Article 14(6) database and cooperating importer/user data.

(46) Deliveries of DCD from Chinawere imported under two customs regimes. Under the normal regime both the normal customs tariff and the anti-dumping duty were payable. Under the inward processing regime none of these duties were payable because the material was used in the production of downstream products that were exported outside the Union. As shown in the table below, the inward processing regime covered around two thirds of imports in the RIP.

4.4.1. *Volume and market share*

(47) Following the imposition of the anti-dumping measures in 2007, the volume of Chinese imports decreased significantly. Their overall market share was some 15 % to 20 % during the RIP. This notwithstanding, over the period considered the volume of imports under the normal customs regime originating in Chinafluctuated, whereas Chinese imports carried out under the inward processing relief more than doubled. Taking both regimes into account, import volumes increased over the period but they are well below the levels seen prior to the imposition of measures (over 6 000 tonnes).

Table 3

Imports from China	2009	2010	2011	RIP
Volume of imports – normal regime (tonnes)	881	1 251	1 781	730
Index (2009 = 100)	100	142	202	83
Market share	5-10 %	5-10 %	10-15 %	5-10 %
Average import price – normal regime (EUR/tonne)	1 218	1 267	1 826	2 101
Average import price – inward processing (EUR/tonne)	1 677	1 463	1 674	2 069
Volume of imports – inward processing (tonnes)	676	984	654	1 467
Index (2009 = 100)	100	146	97	217
Market share – all regimes	10-15 %	15-20 %	15-20 %	15-20 %

4.4.2. *Price*

(48) As reflected in the table above, over the period considered the prices of Chinese imports increased substantially.

(49) The Union industry claimed that the price development cannot be explained by the development of prices of the main cost drivers, i.e. raw materials and energy costs. However, it did not provide any alternative explanation or conclusive evidence to support the claim.

4.4.3. *Price undercutting*

(50) For the purpose of analysing price undercutting, the weighted average sales prices of the Union industry to unrelated customers on the Union market were compared to the corresponding weighted average CIF prices of imports from China (standard DCD only). The sales prices of the Union industry were adjusted in particular for delivery costs and commissions to an ex-works level. The CIF prices of the exports from Chinawere obtained from Eurostat and cross-checked with the Article 14(6) database and they excluded those imports which were subject to inward processing. These CIF prices were adjusted to cover costs related to customs clearance, namely customs tariff and post-importation costs. Undercutting in respect of imports which were subject to inward processing is analysed in recital 83.

(51) The comparison showed that during the RIP the imports of the product concerned did not undercut the Union industry's prices.

4.5. **Imports into the Union from other third countries**

(52) There were no major imports from other third countries.

(53) Over the period considered the volume of imports from the USAnever held a market share of more than 2 %. The investigation revealed that in fact these imports were of standard DCD which had originally been produced in China and then micronised in the USA.

Table 4

Imports from the USA	2009	2010	2011	RIP
Volume of imports (tonnes)	192	237	282	255
Index (2009 = 100)	100	123	147	133
Market share	0-2 %	0-2 %	0-2 %	0-2 %

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

(54) Pursuant to 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 factors and indices having a bearing on the state of the Union industry during the period considered.

4.6.1. *Production, production capacity and capacity utilisation*

(55) The Union industry operated an integrated production chain incorporating not only DCD but upstream and downstream products. Since 2009 the Union production capacity of DCD did not change. Over the period considered, the Union producer increased production largely because of increased demand on the Union market as demonstrated at Table 1 above. Since 2010 the Union producer has operated rather at full capacity. This was less the case in 2009 when production and sales were affected by the financial crisis.

Table 5

	2009	2010	2011	RIP
Production — Index (2009 = 100)	100	115	113	109
Production capacity — Index (2009 = 100)	100	100	100	100
Capacity utilisation	86,9 %	100,2 %	98,2 %	95,2 %

4.6.2. *Stocks*

(56) The Union producer maintained a small stock throughout the period considered and this was not considered to be an important factor in the assessment of the situation of the Union industry.

Table 6

	2009	2010	2011	RIP
Stocks — Index (2009 = 100)	100	73	88	49

4.6.3. *Sales volume, market shares and average unit prices in the Union*

(57) The sales by the Union industry on the Union market to unrelated customers increased by 26 % during the period considered, whereas its sales prices went up by 7 %.

(58) The Union industry managed to increase its EU sales due to the increase in consumption shown above in Table 1. The Union industry maintained a very large share of the Union market.

Table 7

	2009	2010	2011	RIP
Sales volume — Index (2009 = 100)	100	121	125	126
Market share	80-85 %	80-85 %	80-85 %	80-85 %
Sales price — Index (2009 = 100)	100	95	98	107

4.6.4. *Profitability and cash flow*

(59) During the period considered the profitability of the Union industry improved significantly as it could increase its sales volume and its sales price on the Union market to unrelated customers. The strong improvement in profitability is even more pronounced if compared with the industry's heavy loss making situation in the original IP (– 20 % to – 30 %).

Table 8

	2009	2010	2011	RIP
Profitability	– 10 % to 0 %	– 10 % to 0 %	– 10 % to 0 %	– 5 % to 0 %

(60) The profitability of the captive transactions was comparatively good.

(61) During the period considered the cash flow was always negative with the exception of the RIP, in line with the development of the overall profitability.

Table 9

	2009	2010	2011	RIP
Cash flow — Index (2009 = 100)	– 100	– 84	– 229	174

4.6.5. *Investment, return on investments and ability to raise capital*

(62) During the period considered the Union industry made investments for the maintenance of and optimisation of the existing production machinery. In 2009 it made a significant new investment linked to micro DCD.

Table 10

	2009	2010	2011	RIP
Investments — Index (2009 = 100)	100	50	65	37

(63) The return on investments during the period considered remained negative, in line with the above-mentioned profitability.

Table 11

	2009	2010	2011	RIP
Return on investments — Index (2009 = 100)	– 100	– 63	– 62	– 10

(64) The Union industry did not claim to have encountered any difficulty to raise capital during the period considered.

4.6.6. *Employment, productivity, growth and wages*

(65) The investments made during the period considered contributed to increase the number of qualified employees. The average wage levels increased by 15 % over the period considered.

(66) The increase in employment and productivity reflect the increased production in 2010.

Table 12

	2009	2010	2011	RIP
Number of employees — Index (2009 = 100)	100	107	104	105
Productivity (tons per employee) — Index (2009 = 100)	100	108	108	105
Labour costs per employee — Index (2009 = 100)	100	112	113	115

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

(67) Dumping continued during the RIP, as explained under the point 3.2 above.

(68) The impact of the magnitude of the actual dumping margin on the Union industry, given the volume of the dumped imports from China, cannot be regarded as very great. As compared to the original investigation, the situation of the Union industry improved significantly — it was well on track to recovery from past dumping, in particular in terms of profitability, sales and market share.

4.6.8. *Conclusion*

(69) Even if some positive developments referred to above are relatively recent, it is considered that the situation of the Union industry improved significantly in the period considered. All the financial indicators were positive or close to positive by the end of the RIP.

(70) The imposition of the anti-dumping measures in 2007 allowed the Union industry to steadily recover from the injurious effects of the dumping, further exploiting its potential onto the Union market and non-EU countries. The fact that the Union industry benefited from the measures is mostly illustrated by its high production levels, capacity utilisation and increased EU sales prices and profitability. During the RIP, no material injury resulting from Chinese imports was taking place anymore.

(71) Following disclosure, the applicant argued that the fact that in the framework of the original investigation certain injury indicators showed a positive trend did not prevent the Commission from confirming the existence of material injury at the time. This claim must be rejected. Regulation (EC) No 1331/2007 was a response to different circumstances with, in particular, a less profitable Union industry. Moreover, an expiry review completely differs from an investigation under Article 5 of the basic Regulation. Whereas the latter focuses on whether the dumping causes injury to the domestic industry, the former is a forward-looking exercise analysing what is likely to occur should the measures lapse.

5. **LIKELIHOOD OF RECURRENCE OF INJURY**

(72) As demonstrated above, the Union industry did not suffer material injury during the RIP. In accordance with Article 11(2) of the basic Regulation, it was therefore examined whether the expiry of the measures in force would be likely to result in a recurrence of injury.

5.1. **Impact of the spare capacity in China**

(73) The investigation has revealed that there are large production capacities in China (see recitals 34 to 37). However, there are no reasonable grounds to conclude that the spare capacities in question are likely to lead to significant imports into the Union.

(74) The Union is one of many markets where the Chinese exporting producers sell. In terms of prices, data from the Union industry, the cooperating Chinese exporting producer and from the Chinese export statistics confirm that several non-EU markets are at least as attractive as that of the Union.

(75) As concerns the Union industry export sales, these were often made at higher prices than sales within the Union. Subsequent to disclosure, the applicant argued that its higher export prices had nothing to do with the relative attractiveness of such markets but should rather be explained by the fact that these sales concerned small volume sales only. This argument should be rejected as the EU industry's overall sales volumes to export markets were still significant in the RIP (between 20 % and 30 % of the Union industry's production). It was also not substantiated that sales transactions to customers were in significantly lower volumes.

(76) Nor do statistical data on Chinese export prices of DCD to the different markets point at a distinguishing attractiveness of the EU market as compared to other export markets. Substantial spare capacity existed already during the RIP but did not translate into an injurious pricing behaviour by the Chinese exporters. The fact that spare capacity will further increase is not in this case an indication of a likelihood of recurring injury. Indiais, by far, the world's biggest market of DCD. Chinese export statistics show that Chinese sales volumes to the EU represented only around 10 % of the sales volumes made to India and that Chinese average EU sale prices per tonne were rather equivalent to Chinese sales prices to India. In other words, the prevailing market prices in the important Indian market (which have increased over the period considered by 65 % on average) are equally attractive to the DCD producers. There is no indication that spare capacities in China will translate into huge imports into the Union. For the time being it can be expected that at least part of such spare capacities will not be used in the near future. This conclusion is based on the past developments since data submitted by the applicant suggest that whereas between 2008 and the RIP Chinaincreased its capacity by some 50 %, it increased its overall production by only some 20 %. Projections made by the applicant up to 2016 indicate that Chinese capacities will be well in excess of global demand and, therefore, will remain idle for the time being. The country-wide excess capacity would be less if projections are made on the basis of sales data from the cooperating Chinese exporting producer. In any case, the fact that, unlike the EU production, (see recital 55 above) Chinese DCD production is not part of a fully integrated production chain, means that it is less costly to leave capacities unused.

(77) Moreover, certain growing demand in particular for the pharmaceutical industry in countries such as India (see recital 39) will probably be able to absorb a further part of Chinese overcapacity. Furthermore, the investigation concluded that AlzChem's DCD products were considered more attractive to EU users due, inter alia, to geographical location and reliability of supply. This gives a certain advantage over Chinese producers in respect of key users in the EU which purchase significant amounts of DCD. Therefore, in view of this context, the large production capacities in Chinaare not as such a reason to conclude that there is a likelihood of recurrence of injury. The mere fact that the Union industry has lost share in terms of global production capacity cannot overturn this conclusion.

5.2. **Impact of the projected market growth**

(78) Several parties mentioned the expected significant growth of the DCD market worldwide, mainly driven by well-established applications in the pharmaceutical and agricultural industry. This is because of the increase in production of anti-diabetes medicine predominantly in India. This growth is already announced by the increase in EU consumption in Table 1 above.

(79) In respect of the EU market, further growth is also expected but to a more limited degree. This is because a large pharmaceutical producer selling worldwide is located in the Union.

(80) Following disclosure, the applicant contested the extent of the growth. However, it is noted that its representations are contradictory in this respect and that several sources point at solid EU demand and a significant worldwide growth. Sales data from the cooperating Chinese exporting producer point at a rapidly increasing consumption in the Chinese domestic market. Therefore, nothing on file could substantiate the claim by the applicant, that demand is or will be flat.

(81) Subsequent to disclosure, the applicant also emphasised that it had lost sales volumes and market share on non-EU markets. In this respect, it should be noted that the EU industry has worked at almost full capacity with negligible stocks, while the EU consumption of DCD continued growing. Therefore, it is rather because of the fact that the EU industry had decided to focus more on the EU market without substantially increasing its production capacity that it could not take full advantage of the growth in the other markets. This situation could change, however, if its expansion plans materialise. It is therefore expected that even if import volumes of Chinese DCD into the Union increase in the near future, this would not automatically result in a recurrence of injury. The Union industry will, like Chinese producers, benefit from an increase in worldwide demand.

(82) In this respect, as mentioned above, the Union producer is very well rated in the market and appears to be the preferred supplier to several key customers, at least for certain DCD applications. The quality and reliability of its DCD products in the Union means that it is able to secure large contracts with key EU customers and this situation is expected to continue regardless of whether the measures are repealed or not. Post disclosure, a significant EU user stated that it would continue to source the product covered by the proceeding from the Union industry even if the anti-dumping measures were repealed.

5.3. **Other considerations**

(83) As explained in recitals 50 to 51, the Chinese import prices did not undercut the prices of the Union industry during the RIP. Undercutting was not present in respect of the normal regime (around one third of import volumes). A very low level of undercutting existed when the inward processing regime was also taken into account (the other two thirds of imports during the RIP). This situation differed from the substantial undercutting found in the original investigation and resulted from an overall gradual increase in import prices since measures were imposed, although this increase did not occur steadily. In fact, the CIF EU border price of Chinese imports rose by 73 % during the period 2009 up to the end of the RIP.

(84) The EU industry has shown that it remains competitive even in the absence of measures given its substantial exports (between 20 % and 30 % of production during the RIP) to non-EU countries where no measures are in force and where it has faced the Chinese competition without the support of anti-dumping measures. The decreasing export volume depicted below has to be seen in conjunction with the increasing sales volume into the Union and unchanged production capacity of the Union industry which has in principle been fully utilised.

Table 13

	2009	2010	2011	RIP
Export volume — Index (2009 = 100)	100	105	80	77
Export price (unrelated) — Index (2009 = 100)	100	100	109	125

(85) Prices of Chinese imports during the eight months following the RIP were also analysed in view of a submission made by the Union industry. The Union industry had submitted that severe price pressure caused by Chinese imports had recommenced shortly after the RIP. Based on Article 6(1) of the basic Regulation in conjunction with Article 11(5) thereof, information relating to a period subsequent to the RIP is normally not to be taken into account. However, even if this information were to be taken into account, at this stage no conclusions could be drawn from it as it is not clear whether these changed prices, if confirmed, are of a lasting nature. For instance although prices fell from the end of the RIP to May 2013 in June 2013 they rose again by 10 %. Given that these post RIP prices were still considerably higher than those observed in the original investigation, the prospects that in the nearer future they can significantly undermine the current situation of the Union industry, which is not suffering from material injury, do not reach the likelihood threshold.

(86) Finally, there is no indication that a repeal of the measures would have an impact on market prices in the short- to medium term. It should be noted that a large share of the DCD sold in the Union is subject to contracts running for several years and for the user industry a reliable and steady supply from a trusted producer seems to be of high importance. Moreover, two thirds of imports during the RIP were made under the inward processing regime whereby no import or anti-dumping duties are payable. In summary, while it cannot be ruled out that some contracts will be renegotiated and landed import prices may decrease, it is not likely that this will occur to injurious levels if duties are repealed.

5.4. **Conclusion on likelihood a recurrence of injury**

(87) In view of the foregoing, it is not likely that the Union industry, if measures were repealed, would have to decrease its sales and production volumes and/or prices of DCD to an extent such that its profitability and overall position would be materially affected.

(88) On the contrary, in view of the worldwide growth in consumption, the Chinese import volumes and prices during the RIP and the prices on other markets, it is expected that, in the absence of measures, the Union industry's DCD sales will continue to remain strong and also to contribute positively to its DCD-chain and NCN-chain of activities.

(89) The Union industry is expected to remain at full capacity whether the measures are repealed or not. Moreover, the Union industry completed the preliminary work for an expansion programme this year. In autumn 2013 it agreed in principle to substantially increase its DCD production capacity. The market, including important EU-based customers, welcomed this expansion plan. The expansion plan suggests that the Union industry believes worldwide demand to be strong and that AlzChem should be benefitting from this growth.

(90) Even if the Union industry is subject to some price pressure from Chinese imports in the near future, the effects in terms of prices and profitability are not expected to be major given that the Union industry has a large market share, advantages in terms of quality and reliability of supply and the capability of securing large contracts. The effects would therefore not meet a 'likelihood of injury' threshold within the meaning of Article 11(2) of the basic Regulation.

(91) The Commission concludes that there is no likelihood of recurrence of injury to the Union industry were the existing measures to be repealed.

6. **UNION INTEREST**

(92) As it has been concluded that there is no likelihood of recurrence of injury, no findings on Union interest are necessary.

7. **REPEAL OF ANTI-DUMPING MEASURES**

(93) All parties were informed of the essential facts and considerations on the basis of which it was intended to recommend that the existing measures be repealed. They were also granted a period to submit comments subsequent to that disclosure. The submissions and comments were, where warranted, duly taken into consideration, but none could alter the conclusions set out above.

(94) It follows from the above that, as provided for by Article 11(2) of the basic Regulation, the anti-dumping measures applicable to imports of DCD originating in China should be repealed and the proceeding terminated.

(95) Given certain circumstances described above, namely the existence of spare capacity in Chinaand the possible existence of undercutting post RIP, the Commission will monitor the imports of the product concerned with a view to facilitating swift appropriate action should the situation so require. The monitoring will be limited to a period of two years after the publication of this Regulation,

HAS ADOPTED THIS REGULATION:

Article 1

The anti-dumping duty on imports of 1-cyanoguanidine (dicyandiamide), currently falling within CN code 2926 20 00 and originating in the People's Republic of Chinais hereby repealed and the proceeding concerning these imports is terminated.

Article 2

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

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

Done at Brussels, 11 February 2014.

For the Council
The President
E. VENIZELOS