COMMISSION IMPLEMENTING REGULATION (EU) 2017/2230

of 4 December 2017

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

THE EUROPEAN COMMISSION,

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

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

Whereas:

A. PROCEDURE

1. Measures in force

(1) Following an anti-dumping investigation ('the original investigation'), the Council imposed, by means of Regulation (EC) No 1631/2005 ([2]) a definitive anti-dumping duty on imports of trichloroisocyanuric acid ('TCCA') originating in the People's Republic of China ('the PRC') and the United States of America ('USA'). The measures against the PRC took form of *ad valorem* individual duties ranging from 7,3 % to 40,5 % with a residual duty of 42,6 %.

(2) By Implementing Regulation (EU) No 855/2010 ([3]), the Council lowered the individual duty applied to one company from 14,1 % to 3,2 %.

(3) Following an expiry review of the measures ('first expiry review'), which only targeted imports of TCCA originating in the PRC, the Council extended the anti-dumping duties on TCCA of Chinese origin for another 5 years by Council Implementing Regulation (EU) No 1389/2011 ([4]).

(4) On 28 August 2013 and 1 July 2014 respectively, the Commission initiated two new exporter reviews. By Implementing Regulation (EU) No 569/2014 ([5]), the Commission imposed an individual duty of 32,8 % on TCCA manufactured by one new Chinese exporting producer ([6]). The other Chinese exporting producer ([7]) formally withdrew its request and consequently the Commission terminated the investigation by Commission Implementing Regulation (EU) 2015/392 ([8]).

([1]) OJ L 176, 30.6.2016, p. 21.
([2]) Council Regulation (EC) No 1631/2005 of 3 October 2005 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of trichloroisocyanuric acid originating in the People's Republic of China and the United States of America (OJ L 261, 7.10.2005, p. 1).
([3]) Council Implementing Regulation (EU) No 855/2010 of 27 September 2010 amending Regulation (EC) No 1631/2005 imposing a definitive anti-dumping duty on imports of trichloroisocyanuric acid originating, inter alia, in the People's Republic of China (OJ L 254, 29.9.2010, p. 1).
([4]) Council Implementing Regulation (EU) No 1389/2011 of 19 December 2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EC) No 1225/2009 (OJ L 346, 30.12.2011, p. 6).
([5]) Commission Implementing Regulation (EU) No 569/2014 of 23 May 2014 amending Council Implementing Regulation (EU) No 1389/2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China following a new exporter review pursuant to Article 11(4) of Council Regulation (EC) No 1225/2009 (OJ L 157, 27.5.2014, p. 80).
([6]) Liaocheng City Zhonglian Industry Co. Ltd
([7]) Juancheng Kangtai Chemical Co. Ltd
([8]) Commission Implementing Regulation (EU) 2015/392 of 9 March 2015 terminating a new exporter review of Council Implementing Regulation (EU) No 1389/2011 imposing definitive anti-dumping duty on imports of trichloroisocyanuric acid originating in the People's Republic of China, re-imposing the duty with regard to imports from the exporter and terminating the registration of these imports (OJ L 65, 10.3.2015, p. 18).

2. **Request for an expiry review**

(5) Following the publication of the notice of impending expiry ([1]) of the anti-dumping measures in force, the Commission received a request for the initiation of an expiry review of the measures in force pursuant to Article 11(2) of Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community ([2]).

(6) The request was lodged by two Union producers: Ercros SA and Inquide SA ('the applicants') who represented more than 50 % of the total estimated Union production of TCCA in 2015.

(7) The request was based on the grounds that the expiry of the measures in force would in all likelihood result in continuation of dumping and injury to the Union industry.

3. **Initiation of the expiry review**

(8) Having determined that sufficient evidence existed, the Commission announced on 20 December 2016, by a notice published in the *Official Journal of the European Union* ([3]) ('Notice of Initiation'), the initiation of an expiry review pursuant to Article 11(2) of the basic Regulation.

4. **Investigation**

4.1. *Review investigation period and period considered*

(9) The investigation of the likelihood of continuation or recurrence of dumping covered the period from 1 October 2015 to 30 September 2016 (the 'review investigation period' or 'RIP'). The examination of the trends relevant for the assessment of the likelihood of continuation or recurrence of injury covered the period from 1 January 2013 to the end of the review investigation period (the 'period considered').

4.2. *Parties concerned by the investigation*

(10) The Commission advised the applicants, the other known Union producer, known exporting producers in the PRC, importers, traders, users, associations known to be concerned and the representatives of the PRC of the initiation of the expiry review.

(11) 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. No party came forward and requested a hearing at the initiation stage of the investigation.

4.3. *Sampling*

(12) In the Notice of Initiation, the Commission stated that in accordance with Article 17 of the basic Regulation, it intended to sample exporting producers and unrelated importers in case a significant number of them came forward.

Sampling of exporting producers in the PRC

(13) In order to decide whether sampling was necessary and, if so, to select a sample, the Commission asked all known exporting producers in the PRC to provide the information specified in the Notice of Initiation. In addition, it asked the mission of the PRC to the Union to identify and/or contact other Chinese exporting producers, if any, that could be interested in participating in the investigation.

(14) 27 known Chinese exporting producers were contacted at the initiation. No exporting producer in the PRC came forward with a response to the sampling form or decided to cooperate in the expiry review. Therefore, no sampling of Chinese exporting producers was necessary in this procedure.

([1]) Notice of the impending expiry of certain anti-dumping measures (OJ C 117, 2.4.2016, p. 9).
([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ L 343, 22.12.2009, p. 51). This Regulation was repealed and replaced by the basic Regulation.
([3]) Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of trichloroisocyanuric acid originating in the People's Republic of China (OJ C 476, 20.12.2016, p. 6).

Sampling of unrelated importers

(15) To decide whether sampling was necessary and, if so, to select a sample, all known (in total 14) importers/distributors were invited to fill in the sampling form attached to the Notice of Initiation.

(16) Only five importers replied to the sampling form and therefore sampling was not considered necessary.

4.4. *Questionnaires and verification visits*

(17) The Commission sought and verified all the information deemed necessary for the purpose of determining the likelihood of continuation or recurrence of dumping, the likelihood of continuation or recurrence of injury and Union interest.

(18) The Commission sent questionnaires to two known producers in the analogue country (Japan), the three known Union producers, two unrelated importers and 39 known users in the Union.

(19) Complete questionnaire replies were received from the two analogue country producers, two Union producers ([1]) and one unrelated importer.

(20) The Commission carried out verifications at the premises of the following companies:

(a) Union producers ([2]):

— Ercros SA, Barcelona, Spain

(b) Importers:

— Diasa Industrial, Calahorra, Spain

(c) Producers in the market economy analogue country:

— Nissan Chemical Industries Ltd, Japan,

— Shikoku Chemicals Corporation, Japan.

B. **PRODUCT CONCERNED AND LIKE PRODUCT**

1. **Product concerned**

(21) The product concerned is TCCA and preparations thereof also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70, 3808 94 20 20) originating in the PRC.

(22) TCCA is a chemical product used as a broad-spectrum organic chlorine disinfectant and bleacher, in particular for disinfecting water in swimming pools and spas. Other uses include water treatment in septic tanks or cooling towers and cleansing of kitchen appliances. TCCA is sold in the form of powder, granules, tablets or chips. All forms of TCCA and preparations thereof share the same basic characteristics (disinfectant) and are therefore considered as a single product.

2. **Like product**

(23) The product concerned and the like product produced and sold on the domestic market of Japan, the analogue country, as well as the like product produced and sold in the Union by the Union industry were found to have the same basic physical, chemical and technical characteristics and uses.

(24) The Commission therefore concluded that these products are alike within the meaning of Article 1(4) of the basic Regulation.

([1]) The third known Union producer provided a partial questionnaire reply only.
([2]) After the initiation the Commission excluded one of the producers from the definition of Union industry (see section D.1, definition of the Union industry and Union production).

C. LIKELIHOOD OF CONTINUATION OR RECURRENCE OF DUMPING

(25) In accordance with Article 11(2) of the basic Regulation, the Commission first examined whether the expiry of the measures in force would be likely to lead to a continuation or recurrence of dumping from the PRC.

1. **Cooperation from the PRC**

(26) Upon initiation of the review investigation all known Chinese exporting producers were invited to come forward and to provide replies to the sampling form attached to the Notice of Initiation. However, no Chinese company reacted to the initiation of the review investigation and/or decided to cooperate at any further stage of the procedure.

(27) The Mission of the People's Republic of China to the European Union was informed by *note verbale* that under these circumstances the Commission intended to base its findings concerning the likelihood of continuation or recurrence of dumping and injury on the facts available pursuant to Article 18 of the basic Regulation. No comments were received.

(28) Consequently, findings with regard to continuation or recurrence of dumping were based on the information contained in the review request, Eurostat statistics, the Article 14(6) database, and the Chinese Export Database and market estimations of the cooperating analogue country producers.

2. **Dumping during the review investigation period**

2.1. *Market economy third country*

(29) In accordance with Article 2(7)(a) of the basic Regulation, normal value was determined on the basis of the prices paid or payable on the domestic market or the constructed value in an appropriate market economy third country (the 'analogue country').

(30) Both in the original investigation and in the first expiry review the Commission chose Japan as analogue country for the purpose of establishing normal value. Following the review request, in the Notice of Initiation, the Commission informed interested parties that it again envisaged using Japan as analogue country. In addition, the Notice of Initiation mentioned that other market economy producers may be located, inter alia, in the USA. No comments were received.

(31) The Commission contacted all known exporting producers, namely two in Japan and three in the USA. None of the companies from the USA agreed to cooperate in the investigation. The two Japanese companies, Nissan Chemical Industries Ltd and Shikoku Chemicals Corporation agreed to cooperate in the investigation and replied to the questionnaire which was subsequently verified on spot.

(32) Japan has a sizeable domestic market ([1]) of TCCA with a satisfactory level of competition therein. There are at least three competing domestic producers ([2]) in Japan and during the review investigation period 15 % of the market was covered by imports ([3]). The country is not protected by high customs duties ([4]). Finally, Japan has no trade defence measures on imports of TCCA.

(33) In view of the above, the Commission concluded that Japan was an appropriate analogue country under Article 2(7)(a) of the basic Regulation.

2.2. *Chinese exporting producers without MET*

(34) Due to the lack of cooperation from the PRC, the dumping calculation was performed without differentiation of the product types.

([1]) Estimated to be at least 10 000 tonnes annually.

([2]) The two cooperating exporting producers informed the Commission that a third Japanese TCCA producer existed, Nankai Chemical Co. Ltd.

([3]) According to the cooperating Japanese producers only the PRC is selling TCCA on the Japanese market. According to the Chinese Export Database, the PRC sold roughly 1 500 tonnes of TCCA to Japan during the review investigation period.

([4]) According to the review request the regular customs duty is 4,6 % for HS code 2933 69 and 4,9 % for HS code 3808 94.

(a) Normal value

(35) Normal value for exporting producers without MET was established based on the data verified at the premises of the two cooperating producers in Japan.

(36) In accordance with Article 2(2) of the basic Regulation, the Commission first examined whether the total volume of domestic sales of the like product to independent customers made by the cooperating analogue country producers during the review investigation period was representative. To this end, their combined domestic sales volumes were compared to the total volume of the product concerned exported by Chinese exporting producers without MET to the Union in the same period. On that basis, the Commission found that the like product was sold in representative quantities on the Japanese domestic market.

(37) The Commission subsequently examined for the analogue country producers whether the product sold domestically could be considered as being sold in the ordinary course of trade pursuant to Article 2(4) of the basic Regulation.

(38) The ordinary course of trade test revealed that the volume sold at a net sales price equal to or above the calculated cost of production (costs of manufacturing plus SG&A costs), represented less than 80 % of the total domestic sales volume, consequently, normal value was established based on the prices of the profitable domestic transactions only.

(b) Export price

(39) In the absence of cooperation from Chinese exporters, the average export price for the review investigation period was established on the basis of the Article 14(6) database.

(c) Comparison

(40) The normal value and the average Chinese export price as determined above were compared on an ex-works basis.

(41) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. For this purpose, normal value was adjusted for inland transport and handling costs (in the range of 8 %-13 %). The export price was adjusted for ocean freight and inland transport fees based on the estimates contained in the request for review (ranging between 3 %-8 %).

(d) Dumping margin of Chinese exporting producers without MET

(42) The dumping margin thus established for Chinese exporting producers without MET amounted to 80,2 % during the review investigation period.

2.3. *Chinese exporting producers with MET*

(a) Normal value

(43) Normal value for exporting producers with MET was based on the cost of production in the PRC as estimated in the request for review.

(b) Export price

(44) The export price was established on the basis of the export prices of the three MET companies to the Union as recorded in the Article 14(6) database.

(c) Comparison

(45) The normal value and the average Chinese export price as determined above were compared on an ex-works basis.

(46) For the purpose of ensuring a fair comparison between the normal value and the export price, due allowance in the form of adjustments was made for differences affecting prices and price comparability in accordance with Article 2(10) of the basic Regulation. For this purpose, based on the estimations contained in the request for review, the export price was adjusted for ocean freight and inland transport fees (ranging between 3 %-8 %).

(d) Dumping margin of Chinese exporting producers with MET

(47) The dumping margins found were 49,4 % for Hebei Jiheng Chemical Co. Limited, 49,2 % for Heze Huayi Chemical Co. Limited and 37,4 % for Puyang Cleanway Chemicals Limited.

2.4. *Conclusion on dumping in the review investigation period*

(48) The Commission found that Chinese exporting producers continued to export TCCA to the Union at dumped prices during the review investigation.

3. **Evidence of likelihood of continuation of dumping**

(49) The Commission analysed whether there was a likelihood of continuation of dumping should the measures be allowed to lapse. When doing so, it looked into the Chinese spare capacity, attractiveness of the Union market and the behaviour of Chinese exporters on third markets.

(a) Production and spare capacity in the PRC

(50) The first expiry review estimated the spare capacity of TCCA production in the PRC at 180 000 tonnes annually ([1]). According to the request for review, the total Chinese production capacity was estimated at 278 000 tonnes in 2015 ([2]). The Chinese production during the RIP was estimated at around 145 000 tonnes, which included 125 000 tonnes of exports ([3]) and an estimated 20 000 tonnes of domestic consumption ([4]). This gives an annual spare capacity of about 130 000 tonnes, which is almost three times the Union consumption as established in Table 1 below. One of the Japanese analogue country producers, based on its market intelligence, had a more moderate estimation of the spare capacity in the PRC of around 50 000 tonnes annually. This data could not be verified, however. In any case, on the basis of the facts available, there is no doubt that Chinese spare capacity of TCCA is significant and easily exceeds the total Union consumption (ranging between approximately 41 000 and 48 000 tonnes between 2013 and the RIP).

(b) Attractiveness of the Union market and behaviour of the Chinese exporters on third country markets

(51) The attractiveness of the Union market is reflected in the fact that despite the anti-dumping measures in force, Chinese export volumes to the Union continued to expand. The PRC exported 28 000 tonnes of TCCA to the Union in the review investigation period, from 21 500 tonnes in the investigation period of the original investigation.

(52) The Union market is the second-biggest TCCA market in the world after the USA, meaning that it is attractive in terms of its size (volume of sales opportunities).

([1]) Implementing Regulation (EU) No 1389/2011, recital 35 (OJ L 346, 30.12.2011, p. 6).
([2]) *Source:* CEFIC (European Chemical Industry Council) and market intelligence of the applicants, p. 38 of the review request.
([3]) Chinese Export Database.
([4]) Review request, page 33.

(53) Based on the Chinese Export Database, the Commission found that during the review investigation period roughly 23 % of Chinese exports were destined to the Union. When comparing the average export prices (FOB China) the Commission found that around 47 % of the Chinese rest of the world sales volume was sold on average prices that are lower than the average export price to the Union ([1]). This export volume corresponds to 46 100 tonnes, i.e. a volume in the magnitude of the entire Union consumption. Moreover, on the basis of the Chinese export database, the Commission also identified that the majority of these sales (around 85 %, equivalent to 40 000 tonnes) were made by Chinese exporting producers without MET (i.e. companies currently subject to the highest anti-dumping duties on the Union market). Thus, these volumes are even more likely to be redirected to the Union market as soon as the measures lapse given that in their case the removal of the relatively high duties constitutes an even stronger incentive.

(54) Based on the above, the Commission concluded that the Union market constituted an attractive market for Chinese exporting producers of TCCA both in terms of its prices and its size, and that at least 40 000 tonnes of Chinese TCCA sold at dumped prices would in all likelihood be re-directed to the Union market as soon as the current anti-dumping measures are removed.

(c) Conclusion on dumping and likelihood of continuation of dumping

(55) The findings of the investigation showed that the Chinese exporting producers continued selling TCCA at dumped prices to the Union market. The Commission also established that the PRC has significant spare capacity of the product concerned. Finally, the Union market remains attractive for the Chinese exporting producers given its large size and relatively high prices.

D. **INJURY**

1. **Definition of the Union industry and Union production**

(56) The like product was manufactured by three Union producers during the review investigation period ([2]).

(57) In the course of the investigation, the Commission established that one of these producers, Inquide S.A.U., should not be considered as part of the 'Union industry' within the meaning of Article 4(1) of the basic Regulation given that this producer was itself a net importer of the allegedly dumped product. The data submitted in its questionnaire reply revealed that this company imported the product concerned, that the volumes imported exceeded the volumes manufactured in the Union, and that these imports were not of a temporary nature.

(58) Against this background, the Commission decided not to regard this company as part of the Union industry. In practical terms, this decision implies that data relating to the company were disregarded when the injury indicators pertinent to the situation of the Union industry were established. Inquide S.A.U. sales volumes were, however, considered for establishing the total Union consumption.

(59) As a result of the exclusion of Inquide S.A.U., and in order to respect confidential business information, information concerning the two Union producers concerned is presented in an indexed form or in ranges.

2. **Union consumption**

(60) Union consumption was established on the basis of the verified sales volumes of the Union industry in the Union market, the verified sales volume of Inquide S.A.U., and the imports volumes (TARIC level) into the Union market reported in Eurostat.

([1]) The average Chinese export price levels varied greatly depending on the country of destination. The highest price levels were found for destinations such as the USA, Brazil, Argentina and South Africa (in descending order of sales quantity). The main destinations with price levels below the export price to the Union included, in descending order, Mexico, Indonesia, Thailand, India and Vietnam. The Chinese Export Database has one CN code for TCCA meaning that there is no information on the exact product mix (tablets v granules/powder). Nevertheless, given that, based on Eurostat, most of Chinese exports to the Union consisted of granules, i.e. the cheaper version of the product concerned, and given that all forms of TCCA are considered as the product concerned for the purposes of this review investigation, the outcome of the price comparison should not be affected.

([2]) Ercros SA, Inquide S.A.U. and 3VSIGMA.

(61) During the period considered the Union consumption developed as follows

Table 1

Union consumption

	2013	2014	2015	RIP
Volume (tonnes)	41 217	44 446	44 637	48 662
Index (2013 = 100)	*100*	*108*	*108*	*118*

Source: Eurostat (Comext), data provided by the Union industry.

(62) The Union consumption increased continuously and overall by 18 % from 2013 to the RIP. This had major implications on certain injury indicators as detailed below.

3. **Imports from the country concerned**

3.1. *Volume and market share of imports from the People's Republic of China*

(63) Imports into the Union from the PRC developed as follows:

Table 2

Volume and market share of imports from the PRC

	2013	2014	2015	RIP
Volume of imports (MT)	17 021	23 457	22 589	28 095
Index (2013 = 100)	*100*	*138*	*133*	*165*
Market share (%)	41,3	52,8	50,6	57,7

Source: Eurostat (Comext).

(64) Imports of TCCA from the PRC have increased overall in absolute terms and in terms of market share during the period considered. The one minor exception was 2015, when import volumes actually decreased slightly as compared with the previous year, reflecting the stagnation in consumption in the Union market in that year, as shown in Table 1. This downturn of imports was in turn followed by a notable resurgence of imports in the RIP (more than 24 % as compared to 2015). Considered comprehensibly, the dynamic surge in consumption as shown in Table 1 was almost exclusively absorbed by the rising imports from the PRC.

(65) In parallel, PRC imports increased significantly their market share since 2013, consolidating a significant gain of more than 16 percentage points between 2013 and the RIP.

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

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

Table 3

Average price of imports from the PRC

	2013	2014	2015	RIP
Average CIF Union frontier price EUR/tonne	1 262	1 174	1 445	1 308
Index (2013 = 100)	*100*	*93*	*115*	*104*

Source: Eurostat (Comext).

(67) The average import prices from the PRC fluctuated slightly during the period considered, marking an overall increase of 4 %. This trend may, to a certain extent, reflect variations from year to year in the product mix ([1]).

(68) The data from the Chinese Export Database ([2]) revealed, nonetheless, a different pricing pattern. Indeed, for the reference period, the average export price of the TCCA to the Union in USD decreased by 9 %. This suggests that the price increase was a consequence of currency exchange fluctuations, rather than a reflection of the Chinese exporting producers pricing behaviour in the Union market, as gathered firstly from Eurostat.

(69) Prices of PRC imports remained below the prices of the Union industry during the entire period considered, with the exception of 2015. In determining the extent of price undercutting, the Commission based its calculation on the average CIF export prices of the PRC obtained from Eurostat, with appropriate adjustments upwards for customs duties and post-importation costs ([3]). The prices of the product concerned were compared to the weighted average price of the Union industry adjusted to ex-works level.

(70) The comparison showed that, during the RIP, imports from the PRC undercut the prices of the Union industry by 2 %-4 %, without taking into account the anti-dumping duty in place.

4. **Imports from other third countries**

4.1. *Volume and market share of imports from other third countries*

(71) The following table shows the development of imports to the Union from third countries other than the PRC during the period considered in terms of volume and market share:

Table 4

Imports from other third countries

	2013	2014	2015	RIP
Volume (tonnes)	659	853	655	1 874

([1]) The product concerned is manufactured in different forms falling into two main categories: granular and powder products on the one hand and tablets on the other. Prices for tablets are higher than prices for granular and/or powder products. This means that the prices of the product concerned may vary according to the variation in composition of the given product mix. In other words, a product mix containing a higher proportion of tablets would be more expensive than a product mix containing comparatively more granular and powder products.

([2]) The Chinese Export Database provides prices at FOB levels. These were adjusted upwards by the average transportation costs to the Union as well as post importation costs to obtain an estimated Union landed price. See recital 41 above for an estimate thereof.

([3]) Chinese CIF export prices were adjusted by 6-8 %.

	2013	2014	2015	RIP
Market share (%)	1,6	1,9	1,5	3,9
Average price (EUR/tonne)	1 466	1 359	1 706	1 438

Source: Eurostat (Comext).

(72) Either in terms of volume or market share, imports into the Union from countries other than the PRC were negligible between 2013 and 2015 and increased moderately in percentage points in the RIP. With regard to the level of prices of these imports, the observed trend may, to a certain extent, reflect variations from year to year in the product mix. However it should be stressed that the average price of imports from other third countries was never as low as the Chinese prices.

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

5.1. *General remarks*

(73) In accordance with Article 3(5) of the basic Regulation, the examination of the impact of the dumped imports on the Union industry included an evaluation of all economic indicators having a bearing on the state of the Union industry during the period considered.

(74) For the injury determination, the Commission did not make a distinction between macroeconomic and micro-economic injury indicators since the Union industry within the meaning of Article 4(1) of the basic Regulation is constituted of only two producers. The Commission evaluated the economic indicators on the basis of data related to these two producers, with the exception of investments and return on investments which due to a lack of data only concern one of the two companies.

(75) The economic indicators are: production, production capacity, capacity utilisation, sales volume, market share, employment, productivity, labour costs, magnitude of the dumping margin, and recovery from past dumping, sales unit prices, unit cost, inventories, profitability, cash flow, investments, return on investments, and ability to raise capital. They are analysed as follows.

5.2. *Injury indicators*

5.2.1. Production, production capacity and capacity utilisation

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

Table 5

Production, production capacity and capacity utilisation

	2013	2014	2015	RIP
Production volume — Index	*100*	*113*	*129*	*132*
Production capacity — Index	*100*	*115*	*120*	*120*
Capacity utilisation — Index	*100*	*98*	*107*	*110*

Source: Data provided by the Union industry (2013 = 100).

(77) Since 2013 the Union producers have gradually increased their production volumes and their installed capacity, reacting accordingly to the increasing demand, as shown in Table 1 above. From 2015 the Union industry has operated rather at full capacity. This optimal use of the production facilities was positively reflected in lower manufacturing costs and, therefore, in the profitability of the Union industry, as noted further on.

5.2.2. Sales volume, market share

(78) The Union industry's sales volume to independent customers and market share developed over the period considered as follows:

Table 6

Sales volume and market share

	2013	2014	2015	RIP
Sales volume (Index 2013 = 100)	*100*	*90*	*99*	*95*
Market share	40 %-50 %	35 %-45 %	35 %-45 %	30 %-40 %

Source: Eurostat (Comext), data provided by the Union industry.

(79) Overall, the Union industry's sales dropped by 5 % between 2013 and the RIP, even though consumption increased by 18 % during that same period. As a result, the market share of the Union industry decreased noticeably year by year. Conversely, during the same time frame the Chinese exporting producers were able to increase substantially their market share and their export volumes, as indicated in Table 2.

5.2.3. Employment and productivity

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

Table 7

Employment and productivity

	2013	2014	2015	RIP
Number of employees (Index 2013 = 100)	*100*	*105*	*110*	*112*
Productivity (Index 2013 = 100)	*100*	*107*	*117*	*119*

Source: Data provided by the Union industry.

(81) Employment of the Union industry increased by 12 % between 2013 and the RIP. Productivity expressed by production volume per employee increased by 19 % during the period considered

5.2.4. Labour costs

(82) The average labour costs of the Union industry developed over the period considered as follows:

Table 8

Average labour costs per employee

	2013	2014	2015	RIP
Average labour costs per employee (Index 2013 = 100)	*100*	*96*	*94*	*96*

Source: Data provided by the Union industry.

(83) Average labour costs per employee decreased by 4 % from 2013 to 2014, and subsequently remained relatively flat until the RIP.

5.2.5. Sales prices and factors affecting prices

(84) The average sales prices of the Union industry to unrelated customers in the Union developed over the period considered as follows:

Table 9

Sales prices and cost of goods sold of the Union industry

	2013	2014	2015	RIP
Average unit price (Index 2013 = 100)	*100*	*102*	*100*	*104*
Cost of goods sold (Index 2013 = 100)	*100*	*97*	*98*	*95*

Source: Data provided by the Union industry.

(85) Unit prices of TCCA in the EU remained fairly stable, on average, until 2015, and increased slightly, by 4 %, during the RIP. This increase reflects, to a certain extent, the referred product mix effect (see footnote 24 above).

(86) Due to the increasing volumes of production and the price evolution of raw materials the unit cost of the goods sold went down by 5 % during the period considered.

5.2.6. Inventories

Table 10

Inventories

	2013	2014	2015	RIP
Closing stocks (tonnes)	4 500	2 696	2 821	3 940
Index (2013 = 100)	*100*	*60*	*63*	*88*

Source: Data provided by the Union industry.

(87) The level of stocks decreased by 40 % between 2013 and 2014, and remained within the same range in 2015. The higher level of stocks at the end of the RIP mirrors the decrease in sales during the same period.

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

(88) Profitability, cash flow, investments and return on investments of the Union producer developed over the period considered as follows:

Table 11

Profitability, cash flow, investments and return on investment

	2013	2014	2015	RIP
Profitability of sales in the Union to unrelated customers (Index)	*– 100*	*– 46*	*– 73*	*13*

	2013	2014	2015	RIP
Investments (Index 2014 = 100) (*)	—	*100*	*198*	*66*
Return on investments (ranges)	– 20 % to – 10 %	– 10 % to 0 %	– 20 % to – 10 %	0 % to 10 %

Source: Data provided by the Union industry.
(*) No investments were made in 2013.

(89) The Commission established the profitability of the Union industry by expressing the pre-tax net profit of the sales of the like product to unrelated customers in the Union as a percentage of the turnover of those sales. During the period considered, the profitability of the Union industry improved gradually, and turned positive during the RIP. This profitability is nonetheless much lower than the target profit established in the original investigation, which was set at the level of the profit achieved by the Union industry in the absence of injurious dumping.

(90) The period from 2013 to 2015 was characterised by lack of profitability and negative returns on investments. The latest figures point to a comeback to meagre positive returns. The considerable volume pressure exerted on the Union industry by the increasing imports from the PRC over 2013 and the RIP prevented the Union industry from fully benefiting from the dynamic growth of the Union consumption. As indicated in the recital 64 above, this growth was almost completely absorbed by the dumped imports from the PRC.

(91) The net cash flow is the Union industry's ability to self-finance their activities. The net cash flow increased several times during the period considered. The substantial increase in cash flow is mainly explained by changes in the working capital.

(92) The levels observed in the period 2014 to the RIP reflect not only standard investment rates covering the continuous maintenance and necessary replacement of machine parts but the stakes to improve productivity and production processes.

(93) The return on investments is the profit in percentage of the net book value of fixed assets. As the other financial indicators, the return on investments related to the production and sale of the like product also developed positively but remains far off reasonable targets.

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

(94) The dumping margins found were significantly above the *de minimis* level and the current level of measures (see recitals 2, 4, and 47 above). Moreover, given the spare capacity and prices of imports from the PRC (see recitals 50 and 66), the impact of the actual margins of dumping on the Union industry cannot be considered negligible.

(95) The original measures were imposed in October 2005. As indicated in recital 89 above, in the RIP the Union industry achieved a yield far short from the 10 % target profit as determined in the original investigation ([1]). Taking into account the overall situation of the Union industry as well as the evolution of imports from the PRC in recent years, it can be concluded that the Union industry has not fully recovered from these effects despite the anti-dumping duties in force.

5.3. *Conclusion on the situation of the Union industry*

(96) In the light of the foregoing, it is concluded that the Union industry did not suffer material injury within the meaning of Article 3(5) of the basic Regulation during the review investigation period. A number of indicators, in particular the financial indicators, improved over the period considered.

([1]) Regulation (EC) No 1631/2005.

(97) However, the indicators referred to cannot be seen in isolation from each other. In fact, the loss of market share, the declining sales volumes and the insufficient profitability levels, when analysed in correlation with a rather favourable consumption context, confirm that the Union industry could have reasonably been expected to perform closer to the margin of 10 % of turnover regarded as reasonable for the sector under normal trade conditions in the absence of dumped imports. Furthermore, the positive trend observed in production, capacity and profitability should also be attributed to decisions taken by the Union industry to invest in additional production facilities and to a more rational use of the existing machinery. This optimal use of capacity is also explained by the rising level of exports to third markets.

(98) These developments, in conjunction with the significant rise of Chinese dumped imports, lead to the conclusion that despite the positive trend observed for some injury factors, overall, although the Union industry is not suffering material injury during the RIP it is still in a vulnerable situation where it would not be able to cope with new surges of dumped imports from PRC.

E. **LIKELIHOOD OF RECURRENCE OF INJURY**

1. **Preliminary remarks**

(99) As concluded in recitals 96 to 98, the Union industry did not suffer material injury during the review investigation period, but its situation is still precarious.

(100) To establish the likelihood of recurrence of injury should the measures against the PRC be repealed the following elements were analysed: (a) the availability of spare capacity of the exporting producers from the PRC; (b) attractiveness of the Union market and export behaviour of Chinese exporting producers on other third markets; and (c) likely impact of TCCA imports from the PRC.

2. **Spare capacity in the PRC**

(101) The PRC is the largest producer of TCCA in the world and accounted for around 57 % of world's overall production capacity by the end of 2015. The analysis made in recital 50 showed that available spare capacities in China were estimated to exceed by a significant degree the total Union consumption in the RIP. In this respect it is important to note that, based on information from the review request and also confirmed by the cooperating Japanese exporting producers, the Union market is the second largest in the world after the USA.

(102) In view of these elements, there is a strong likelihood that, should the measures be lifted, the Chinese exporting producers would direct their production to the Union market.

3. **Attractiveness of the Union market and export behaviour of Chinese exporting producers on other third markets**

(103) The attractiveness of the Union market is reflected in the fact that despite the anti-dumping measures in force, Chinese export volumes to the Union market expanded rapidly over the period considered. The PRC exported 28 000 tonnes of TCCA to the Union in the RIP up from 17 000 tonnes in 2013.

(104) The Commission determined as well that during the RIP roughly 23 % of Chinese exports were destined to the Union market. On the other hand, the evidence collected served to establish that around 47 % of the Chinese 'rest of the world' export sales volume was sold on average prices that were lower than the average export price to the Union market. This export volume corresponds to a volume roughly equivalent to the entire Union consumption.

(105) In case measures were allowed to lapse, as mentioned in recital 53, export volumes made by Chinese exporting producers without MET are even more likely to be redirected to the Union market, given that in their case the removal of the relatively high duties constitutes a stronger incentive.

(106) For the reasons outlined, the Commission concluded that the Union market constitutes an attractive market for Chinese exporting producers, both in terms of prices and in terms of size.

4. **Impact of Chinese dumping on the Union industry**

(107) When assessing the likely impact of Chinese dumped imports on the Union industry, the Commission performed a simulation to assess the impact that the Chinese volumes are likely to have on the Union industry. Assuming a rather moderate sales and production volume decrease of 5 000 tonnes as a result of an increase in Chinese TCCA imports, the unit cost of production would increase by 7,1 %, deteriorating the situation of the Union producers and rendering them loss-making.

(108) In addition, it cannot be excluded that further Chinese imports would also increase the price pressure in the Union market. As mentioned in recital 70, the import prices of the Chinese exporting producers in the Union market undercut the Union industry sales price by 2 %-4 % already today. In the likely event that the referred additional imports would come in at the same price, the negative effect on the Union industry would be further aggravated.

(109) Profitability, although developing positively, is still too low to ensure financial sustainability in the long run. Moreover the referred returns did take place in a context of increasing production volumes that was not reflected in terms of market share. Hence, the Union industry could have reasonably been expected to further amortise its fixed costs over the larger volumes produced.

(110) It is important to note that there have not been TCCA imports into the EU from other countries in sufficient volume as to consider them as a relevant factor to the current situation of the Union industry.

5. **Conclusion on the likelihood of recurrence of injury**

(111) On the basis of the above, and in the absence of any comments, the Commission found that the repeal of the measures would result in recurrence of injury to the Union industry.

F. **UNION INTEREST**

1. **Preliminary remarks**

(112) In accordance with Article 21 of the basic Regulation, the Commission examined whether maintaining the existing measures against the PRC would be against the interest of the Union as a whole. The determination of the Union interest was based on an appreciation of all the various interests involved, including those of the Union industry, importers and users.

2. **Interest of the Union industry**

(113) In view of the conclusions on the situation of the Union industry set out in recitals 96 to 98 above, and in line with the arguments underpinning the likelihood of recurrence of injury as determined in the recital 111, the Commission found that the expiry of the measures in force would lead to a deterioration of the precarious economic situation of the Union TCCA industry, which has struggled to cope with the rising dumped imports from the PRC and whose situation is far from equitable as compared to the exporting producers from the PRC.

(114) Thus, the continuation of measures would benefit the Union industry, which could in this case further recover from the effect of continuous dumping. In contrast, the discontinuation of the measures would put a stop to the rehabilitation of the Union industry, seriously threatening its viability, and, as a result, putting its existence at risk, thus reducing supply and competition on the market.

3. **Interest of importers**

(115) 14 known importers/distributors, 11 European National Federations and two European associations were contacted at the initiation stage. One importer in Spain provided a questionnaire reply.

(116) This trader bought large quantities of TCCA from the PRC (6 % of total imports) during the RIP. It also bought limited quantities of TCCA from Union suppliers. The TCCA business is part of a larger business division that in 2015 constituted 35 % of this company's total turnover. The company reported a profit for the product under review in the RIP but eventually did not provide sufficient explanations as to how they determined this profit. The company opposes the continuation of measures but did not put forth convincing arguments supporting their view.

(117) As set out in recital 57, in the course of the investigation, the Commission decided not to regard one of the applicants, Inquide S.A.U., as part of the Union industry, on the grounds that this producer was itself a net importer of the allegedly dumped product. Having been notified, Inquide S.A.U. did not object to this decision. However, Inquide S.A.U. stressed that, notwithstanding the Commission decision, their support to the continuation of the measures on imports of TCCA from the PRC remained unaltered.

(118) In the absence of any further information, the investigation did not reveal that the continuation of the measures would have any significant negative impact for this importer, or importers in general.

(119) Therefore, based on the available information and in the absence of any information/evidence to the contrary, the Commission concluded that the maintenance of measures has no significant negative impact for the importers in the Union.

4. **Interest of users**

(120) Questionnaires were sent to 39 identified users at the initiation stage. No user submitted a questionnaire reply. In the absence of such replies, no conclusions could be drawn on the interest of users. In the absence of new information, the support by users for these measures, as set out in recital 91 of the first expiry review Regulation, i.e. that the continuation of measures would not have a negative impact on competition in the Union market and that it would provide the user industry with a wider range of suppliers competing at market price, can thus be considered as still relevant.

5. **Conclusion on Union interest**

(121) Taking all the above factors into account, the Commission concluded that there are no compelling reasons against maintaining the measures on imports of TCCA from the PRC.

G. **DISCLOSURE**

(122) All parties were informed of the essential facts and considerations on the basis of which the Commission intended to maintain the existing measures against the PRC. They were also granted a period to submit comments subsequent to that disclosure. None of the interested parties submitted comments to the disclosure.

H. **ANTI-DUMPING MEASURES**

(123) 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 TCCA originating in the PRC, imposed by Implementing Regulation (EU) No 1389/2011, should be maintained.

(124) The Committee established by Article 15(1) of Regulation (EU) 2016/1036 did not deliver an opinion,

HAS ADOPTED THIS REGULATION:

Article 1

1. A definitive anti-dumping duty is hereby imposed on imports of trichloroisocyanuric acid and preparations thereof, also referred to as 'symclosene' under the international non-proprietary name (INN), currently falling within CN codes ex 2933 69 80 and ex 3808 94 20 (TARIC codes 2933 69 80 70, 3808 94 20 20), and originating in the People's Republic of China.

2. The rate of the definitive anti-dumping duty applicable before duty to the net free-at-Union-frontier price for products manufactured by the companies listed below shall be as follows:

Company	Anti-dumping duty rate	TARIC additional code
Hebei Jiheng Chemical Co. Limited	8,1 %	A604
Puyang Cleanway Chemicals Limited	7,3 %	A628

Company	Anti-dumping duty rate	TARIC additional code
Heze Huayi Chemical Co. Limited	3,2 %	A629
Zhucheng Taisheng Chemical Co. Limited	40,5 %	A627
Liaocheng City Zhonglian Industry Co. Ltd	32,8 %	A998
All other companies	42,6 %	A999

3. The application of the individual duty rates specified for the companies mentioned in paragraph 2 shall be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice, which shall conform to the requirements set out in the Annex. If no such invoice is presented, the duty rate applicable to all other companies shall apply.

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

Article 2

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

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

Done at Brussels, 4 December 2017.

For the Commission
The President
Jean-Claude JUNCKER

ANNEX

A declaration signed by an official of the entity issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(3):

1. The name and function of the official of the entity issuing the commercial invoice.

2. The following declaration:

   'I, the undersigned, certify that the (volume) of trichloroisocyanuric acid sold for export to the European Union covered by this invoice was manufactured by (company name and registered seat) (TARIC additional code) in the People's Republic of China. I declare that the information provided in this invoice is complete and correct.

   Date and signature'