EUROPEAN COMMISSION

DIRECTORATE-GENERAL FOR TRADE

Brussels, 1 July 2024
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Taipei Representative Office
in the European Union
Square de Meeûs 26-27
B-1000 Brussels
By email:
bel@mofa.gov.tw;
belgium@sa.moea.gov.tw

**Subject:** Notice of initiation of an anti-dumping proceeding concerning imports of epoxy resins originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand

Dear Sir, / Dear Madam,

The Directorate-General for Trade of the European Commission presents its compliments to the Taipei Representative Office to the EU and has the honour to refer to the letter sent on 11 June 2024 (Ares(2024)4815119) regarding a complaint requesting the initiation of an anti-dumping proceeding concerning imports of epoxy resins originating in Thailand, Taiwan, Republic of Korea, and the People's Republic of China.

The Commission has decided to initiate an anti-dumping investigation and a Notice of Initiation has been published in the *Official Journal of the European Union*. Copies of this notice and of the complaint are attached to this Note Verbale for information.

In view of the potentially large number of exporting producers in Taiwan involved in this proceeding and in order to complete the investigation within the statutory time-limits, the Commission may limit the number of exporting producers that will be investigated by selecting a sample.

All exporting producers and/or representative associations should first contact the Commission and provide the information requested in the Notice of Initiation **within 7 days** of its publication. Only the companies subsequently selected for the sample or requesting the determination of an individual dumping margin in accordance with Article 17(3) of the legislation in force[1] will be asked to complete the questionnaire that is published on the website of DG TRADE, within the time limit specified in the attached

[1] 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 ('the basic anti-dumping Regulation') (OJ L 176, 30.6.2016, p. 21).

Notice of Initiation. The link to the questionnaire is https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733 .

It would be appreciated if the Taipei Representative Office to the EU could assist in the appointment of a representative, for example an association or a law firm, who could cooperate with the Commission in the selection of the sample.

The attention of the Taipei Representative Office to the EU is drawn to the fact that, if sufficient cooperation on the part of exporting producers is not forthcoming, the Commission may base its findings on the facts available, in accordance with Article 18 of 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. Please note that a finding based on facts available may be less advantageous to the parties concerned.

Without prejudice to the foregoing, it should be noted that, should measures eventually be imposed, any exporting producer that remains unknown to the Commission will automatically be subject to the residual duty.

The present notification is provided in accordance with Article 5(11) of the relevant legislation in force and with Article 6.1.3 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

The Directorate-General for Trade of the European Commission takes this opportunity to renew to the Taipei Representative Office to the EU the assurance of its highest consideration.

Lukas PEJCOCH
Head of Sector

Encl.: Notice of Initiation
Non-confidential copy of the complaint

Official Journal
of the European Union

Ref. Ares(2024)4734819 - 01/07/2024
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C series

C/2024/4137

1.7.2024

# Notice of initiation of an anti-dumping proceeding concerning imports of epoxy resins originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand

(C/2024/4137)

The European Commission ('the Commission') has received a complaint pursuant to Article 5 of 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'), alleging that imports of epoxy resins originating in the People's Republic of China ('China'), the Republic of Korea ('Korea'), Taiwan and Thailand, are being dumped and are thereby causing injury [2] to the Union industry.

## 1. Complaint

The complaint was lodged on 6 June 2024 by the Ad Hoc Coalition of Epoxy Resin producers ('the complainant'). The complaint was made on behalf of the Union industry of epoxy resins in the sense of Article 5(4) of the basic Regulation.

An open version of the complaint and the analysis of the degree of support by Union producers for the complaint are available in the file for inspection by interested parties. Section 5.6 of this Notice provides information about access to the file for interested parties.

## 2. Product under investigation

The product subject to this investigation is products containing more than 35 % by weight of epoxy resins, also known as epoxide resins or polyepoxides, which are polymers or prepolymers containing reactive epoxy groups, based on epichlorohydrin ('ECH') and an aliphatic or aromatic alcoholic component (such as BPA), in solid, semi-solid or liquid forms, having all types of grade, purity, molecule weight or molecular structure, whether or not containing modifiers, curing agents, or additives, so long as the curing agents have not chemically reacted so as to cure the epoxy resin or convert it into a different product no longer containing epoxy groups ('the product under investigation').

The following products are excluded:

1) certain paint and coating products, which are blends, mixtures, or other formulations of epoxy resin, curing agent, and pigment, in any form, packaged in one or more containers, wherein (1) the pigment represents a minimum of 10 percent of the total weight of the product, (2) the epoxy resin represents a maximum of 80 percent of the total weight of the product, and (3) the curing agent represents 5 to 40 percent of the total weight of the product.

2) pre-impregnated fabrics or fibres, often referred to as 'pre-pregs,' which are composite materials consisting of fabrics or fibres (typically carbon or glass) impregnated with epoxy resin.

3) Blends of epoxy resins with other materials, currently classified under CN codes other than 2910 90 00, 3824 99 92, 3824 99 93, and 3907 30 00.

All interested parties wishing to submit information on the product scope must do so within 10 days of the date of publication of this Notice [3].

## 3. Allegation of dumping

The product allegedly being dumped is the product under investigation, originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand ('the countries concerned'), currently classified under CN codes ex 2910 90 00, ex 3824 99 92, ex 3824 99 93, and ex 3907 30 00 (TARIC codes 2910 90 00 05, 3824 99 92 96, 3824 99 93 10, 3907 30 00 05, 3907 30 00 20, and 3907 30 00 80). The CN and TARIC codes are given for information only and without prejudice to a subsequent change in the tariff classification. The scope of this investigation is subject to the definition of the product under investigation as contained in Section 2.

[1] OJ L 176, 30.6.2016, p. 21.
[2] The general term 'injury' refers to material injury as well as to threat of material injury or material retardation of the establishment of an industry as set out in Article 3(1) of the basic Regulation.
[3] References to the publication of this Notice mean publication of this Notice in the *Official Journal of the European Union*.

*China*

The complainant claimed that it is not appropriate to use domestic prices and costs in China, due to the existence of significant distortions within the meaning of point (b) of Article 2(6a) of the basic Regulation.

To substantiate the allegations of significant distortions, the complainant relied on the information contained in the Commission Staff Working Document, on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations, ([4]) ('the Report') dated 10 April 2024. In particular, the complainant claimed that the production and sale of the product under investigation appears to be affected by the factors mentioned in the Report. The other evidence confirming that the chemical industry, and in particular the producers of epoxy resin, are heavily linked with the Government of China ('GOC') consist notably of extracts of and links to websites and financial statements of those producers. The complainant also provided evidence that with the help of significant government interventions and support, China has ramped up substantial additional capacity for ECH, which is the main input material in the production of epoxy resins. Moreover, the complainant demonstrated how the GOC's incentives distorted the glycerin industry, and how the overcapacity in glycerin impacted the ECH market. Since most of the Chinese epoxy resin production is derived from ECH using glycerin in the production process, any distortions in the upstream glycerin market will distort downstream markets, including ECH and epoxy resins. Finally, the complainant relied on the Commission's findings in several recent anti-dumping investigations ([5]).

As a result, in view of Article 2(6a)(a) of the basic Regulation, the allegation of dumping is based on a comparison of a constructed normal value on the basis of costs of production and sale reflecting undistorted prices or benchmarks, with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

The dumping margins calculated on the basis of this comparison are significant for the country concerned.

In light of the information available, the Commission considers that there is sufficient evidence pursuant to Article 5(9) of the basic Regulation tending to show that, due to significant distortions affecting prices and costs, the use of domestic prices and costs in the country concerned is inappropriate, thus warranting the initiation of an investigation on the basis of Article 2(6a) of the basic Regulation.

The country report is available in the file for inspection by interested parties and on DG Trade's website ([6]).

*Korea, Taiwan and Thailand*

In the absence of reliable data on domestic prices for Korea, Taiwan and Thailand, the allegation of dumping is based on a comparison of a constructed normal value manufacturing costs, selling, general and administrative costs ('SG&A') and profit using the consumption volumes of the Union industry for each factor of production and the costs per unit established in the respective domestic markets. These constructed normal values were compared with the export price (at ex-works level) of the product under investigation when sold for export to the Union.

([4]) Commission Staff Working Document, on Significant Distortions in the Economy of the People's Republic of China for the Purposes of Trade Defence Investigations, 10 April 2024, SWD (2024) 91 final, available at: https://ec.europa.eu/transparency/documents-register/detail?ref=SWD(2024)91&lang=en

([5]) Such as, Commission Implementing Regulation (EU) 2021/983 of 17 June 2021 imposing a provisional anti-dumping duty on imports of aluminium converter foil originating in the People's Republic of China (OJ L 216, 18.6.2021, p. 142). See also, Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036 (OJ L 189, 15.7.2019, p. 8); Commission Implementing Regulation (EU) 2019/687 of 2 May 2019 imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council (OJ L 116, 3.5.2019, p. 5); Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China (OJ L 259, 10.10.2019, p. 15); Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China (OJ L 410, 18.11.2021, p. 51).

([6]) Documents cited in the country report may also be obtained upon a duly reasoned request.

The dumping margins calculated on the basis of this comparison are significant for Korea, Taiwan and Thailand.

## 4. Allegation of injury and causation

### 4.1. *Injury*

The complainant has provided evidence that imports of the product under investigation from the countries concerned have increased overall in absolute terms and in terms of market share.

The evidence provided by the complainant shows that the volume and the prices of the imported product under investigation have had, among other consequences, a negative impact on the quantities sold, the level of prices charged and the market share held by the Union industry, resulting in substantial adverse effects on the overall performance and the financial situation of the Union industry.

### 4.2. *Allegation of raw material distortions*

The complainant has provided sufficient evidence that there may be raw material distortions in China regarding the product under investigation. According to the evidence in the complaint, epichlorohydrin ('ECH'), that accounts for 30-40 % of the cost of production of the product under investigation, is subject to distortions in China in the form of a VAT refund withdrawal and domestic market obligations applicable to ECH. On the basis of a comparison of prices in the representative international markets, in particular the ECH price in Northeast Asia, North America, and Western Europe as reported by Tecnon Orbichem, with those in China, the complaint establishes that the raw material distortions appear to result in prices significantly below those of representative international markets pursuant to Article 7(2a), 2nd subparagraph of the basic Regulation.

Therefore, in accordance with Article 7(2a) of the basic Regulation, the investigation will examine the alleged distortions to assess whether, if relevant, a duty lower than the margin of dumping would be sufficient to remove injury. Should other distortions covered by Article 7(2a) of the basic Regulation be identified in the course of the investigation, the investigation may also cover these distortions.

## 5. Procedure

Having determined, after informing the Member States, that the complaint has been lodged on behalf of the Union industry and that there is sufficient evidence to justify the initiation of a proceeding, the Commission hereby initiates an investigation pursuant to Article 5 of the basic Regulation.

The investigation will determine whether the product under investigation originating in the countries concerned is being dumped and whether the dumped imports, have caused injury to the Union industry.

If the conclusions are affirmative, the investigation will examine whether the imposition of measures would not be in the Union interest under Article 21 of the basic Regulation. In order to determine whether Article 7(2a) applies, the investigation will also examine the Union's interest test under Article 7(2b) of the basic Regulation.

### 5.1. *Investigation period and period considered*

The investigation of dumping and injury will cover the period from 1 April 2023 to 31 March 2024 ('the investigation period'). The examination of trends relevant for the assessment of injury will cover the period from 1 January 2020 to the end of the investigation period ('the period considered').

### 5.2. *Comments on the complaint and the initiation of the investigation*

All interested parties wishing to comment on the complaint (including matters pertaining to injury and causality) or any aspects regarding the initiation of the investigation (including the degree of support for the complaint) must do so within 37 days of the date of publication of this Notice.

Any request for a hearing with regard to the initiation of the investigation must be submitted within 15 days of the date of publication of this Notice.

### 5.3. ***Procedure for the determination of dumping***

Exporting producers ([7]) of the product under investigation from the countries concerned are invited to participate in the Commission investigation.

#### 5.3.1. *Investigating exporting producers*

(a) Sampling

In view of the potentially large number of exporting producers in the countries concerned' involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit the exporting producers to be investigated to a reasonable number by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary, and if so, to select a sample, all exporting producers, or representatives acting on their behalf, are requested to provide the Commission with information on their *company(ies)* within 7 days of the date of publication of this Notice. This information must be provided via TRON.tdi ('TRON') at the following address: https://tron.trade.ec.europa.eu/tron/tdi/form/AD711_SAMPLING_FORM_FOR_EXPORTING_PRODUCER. TRON access information can be found in sections 5.6 and 5.8 below.

In order to obtain information it deems necessary for the selection of the sample of exporting producers, the Commission has also contacted the authorities of the countries concerned' and may contact any known associations of exporting producers.

If a sample is necessary, the exporting producers may be selected based on the largest representative volume of exports to the Union which can reasonably be investigated within the time available. All known exporting producers, the authorities of the countries concerned' and associations of exporting producers will be notified by the Commission, via the authorities of the countries concerned if appropriate, of the companies selected to be in the sample.

Once the Commission has received the necessary information to select a sample of exporting producers, it will inform the parties concerned of its decision whether they are included in the sample. The sampled exporting producers will have to submit a completed questionnaire within 30 days from the date of notification of the decision of their inclusion in the sample, unless otherwise specified.

The Commission will add a note reflecting the sample selection to the file for inspection by interested parties. Any comment on the sample selection must be received within 3 days of the date of notification of the sample decision.

A copy of the questionnaire for exporting producers is available in the file for inspection by interested parties and on DG Trade's website https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733.

The questionnaire will also be made available to any known association of exporting producers, and to the authorities of those countries.

Without prejudice to the possible application of Article 18 of the basic Regulation, exporting producers that have agreed to be included in the sample but are not selected as part of the sample will be considered to be cooperating ('non-sampled cooperating exporting producers'). Without prejudice to section 5.3.1(b) below, the anti-dumping duty that may be applied to imports from non-sampled cooperating exporting producers will not exceed the weighted average margin of dumping established for the exporting producers in the sample ([8]).

([7]) An exporting producer is any company in the countries concerned which produces and exports the product under investigation to the Union market, either directly or via a third party, including any of its related companies involved in the production, domestic sales or exports of the product under investigation.

([8]) Pursuant to Article 9(6) of the basic Regulation, any zero and *de minimis* margins, and margins established in accordance with the circumstances described in Article 18 of the basic Regulation will be disregarded.

(b) Individual dumping margin for exporting producers not included in the sample

Pursuant to Article 17(3) of the basic Regulation, non-sampled cooperating exporting producers may request the Commission to establish their individual dumping margins. Exporting producers wishing to claim an individual dumping margin must fill in the questionnaire and return it duly completed within 30 days of the date of notification of the sample selection, unless otherwise specified. A copy of the questionnaire for exporting producers is available in the file for inspection by interested parties and on DG Trade's website https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733. The Commission will examine whether non-sampled cooperating exporting producers can be granted an individual duty in accordance with Article 9(5) of the basic Regulation.

However, non-sampled cooperating exporting producers claiming an individual dumping margin should be aware that the Commission may nonetheless decide not to determine their individual dumping margin if, for instance, the number of cooperating exporting producers, including the sampled ones, to be investigated is so large that such determination would be unduly burdensome and would prevent the timely completion of the investigation.

5.3.2. *Additional procedure with regard to China subject to significant distortions*

Subject to the provisions of this Notice, all interested parties are invited to make their views known, submit information and provide supporting evidence regarding the application of Article 2(6a) of the basic Regulation. Unless otherwise specified, this information and supporting evidence must reach the Commission within 37 days of the date of publication of this Notice.

In particular, the Commission invites all interested parties to make their views known on the inputs and the Harmonised System (HS) codes provided in the complaint, propose (an) appropriate representative country(ies) and provide the identity of producers of the product under investigation in those countries. This information and supporting evidence must reach the Commission within 15 days of the date of publication of this Notice.

Pursuant to point (e) of Article 2(6a) of the basic Regulation, the Commission will shortly after initiation inform parties to the investigation about the relevant sources, including, where appropriate, the selection of an appropriate representative third country that it intends to use for the purpose of determining normal value pursuant to Article 2(6a) by means of a note to the file for inspection by interested parties. Parties to the investigation will be given 10 days to comment on the note, in accordance with point (e) of Article 2(6a).

With the aim of finally selecting the appropriate representative third country, the Commission will examine whether those third countries have a similar level of economic development as that of *China*, whether there is production and sales of the product under investigation in those third countries and whether relevant data are readily available. Where there is more than one representative third country, preference will be given, where appropriate, to countries with an adequate level of social and environmental protection. According to the information available to the Commission, possible appropriate representative third countries is Thailand.

In the context of this exercise, the Commission invites all producers in China to provide information on the materials (raw and processed) and energy used in the production of the product under investigation within 15 days of the date of publication of this Notice. This information must be provided via TRON.tdi at the following address: https://tron.trade.ec.europa.eu/tron/tdi/form/AD711_INFO_ON_INPUTS_FOR_EXPORTING_PRODUCER_FORM. TRON access information can be found in sections 5.6 and 5.8 below.

Furthermore, any submissions of factual information to value costs and prices pursuant to point (a) of Article 2(6a) of the basic Regulation must be filed within 65 days of the date of publication of this Notice. Such factual information should be taken exclusively from public sources which are readily available.

5.3.3. *Investigating unrelated importers* ([9]) ([10])

Unrelated importers of the product under investigation from the countries concerned to the Union are invited to participate in this investigation.

In view of the potentially large number of unrelated importers involved in this proceeding and in order to complete the investigation within the statutory time limits, the Commission may limit to a reasonable number the unrelated importers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling will be carried out in accordance with Article 17 of the basic Regulation.

In order to enable the Commission to decide whether sampling is necessary and, if so, to select a sample, all unrelated importers, or representatives acting on their behalf, are requested to provide the Commission with the information on their company(ies) requested in the Annex to this Notice within 7 days of the date of publication of this Notice.

In order to obtain information it deems necessary for the selection of the sample of unrelated importers, the Commission may also contact any known associations of importers.

If a sample is necessary, the importers may be selected based on the largest representative volume of sales of the product under investigation in the Union which can reasonably be investigated within the time available.

Once the Commission has received the necessary information to select a sample, it will inform the parties concerned of its decision on the sample of importers. The Commission will also add a note reflecting the sample selection to the file for inspection by interested parties. Any comment on the sample selection must be received within 3 days from the notification of the sample decision.

In order to obtain information it deems necessary for its investigation, the Commission will make available questionnaires to the sampled unrelated importers. Those parties must submit a completed questionnaire within 30 days from the date of the notification of the decision about the sample, unless otherwise specified.

A copy of the questionnaire for importers is available in the file for inspection by interested parties and on DG Trade's website https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733.

5.4. ***Procedure for the determination of injury and investigating Union producers***

A determination of injury is based on positive evidence and involves an objective examination of the volume of the dumped imports, their effect on prices on the Union market and the consequent impact of those imports on the Union industry. In order to establish whether the Union industry is injured, Union producers of the product under investigation are invited to participate in the Commission investigation.

([9]) This section covers only importers not related to exporting producers. Importers that are related to exporting producers have to fill in Annex I to the questionnaire for these exporting producers. In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, "person" means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

([10]) The data provided by unrelated importers may also be used in relation to aspects of this investigation other than the determination of dumping.

In view of the large number of Union producers concerned and in order to complete the investigation within the statutory time limits, the Commission has decided to limit to a reasonable number the Union producers that will be investigated by selecting a sample (this process is also referred to as 'sampling'). The sampling is carried out in accordance with Article 17 of the basic Regulation.

The Commission has provisionally selected a sample of Union producers. Details can be found in the file for inspection by interested parties. Interested parties are invited to comment on the provisional sample. In addition, other Union producers, or representatives acting on their behalf, who consider that there are reasons why they should be included in the sample must contact the Commission within 7 days of the date of publication of this Notice. All comments regarding the provisional sample must be received within 7 days of the date of publication of this Notice, unless otherwise specified.

All known Union producers and associations of Union producers will be notified by the Commission of the companies finally selected to be in the sample.

The sampled Union producers will have to submit a completed questionnaire within 30 days from the date of notification of the decision of their inclusion in the sample, unless otherwise specified.

A copy of the questionnaire for Union producers is available in the file for inspection by interested parties and on DG Trade's website https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733.

### 5.5. *Procedure for the assessment of Union interest in case of allegations of raw material distortions*

In cases of distortions on raw materials as identified in Article 7(2a) of the basic Regulation, the Commission will conduct a Union interest test as laid out in Article 7(2b) of that Regulation.

Interested parties are invited to provide all pertinent information enabling the Commission to determine whether it is in the Union interest to set the level of the measures in accordance with Article 7(2a) of the basic Regulation. In particular, interested parties are invited to provide any information about spare capacities in China, competition for raw materials and the effect on supply chains for companies in the Union. In the absence of cooperation the Commission may conclude that it is in accordance with the Union interest to apply Article 7(2a) of the basic Regulation.

In any event, a decision will be reached, pursuant to Article 21 of the basic Regulation, as to whether the adoption of anti-dumping measures would not be in the Union interest. Union producers, importers and their representative associations, users and their representative associations, trade unions and representative consumer organisations are invited to provide the Commission with information concerning the Union interest.

Information concerning the assessment of Union interest must be provided within 37 days of the date of publication of this Notice unless otherwise specified. This information may be provided either in a free format or by completing a questionnaire prepared by the Commission. A copy of the questionnaires, including the questionnaire for users of the product under investigation, is available in the file for inspection by interested parties and on DG Trade's website https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2733.The information submitted pursuant to Article 21 of the basic Regulation will only be taken into account if supported by factual evidence at the time of submission.

### 5.6. *Interested parties*

In order to participate in the investigation interested parties, such as exporting producers, Union producers, importers and their representative associations, users and their representative associations, trade unions and representative consumer organisations must demonstrate that there is an objective link between their activities and the product under investigation.

Exporting producers, Union producers, importers and representative associations who made information available in accordance to the procedures described in sections 5.3.1, 5.3.3. and 5.4 above will be considered as interested parties if there is an objective link between their activities and the product under investigation.

Other parties will only be able to participate in the investigation as interested party from the moment they make themselves known, and provided that there is an objective link between their activities and the product under investigation. Being considered as an interested party is without prejudice to the application of Article 18 of the basic Regulation.

Access to the file available for inspection for interested parties is made via TRON.tdi at the following address: https://tron.trade.ec.europa.eu/tron/TDI. Please follow the instructions on that page to get access ([11]).

### 5.7. *Possibility to be heard by the Commission investigation services*

All interested parties may request to be heard by the Commission's investigation services.

Any request for a hearing must be made in writing and must specify the reasons for the request as well as a summary of what the interested party wishes to discuss during the hearing. The hearing will be limited to the issues set out by the interested parties in writing beforehand.

The timeframe for hearings is as follows:

— For any hearings to take place before the deadline for the imposition of provisional measures, a request should be made within 15 days from the date of publication of this Notice. The hearing will normally take place within 60 days of the date of publication of this Notice.

— After the stage of provisional findings, a request should be made within 5 days from the date of the disclosure of the provisional findings or of the information document. The hearing will normally take place within 15 days from the date of notification of the disclosure or the date of the information document.

— At the stage of definitive findings, a request should be made within 3 days from the date of the final disclosure. The hearing will normally take place within the period granted to comment on the final disclosure. If there is an additional final disclosure, a request should be made immediately upon receipt of this additional final disclosure. The hearing will then normally take place within the deadline to provide comments on this disclosure.

The outlined timeframe is without prejudice to the right of the Commission services to accept hearings outside the timeframe in duly justified cases and to the right of the Commission to deny hearings in duly justified cases. Where the Commission services refuse a hearing request, the party concerned will be informed of the reasons for such refusal.

In principle, hearings will not be used to present factual information which is not yet on file. Nevertheless, in the interest of good administration and to enable Commission services to progress with the investigation, interested parties may be directed to provide new factual information after a hearing.

### 5.8. *Instructions for making written submissions and sending completed questionnaires and correspondence*

Information submitted to the Commission for the purpose of trade defence investigations shall be free from copyright. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyright, must request specific permission to the copyright holder explicitly allowing the Commission a) to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions, including the information requested in this Notice, completed questionnaires and correspondence provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' ([12]). Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

([11]) In case of technical problems please contact the Trade Service Desk by email trade-service-desk@ec.europa.eu or by telephone +32 22979797.

([12]) A 'Sensitive' document is a document which is considered confidential pursuant to Article 19 of the basic Regulation and Article 6 of the WTO Agreement on Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement). It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 19(2) of the basic Regulation, which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

Interested parties are invited to make all submissions and requests via TRON.tdi (https://tron.trade.ec.europa.eu/tron/TDI) including requests to be registered as interested parties, scanned powers of attorney and certification sheets. By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of DG Trade: https://europa.eu/!7tHpY3. The interested parties must indicate their name, address, telephone and a valid email address and they should ensure that the provided email address is a functioning official business email which is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi and by email, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G
Office: CHAR 04/039
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: https://tron.trade.ec.europa.eu/tron/tdi

Email:

For dumping aspects: TRADE-AD711-ER-DUMPING@ec.europa.eu

For injury aspects: TRADE-AD711-ER-INJURY@ec.europa.eu

## 6. **Schedule of the investigation**

The investigation will be concluded, pursuant to Article 6(9) of the basic Regulation within one year, but not more than 14 months of the date of the publication of this Notice. In accordance with Article 7(1) of the basic Regulation, provisional measures may be imposed not later than seven months, but in any event not later than eight months from the publication of this Notice.

In accordance with Article 19a of the basic Regulation, the Commission will provide information on the planned imposition of provisional duties four weeks before the imposition of provisional measures. Interested parties will be given three working days to comment in writing on the accuracy of the calculations.

In cases where the Commission intends not to impose provisional duties but to continue the investigation, interested parties will be informed, by means of an information document, of the non-imposition of duties four weeks before the expiry of the deadline under Article 7(1) of the basic Regulation.

Interested parties will be given 15 days to comment in writing on the provisional findings or on the information document, and 10 days to comment in writing on the definitive findings, unless otherwise specified. Where applicable, additional final disclosures will specify the deadline for interested parties to comment in writing.

## 7. **Submission of information**

As a rule, interested parties may only submit information in the timeframes specified in sections 5 and 6 of this Notice. The submission of any other information not covered by those sections, should respect the following timetable:

— Any information for the stage of provisional findings should be submitted within 70 days from the date of publication of this Notice, unless otherwise specified.

— Unless otherwise specified, interested parties should not submit new factual information after the deadline to comment on the disclosure of the provisional findings or the information document at the stage of provisional findings. After this deadline, interested parties may only submit new factual information if they can demonstrate that such new factual information is necessary to rebut factual allegations made by other interested parties and provided that such new factual information can be verified within the time available to complete the investigation in a timely manner.

— In order to complete the investigation within the mandatory deadlines, the Commission will not accept submissions from interested parties after the deadline to provide comments on the final disclosure or, if applicable, after the deadline to provide comments on the additional final disclosure.

## 8. **Possibility to comment on other parties' submissions**

In order to guarantee the rights of defence, interested parties should have the possibility to comment on information submitted by other interested parties. When doing so, interested parties may only address issues raised in the other interested parties' submissions and may not raise new issues.

Such comments should be made according to the following timeframe:

— Any comment on information submitted by other interested parties before the deadline of imposition of provisional measures should be made at the latest on day 75 from the date of publication of this Notice, unless otherwise specified.

— Comments on the information provided by other interested parties in reaction to the disclosure of the provisional findings or of the information document should be submitted within 7 days from the deadline to comment on the provisional findings or on the information document, unless otherwise specified.

— Comments on the information provided by other interested parties in reaction to the final disclosure should be submitted within 3 days from the deadline to comment on the final disclosure, unless otherwise specified. If there is an additional final disclosure, comments on the information provided by other interested parties in reaction to this disclosure should be made within 1 day from the deadline to comment on this disclosure, unless otherwise specified.

The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

## 9. **Extension to time limits specified in this Notice**

Any extension to the time limits provided for in this Notice should only be requested in exceptional circumstances and will only be granted if duly justified upon good cause being shown.

In any event, any extension to the deadline to reply to questionnaires will be limited normally to 3 days, and as a rule will not exceed 7 days.

Regarding time limits for the submission of other information specified in the Notice of Initiation, extensions will be limited to 3 days unless exceptional circumstances are demonstrated.

## 10. **Non-cooperation**

In cases where any interested party refuses access to or does not provide the necessary information within the time limits, or significantly impedes the investigation, provisional or final findings, affirmative or negative, may be made on the basis of facts available, in accordance with Article 18 of the basic Regulation.

Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

If an interested party does not cooperate or cooperates only partially and findings are therefore based on facts available in accordance with Article 18 of the basic Regulation, the result may be less favourable to that party than if it had cooperated.

Failure to give a computerised response shall not be deemed to constitute non-cooperation, provided that the interested party shows that presenting the response as requested would result in an unreasonable extra burden or unreasonable additional cost. In this case the interested party should immediately contact the Commission.

## 11. **Hearing Officer**

Interested parties may request the intervention of the Hearing Officer for trade proceedings. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

The Hearing Officer may organise hearings and mediate between the interested party or parties and the Commission services to ensure that the interested parties' rights of defence are being fully exercised. A request for a hearing with the Hearing Officer should be made in writing and should specify the reasons for the request. The Hearing Officer will examine the reasons for the requests. These hearings should only take place if the issues have not been settled with the Commission services in due course.

Any request must be submitted in good time and expeditiously so as not to jeopardise the orderly conduct of proceedings. To that effect, interested parties should request the intervention of the Hearing Officer at the earliest possible time following the occurrence of the event justifying such intervention. Where hearing requests are submitted outside the relevant timeframes provided for in Section 5.7 of this Notice, the Hearing Officer will also examine the reasons for such late requests, the nature of the issues raised and the impact of those issues on the rights of defence, having due regard to the interests of good administration and the timely completion of the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: https://policy.trade.ec.europa.eu/contacts/hearing-officer_en.

## 12. **Processing of personal data**

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ([13]).

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: https://europa.eu/!vr4g9W

([13]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

*ANNEX*

| | |
|---|---|
| ☐ | 'Sensitive' version |
| ☐ | Version 'For inspection by interested parties' |
| (tick the appropriate box) | |

**ANTI-DUMPING PROCEEDING CONCERNING IMPORTS OF EPOXY RESINS ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA ('CHINA'), THE REPUBLIC OF KOREA ('KOREA'), TAIWAN AND THAILAND**

INFORMATION FOR THE SELECTION OF THE SAMPLE OF UNRELATED IMPORTERS

This form is designed to assist unrelated importers in responding to the request for sampling information made in point 5.3.3. of the notice of initiation.

Both the 'Sensitive' version and the version 'For inspection by interested parties' should be returned to the Commission as set out in the notice of initiation.

## 1. **IDENTITY AND CONTACT DETAILS**

Supply the following details about your company:

| | |
|---|---|
| Company name | |
| Address | |
| Contact person | |
| E-mail address | |
| Telephone | |

## 2. **TURNOVER AND SALES VOLUME**

Indicate the total turnover in euros (EUR) of the company, the value in euros (EUR) and volume in tonnes for imports and resales on the Union market after importation from China, Korea, Taiwan and Thailand during the investigation period, of the product under investigation as defined in the notice of initiation.

| | Tonnes | Value in euros (EUR) |
|---|---|---|
| Total turnover of your company in euros (EUR) | | |
| Imports of the product under investigation originating in China | | |
| Imports of the product under investigation originating in Korea | | |
| Imports of the product under investigation originating in Taiwan | | |
| Imports of the product under investigation originating in Thailand | | |
| Imports of the product under investigation (all origins) | | |
| Resales on the Union market after importation from China of the product under investigation | | |
| Resales on the Union market after importation from Korea of the product under investigation | | |

| | Tonnes | Value in euros (EUR) |
|---|---|---|
| Resales on the Union market after importation from Taiwan of the product under investigation | | |
| Resales on the Union market after importation from Thailand of the product under investigation | | |

## 3. ACTIVITIES OF YOUR COMPANY AND RELATED COMPANIES [1]

Give details of the precise activities of the company and all related companies (please list them and state the relationship to your company) involved in the production and/or selling (export and/or domestic) of the product under investigation. Such activities could include but are not limited to purchasing the product under investigation, producing it under sub-contracting arrangements, or processing or trading it.

| Company name and location | Activities | Relationship |
|---|---|---|
| | | |
| | | |
| | | |

## 4. OTHER INFORMATION

Please provide any other relevant information which the company considers useful to assist the Commission in the selection of the sample.

## 5. CERTIFICATION

By providing the above information, the company agrees to its possible inclusion in the sample. If the company is selected to be part of the sample, this will involve completing a questionnaire and accepting a visit at its premises in order to verify its response. If the company indicates that it does not agree to its possible inclusion in the sample, it will be deemed not to have cooperated in the investigation. The Commission's findings for non-cooperating importers are based on the facts available and the result may be less favourable to that company than if it had cooperated.

Signature of authorised official:

Name and title of authorised official:

Date:

[1] In accordance with Article 127 of Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, two persons shall be deemed to be related if: (a) they are officers or directors of the other person's business; (b) they are legally recognised partners in business; (c) they are employer and employee; (d) a third party directly or indirectly owns, controls or holds 5 % or more of the outstanding voting stock or shares of both of them; (e) one of them directly or indirectly controls the other; (f) both of them are directly or indirectly controlled by a third person; (g) together they control a third person directly or indirectly; or (h) they are members of the same family (OJ L 343, 29.12.2015, p. 558). In accordance with Article 5(4) of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code, "person" means a natural person, a legal person, and any association of persons which is not a legal person but which is recognised under Union or national law as having the capacity to perform legal acts (OJ L 269, 10.10.2013, p. 1).

KING & SPALDING

**Executive summary**

**of the**

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# REQUEST FOR INITIATION OF AN ANTI-DUMPING INVESTIGATION ON IMPORTS OF EPOXY RESINS ORIGINATING IN CHINA, KOREA, TAIWAN AND THAILAND

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Submitted by King & Spalding

on behalf of the Ad Hoc Coalition of Union Epoxy Resin producers

# 1. INTRODUCTION

The Ad Hoc Coalition of Union Epoxy Resin producers (the "Complainant") requests that the European Commission initiate an anti-dumping investigation concerning imports of epoxy resins originating in the People's Republic of China ("China"), the Republic of Korea ("Korea"), Taiwan and Thailand, pursuant to Article 5 of Regulation (EU) 2016/1036 of 8 June 2016 on protection against dumped imports from countries not members of the European Union, as amended (the "basic AD Regulation"), with a view to the imposition of anti-dumping measures for a five-year period.

# 2. INFORMATION ABOUT THE COMPLAINT

## 2.1 Product description

The product concerned targeted by the complaint is "products containing more than 35 % by weight of epoxy resins, also known as epoxide resins or polyepoxides, which are polymers or prepolymers containing reactive epoxy groups, based on epichlorohydrin ('ECH') and an aliphatic or aromatic alcoholic component (such as BPA), in solid, semi-solid or liquid forms, having all types of grade, purity, molecule weight or molecular structure, whether or not containing modifiers, curing agents, or additives, so long as the curing agents have not chemically reacted so as to cure the epoxy resin or convert it into a different product no longer containing epoxy groups".

The following products are excluded:

1) certain paint and coating products, which are blends, mixtures, or other formulations of epoxy resin, curing agent, and pigment, in any form, packaged in one or more containers, wherein (1) the pigment represents a minimum of 10 percent of the total weight of the product, (2) the epoxy resin represents a maximum of 80 percent of the total weight of the product, and (3) the curing agent represents 5 to 40 percent of the total weight of the product.
2) pre-impregnated fabrics or fibres, often referred to as 'pre-pregs,' which are composite materials consisting of fabrics or fibres (typically carbon or glass) impregnated with epoxy resin.
3) Blends of epoxy resins with other materials, currently classified under CN codes other than 2910 90 00, 3824 99 92, 3824 99 93, and 3907 30 00.

Epoxy resins are a diverse class of prepolymers and polymers featuring epoxy groups and have a variety of different chemical compositions. The most common epoxy resin is bisphenol A diglycidyl ether, also known as BADGE or DGEBA which is formed by reacting ECH with BPA. Epoxy resins can also be produced by reacting ECH with other raw materials such as aliphatic glycols, and phenolic resins. ECH can be produced either the propylene or glycerin process. Glycerin is a by-product of the biodiesel production.

Epoxy resins are widely used in different industrial segments, such as infrastructure, construction, paints and coatings, adhesives, wind blades, electronic laminates, automotive, and transportation. Epoxy resins possess the following properties: great adhesion, excellent resistance to corrosion

and chemicals, high mechanical strength, and excellent properties for insulation applications. Epoxy resins range in physical form from low-viscosity liquids to solids and are used in a wide range of applications such as, for example, coatings (including wind energy blades), paints, adhesives, composite materials, insulating materials, and electronics.

## 2.2 Summary of the complaint

The Ad Hoc Coalition of Union Epoxy Resin producers has filed this complaint on behalf of Union producers of epoxy resins representing above 50% of the total Union production.

Imports of epoxy resins from China, Korea, and Taiwan have sharply and continually increased over the past years. This rapid evolution of imports of epoxy resins from China, Korea, Taiwan and Thailand has been made possible due to high dumping practices by foreign exporters on the Union market. The Complainant has provided evidence that dumped imports of epoxy resins from China, Korea, Taiwan and Thailand have caused material injury to the EU epoxy resin industry.

*Dumping*

The Complainant has gathered evidence showing that Chinese, Korean, Taiwanese and Thai exporters have been practicing dumping on the EU market. The dumping margin estimated by the Complainant amounted to between 140 and 170% for Chinese epoxy resins exporters, 10 and 40% for Korean epoxy resins exporters, 20 and 40% for Taiwanese epoxy resins exporters and 60 and 90% for Thai epoxy resins exporters during the investigation period set in the complaint.

*Injury*

Due to these dumping practices, epoxy resins imports from China, Korea, Taiwan and Thailand have sharply and continually increased over the past years. Dumped epoxy resins imports from China, Korea, Taiwan and Korea have rapidly gained significant market shares during the past four years and have caused material injury to EU epoxy resins industry.

Unfair imports from China, Korea, Taiwan and Thailand have caused severe price pressure on the Union selling price of the EU epoxy resin industry which had a dramatic impact on its profitability.

The Complainant has provided micro and macro indicators describing the situation of the epoxy resin industry. In this respect, it has compared the Union selling prices of epoxy resins and the China import price to the EU and has evidenced significant undercutting and underselling margins during the period considered.

*Causal link*

The Complainant has established that dumped imports of epoxy resins from China, Korea, Taiwan and Thailand are the main cause of the injury suffered by the EU epoxy resins industry.

## 3. INTERESTED PARTIES

| Known Chinese epoxy resin producers |
|---|
| Chang Chun Chemical (Jiangsu) Co., Ltd. |
| Chang Chun Chemical (Panjin) Co., Ltd. |
| Shandong Deyuan Epoxy Resin |
| Dongying Hebang Chemical Co., Ltd. |
| EMT |
| Feiyuan Chemical |
| Epoxy Base Electronic Material |
| Henan Tianfu Chemical Co., LTD |
| Anhui Hengtai New Materials |
| Hengxing |
| Hengye Special Resins |
| Ningbo Huanyang Chemical Co., Ltd. |
| Jiangshan Chemical |
| Jiangsu Sandie |
| Kingboard (Hengyang) Industrial Co., Ltd |
| Kukdo Chemical Industry Company Ltd |
| Anhui Meijia New Materials |
| Nan Ya Epoxy Resin |
| Norsun Chemicals |
| Olin Blue Cube Chemicals |
| Sanmu Sanyue Chemical |
| Shandong Tervan Epoxy Technology |
| Shandong Tianmai Chemical |
| Sinochem Blue Star |
| Sinochem Yangnong (Kumho/Yang Nong J.V.) |
| Sinopec Baling |
| Xinlu |
| Yoopoint (Yuanbang) |
| Zhihe (Techstorm) |
| Zhuhai Hongchang |
| **Known Korean epoxy resin producers** |
| Korea Chemical Company Ltd |
| Kukdo Chemical Industry Company Ltd |
| Kumho P&B |
| **Known Taiwanese epoxy resin producers** |
| Chang Chun Plastics Co., Ltd. |
| Nan Ya |
| **Known Thai epoxy resin producers** |
| Aditya Birla Chemicals |

| Union epoxy resin producers |
|---|
| Olin Corporation |
| Westlake Chemical |
| Spolchemie, Spolek pro chemickou a hutní výrobu, akciová společnost |
| SIR Industriale S.p.A. |
| Leuna-Harze GmbH |
| Organika Sarzyna |
| Allnex |

* * *

# FOR INSPECTION BY INTERESTED PARTIES

Please note that this is a consolidated version of the original complaint submitted on 05/06/2024 and additional information provided by the complainant afterwards.

KING & SPALDING

**To the Commission of the European Union**

**COMPLAINT**

Under 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 (as amended)

Submitted by

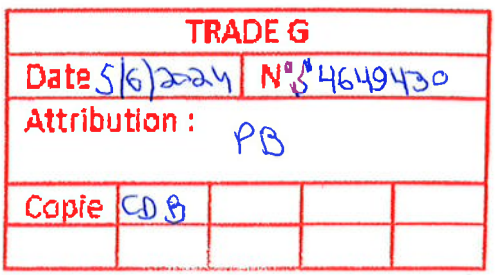
**The Ad Hoc Coalition of Epoxy Resin producers**

Represented by

**King & Spalding LLP**
Bastion Tower
5 Place du Champ de Mars
1050 Brussels
Belgium

**REQUEST FOR INITIATION OF AN ANTI-DUMPING INVESTIGATION ON IMPORTS OF EPOXY RESINS ORIGINATING IN CHINA, KOREA, TAIWAN, AND THAILAND**

OPEN VERSION




5 June 2024

KING & SPALDING

**To the Commission of the European Union**

**COMPLAINT**

Under 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 (as amended)

Submitted by

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**REQUEST FOR INITIATION OF AN ANTI-DUMPING INVESTIGATION ON IMPORTS OF EPOXY RESINS ORIGINATING IN CHINA, KOREA, TAIWAN, AND THAILAND**

OPEN VERSION



5 June 2024

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## 1. EXECUTIVE SUMMARY

1. The Ad Hoc Coalition of Epoxy Resin producers (the "Coalition" or the "Complainant") hereby requests that the European Commission (the "Commission") initiate an anti-dumping investigation concerning imports of epoxy resins originating in the People's Republic of China ("China"), the Republic of Korea ("Korea"), Taiwan and Thailand, pursuant to Article 5 of Regulation (EU) 2016/1036 of 8 June 2016 on protection against dumped imports from countries not members of the European Union, as amended (the "basic AD Regulation"), with a view to the imposition of anti-dumping measures for a five-year period.

2. As will be shown in this complaint, unfairly traded exports of epoxy resins from China, Korea, Taiwan, and Thailand to the Union have substantially increased since the past years. Epoxy resin exporters have been able to rapidly gain market share in the Union market due to aggressive dumping practices. This occurred at the expense of the Union industry, which saw its market share decline during the period considered.

3. Due to very severe unfair practices from Chinese, Korean, Taiwanese and Thai exporters, Union producers have suffered material injury. The main injury indicators of the Complainant have significantly deteriorated during the period considered, such as production, capacity, sales, stocks, employment, and investments. Profit margins of the Union industry sharply declined during the period considered.

4. For decades, the Union epoxy resin producers have been global leaders. However, the Union epoxy resin industry and its workers are now in serious jeopardy. Asian producers in China, Korea, Taiwan, and Thailand have curtailed their historic intra-Asia trade flows and massively increased their exports of epoxy resins to the Union. This is notably the result of significant capacity increase in Asia.

5. Significant distortions and unfair support to domestic epoxy resin industries in China, Korea, Taiwan, and Thailand have played a critical role in encouraging capacity expansions and unfair practices from Chinese, Korean Taiwanese, and Thai exporters on the Union market. The raw materials used to manufacture epoxy resin (*i.e.*, mainly epichlorohydrin ("ECH"), bisphenol A ("BPA") and caustic soda) are very energy intensive and producers of epoxy resins in the targeted countries benefit from distorted energy prices to unfairly compete with Union producers.

6. In addition, the industries and supply chains are highly interconnected among China, Korea, Taiwan, and Thailand, including through affiliations and close supplier relationships[1]. As a result, in addition to purchasing distorted low-priced of ECH and BPA from local suppliers in Korea and Taiwan, Korean and Taiwanese epoxy resin suppliers have been importing distorted ECH from China. For example, in 2022, Korea was the largest destination for China's exported

[1] With the help of significant government distortions and support, China [Confidential: The information pertains to ECH market figures. This data is not publicly available. The disclosure of this information would violate third party's copyrights.]. See 2022-2023 China ECH Market Annual Report - SCI99, p. 16, attached as *Exhibit 1-1*. As discussed in more detail in this complaint, the ECH capacity increases have been driven by the support of the Government of China for the production of biodiesel and low-cost coal and resulting low-cost electricity for the operation of chlor-alkali-electrolysis which created an excess and negative cost for chlorine and HCl, the byproduct of chlorinated organics production, and reactant needed for the conversion of glycerin into ECH, as well as for caustic, the other component in the reaction. The government-induced increase in biodiesel production created significant volumes of its byproduct, glycerin, which was then available together with low-cost HCl and low-cost caustic soda to produce ever-increasing volumes of ECH.

ECH in 2022, covering 39% of China's total export volume of ECH[2]. In addition, Taiwanese producers also rely on Chinese ECH to manufacture epoxy resin[3].

7. This massive surge of unfairly traded epoxy exports to the Union from China, Korea, Taiwan and Thailand has been catastrophic for the Union industry. From 2020 until the IP, all major financial indicators for the industry have declined dramatically. Union producers' financial condition has deteriorated to the point where the industry's very survival is in question. Union producers are in a non-sustainable position.

8. Absent the imposition of robust anti-dumping measures, the Union industry will continue to face declining financial conditions and increased competition from imports of epoxy resins from the countries concerned. This likely will lead to factories closing and more job losses, affecting communities throughout the Union.

9. In addition to injuring the Union industry and reducing jobs in the sector, broader Union economic, security, and environmental goals will be negatively impacted. If the Union no longer has an epoxy resin industry, it will be forced to rely even more on foreign sources. For example, Union companies would need to source epoxy resin and downstream renewable energy products from Asian sources despite substantial concerns regarding notably supply chain disruptions and autonomic strategy. Relying on China and other Asian countries for epoxy resin used in all kinds of manufacturing increases dependency on such sources while undercutting the EU's efforts to develop the resiliency of its own industrial base, supply and value chain as stipulated in the Net Zero Industry Act and in the European Wind Power Act. Epoxy resins are crucial for the continued development of viable and independent aerospace and defence industries. Epoxy resin is strategic for renewable energy and meeting EU climate goals. Epoxy resins allow the production of wind turbine blades and wind turbines in offshore installations and onshore wind parks. Epoxy resins are also used in electrical components in the turbines as well as in protective coatings of the towers. Also, automotive manufacturing relies on epoxy-based composites as a way to make cars lighter and safer, hence jeopardizing EV production in the Union. Moreover, infrastructure protection (bridges, water tanks, etc.) is also enabled by the unique properties of epoxy to protect steel and other metals against corrosion. Accordingly, ensuring that the Union has sufficient and sustainable epoxy resin capacity is necessary to achieve the EU green deal, which notably focuses on massive electrification in the Union and a shift away from fossil fuels. It is thus imperative to restore a level playing field in the Union by addressing unfair imports of epoxy resin from China, Korea, Taiwan, and Thailand as swiftly as possible.

10. The Complainant is therefore lodging the present anti-dumping complaint on imports of epoxy resins originating in China, Korea, Taiwan and Thailand with a view to initiating an anti-dumping investigation and to imposing as soon as possible provisional anti-dumping duties on imports of epoxy resin originating in China, Korea, Taiwan, and Thailand to restore a level playing field in the Union.

11. Given the rapid evolution of epoxy resin exports to the EU causing severe injury to the Union epoxy resin industry, the Coalition requests that imports of epoxy resins from China, Korea, Taiwan and Thailand be registered from the initiation of the anti-dumping investigation to prevent further aggravation of the economic and financial situation of the epoxy resin industry and to allow retroactive application of the duties to be imposed.

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[2] *Ibidem*.

[3] A major Taiwanese epoxy resin producer stated in its 2023 annual report that the Chinese company Wudi Xinyue Chemical Group Co., Ltd., is one of its two major ECH suppliers in 2022. *See* Nan Ya Plastics Corporation 2023 Annual Report, p. 173, attached as *Exhibit 1-2*.

# 2. GENERAL INFORMATION

## 2.1 The Union industry

### 2.1.1 The Complainant

12. The Complainant is the Ad Hoc Coalition of Union Epoxy Resin producers ("European Epoxy Resin Ad Hoc Coalition" or "Coalition"), which is composed of Olin Corporation ("Olin"), Westlake Chemical ("Westlake"), and Spolek pro chemickou a hutní výrobu, akciová společnost ("Spolchemie"). These producers have facilities in the Czech Republic, Germany, Italy, Spain, and the Netherlands. Contact details of the Union producers that are members of the Coalition are provided in *Exhibit 2-1*.

### 2.1.2 Legal representative

13. The legal representative is as follows:

**King & Spalding LLP**
Bastion Tower, 5 Place du Champ de Mars
1050 Brussels – Belgium
Tel: +32 (0)2 898 02 00
Contact Person: Marie-Sophie Dibling, Partner
Email: msdibling@kslaw.com

*Exhibit 2-2 - Power of attorney*

### 2.1.3 Union producers not members of the Ad hoc Coalition

14. To the best of the Complainant's knowledge, there are four other Union epoxy resin producers that are not part of the Coalition, as follows: Leuna Harze (Germany), Allnex (Germany), SIR Industriale (Italy) and Organika Sarzyna (Poland). Contact details of these Union producers not members of the Coalition are included in Exhibit 2-1.

15. The Complainant attaches a letter by a Union producer of epoxy resins in support of the present anti-dumping complaint on imports of epoxy resin from China, Korea, Taiwan, and Thailand.

*Exhibit 2-3 - Letter of support*

## 2.2 Standing

16. The complaint is filed by the European Epoxy Resin Ad Hoc Coalition, which represents [Confidential: 65 - 75]% of the Union epoxy resin industry.

*Exhibit 2-4 - Standing*

## 2.3 Exporting producers

17. This complaint concerns imports of epoxy resin from China, Korea, Taiwan, and Thailand.

18. A list of epoxy resin producers from China, Korea, Taiwan, and Thailand is attached as *Exhibit 2-5.*

### 2.4 Importers and users

19. A list of Union importers and Union users is attached as *Exhibit 2-6*.

### 2.5 Periods examined in this complaint

20. The investigation period used in this complaint to assess dumping practices is the period from 1 October 2022 to 30 September 2023 (the "IP"). The period considered for assessing injury is from 1 January 2020 until the end of the IP.

## 3. PRODUCT SCOPE

### 3.1 Product concerned

#### 3.1.1 Definition of the product concerned

21. The product concerned targeted by the complaint is "*products containing more than 35% by weight or epoxy resins, also known as epoxide resins or polyepoxides, which are polymers or prepolymers containing reactive epoxy groups, based on epichlorohydrin (ECH) and an aliphatic or aromatic alcoholic component (such as BPA), in solid, semi-solid or liquid forms, having all types of grade, purity, molecule weight or molecular structure, whether or not containing modifiers, curing agents, or additives, so long as the curing agents have not chemically reacted so as to cure the epoxy resin or convert it into a different product no longer containing epoxy groups, falling under CN codes ex 3907 30 00 and ex 2910 90 00 of the EU Combined Nomenclature, and originating in the People's Republic of China, the Republic of Korea, Taiwan and Thailand".*

22. The following products are excluded:

1) Certain paint and coating products, which are blends, mixtures, or other formulations of epoxy resin, curing agent, and pigment, in any form, packaged in one or more containers, wherein (1) the pigment represents a minimum of 10 percent of the total weight of the product, (2) the epoxy resin represents a maximum of 80 percent of the total weight of the product, and (3) the curing agent represents 5 to 40 percent of the total weight of the product.

2) pre-impregnated fabrics or fibres, often referred to as "pre-pregs," which are composite materials consisting of fabrics or fibres (typically carbon or glass) impregnated with epoxy resin.

3) Blends of epoxy resins with other materials, currently classified under CN codes other than 2910 90 00, 3824 99 92, 3824 99 93 and 3907 30 00.

#### 3.1.2 Customs classification

23. The product concerned is imported under CN code ex 3907 30 00 of the Union Combined Nomenclature. The product concerned may also be imported into the Union under CN code ex

2910 90 00[4]. It may also be theoretically imported under CN codes ex 3824 99 92, ex 3824 99 93[5].

24. The customs duty applicable to imports of epoxy resin originating in China, Taiwan and Thailand is 6,5%. The customs duty applicable to imports of epoxy resin originating in Korea is 0% under the EU-Republic of Korea free trade agreement.

### 3.1.3 Product description and production process

25. Epoxy resins are a diverse class of prepolymers and polymers featuring epoxy groups. Epoxy resins are "thermosetting" resins, meaning that they do not develop useful properties until they are "cured," that is, they have reacted with curing agents. During the curing process, a liquid or fluid mixture (which includes epoxy resins and other chemicals known as "hardeners") is converted to a solid that is chemically inactive. Curing may be accomplished at specific temperatures or may require application of external heat or ultraviolet light.

26. There are hundreds of chemicals, or agents, that can be used in the curing process. This fact allows customers to choose from among a wide variety of desired performance characteristics while also considering cost, processing method, curing conditions, environmental limitations, and the mechanical, chemical, electrical, and thermal properties desired in the cured resin.

27. Epoxy resins have a variety of different chemical compositions.

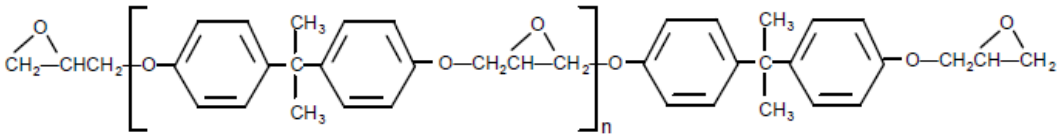
28. The most common epoxy resin is bisphenol A diglycidyl ether, also known as BADGE or DGEBA which is formed by reacting epichlorohydrin ("ECH") with bisphenol A ("BPA"). Epoxy resins can also be produced by reacting ECH with other raw materials such as aliphatic glycols, and phenol- or cresol-novolacs. ECH can be produced through propylene or glycerin. The production processes use to produce ECH does not affect the chemical or physical characteristics of the epoxy resin, nor affect their quality, use, or application. the production process for manufacturing epoxy resin is similar. In other words, even when producing epoxy resin using other raw materials to replace BPA in the reaction with ECH, this does not affect the production process which is similar.

[4] To the best of the Complainant's knowledge, CN code ex 2910 90 00 (TARIC 2910 90 00 90) may also be used to import epoxy resin into the Union, following a change of the substance identification for Bisphenol-A-Diglycidylether (BADGE), due to a substance ID adaptation request by the ECHA. TARIC 2910 90 00 90 is a basket code under which many products can be imported. Therefore, the Complainant cannot assess what would be the share of epoxy resin imports within total imports customs cleared under CN code 2910 90 00 90 from the targeted countries. The Complainant however believes that operators currently do not use CN code 2910 90 00 to import epoxy resin into the Union. Accordingly, as a conservative approach, the Applicant will not include imports under CN code 2910 90 00 00 into the analysis of the present complaint. For the sake of completeness and for the purpose of the analysis, the Complainant has obtained imports volumes and values under TARIC 2910 90 00 00 90 and notes that the volume of imports from the targeted countries under that TARIC code are extremely limited compared to volume of imports customs cleared under CN code 3907 30 00. This confirms that the non-inclusion of a share of the volume of imports customs cleared under TARIC 2910 90 00 90 into the scope of analysis of the present complaint will have no impact on any conclusions drawn in the present complaint. For an analysis of the volume of imports from the targeted countries under TARIC 2910 90 00 90, please refer to Exhibit 2-7.

[5] Imports customs cleared under those codes relate to so-called curing agents which are not the product concerned. However, it could be theoretically possible to import certain types of epoxy resins under those CN codes, hence there are included. The Complainant however made it clear that, to the best of its knowledge, the product concerned is currently not customs cleared under those two CN codes.

***BADGE-type epoxy resin production process***

29. The BADGE-type epoxy resin category accounts for around 80 to 85% of the world's consumption of epoxy resins. The general structure of BADGE-type epoxy resin is as follows.



30. The reaction of BPA and ECH creates BADGE-type epoxy resins in liquid form. This product can be further reacted with more BPA, in the presence of a catalyst, to become a solid epoxy resin, which has a higher molecular weight than liquid epoxy resin. BADGE-type resins and similar resins with higher molecular weights are known as "conventional" epoxy resins.

31. The manufacturing process for BADGE-type epoxy resins is summarized below:

- ***Reaction of epichlorohydrin (ECH) and bisphenol-A (BPA)***: First, ECH and BPA are infused into a reactor. These are melted and undergo the first stage reaction, which takes place at a constant temperature. In this first stage reaction, the epoxy radical is separated from the ECH to be attached to a hydroxyl radical from the BPA, thus producing chlorohydrin ether.

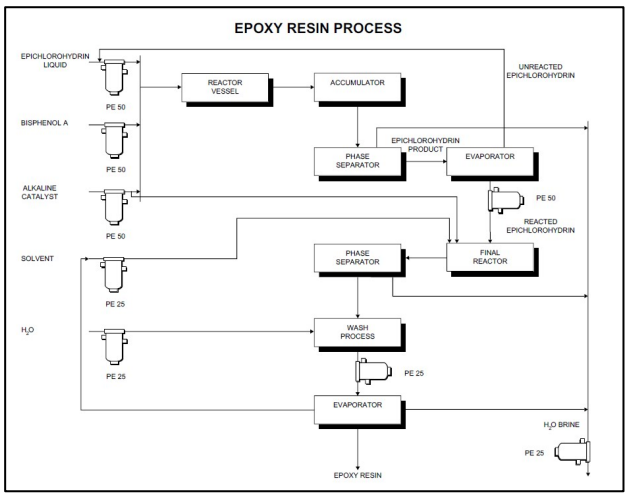
- ***Reaction with caustic soda***: Second, a solution of 20 to 40% caustic soda is added to the reaction vessel as the solution is brought to the boiling point. This addition causes a dechloration reaction to occur, thus producing a terminal epoxy radical. The monoglycidil ether BPA produced as a result continues to react with BPA and ECH and gradually forms a high polymer.

- ***Evaporation:*** After the polymer is produced, it is transferred through a storage tank to the ECH separation evaporator, where the ECH evaporates under a vacuum.

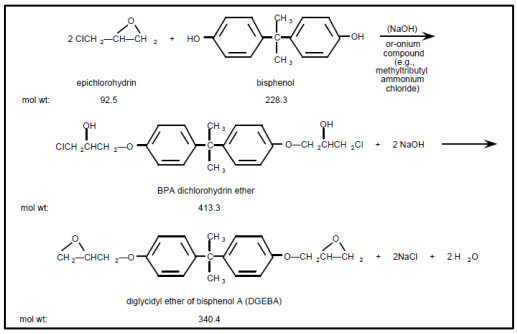
- ***Separation:*** After the evaporation of unreacted ECH, the two phases are separated by adding an inert solvent, which is used to eliminate sodium chloride and the reaction by-product by the difference in specific gravity. The polymer with adjusted acidity is evaporated under vacuum to eliminate the solvent, thus obtaining epoxy product.

- ***Washing:*** The resin is then washed with water, and the solvent is removed by vacuum distillation.

32. A flowchart illustrating this process is presented below:




33. The chemical reaction used to manufacture the BADGE-type epoxy resin is illustrated below:




***Other types of raw materials used to manufacture epoxy resin***

34. As explained above, epoxy resin can sometimes be manufactured using other types of raw materials but such use of other raw materials is limited. In this situation, epoxy resins are produced by reacting ECH with other raw materials and/or with mixing additional chemical compounds (major epoxy curing agents, associated products, and additives include polyamides (e.g., dimer acid–based polyamide), polyamines (e.g., polyether amine, ethyleneamines, isophorone diamine, m-xylene diamine, and ketimine), o-creasol novolac resins, anhydrides, dicyandiamide, polyester resins, phenolic resins (including phenol-fromaldehyde, ureaformaldehyde, and melamine-formaldehyde coreactants), Lewis Acid–amine complex, imiazoles, hydrazides, polysulphide, carbon black, aluminum silicate, and titanium dioxide etc.)

35. The production process is the same as the production process illustrated above for BAGDE-type epoxy resins, except that epoxy resin will result from the reaction of ECH with other raw materials and/or chemical compounds. In some situation, additives, co-solvents, or extra catalysts will be added to basic epoxies to achieve desired properties (*e.g.*, flexibility, viscosity, color, adhesiveness, and faster curing.

36. To the best of the Complainant's knowledge, epoxy resins which are not "BADGE-type epoxy resins" account for around 15 to 20% of global consumption of epoxy resins.

37. The Complainant provides below several epoxy resins which are not "BADGE-type epoxy resins":

- ***Brominated resins***, which are produced by the reaction of epichlorohydrin with halogenated bisphenol A (*e.g.*, tetrabromobisphenol A). Brominated resins have been treated or caused to combine with bromine or a compound of bromine. The remaining steps are similar to the production process summarized above. Brominated resins are ignition-resistant compounds that are designed for applications requiring a high degree of flammability resistance.

- ***Novolac resins***, which are produced by the reaction of epichlorohydrin with phenol novolac resin. The remaining steps are similar to the production process summarized above. Novolac resins are used in electrical laminates and encapsulations, moldings and castings and reinforced plastics that require high chemical resistance.

- ***Cycloaliphatic resins***, which are usually nonglycidyl ethers that can be produced by the peracetic acid epoxidation of cyclic olefins. The remaining steps are similar to the production process summarized above. Cycloaliphatic resins feature lower viscosities, higher heat-distortion temperatures, lower dielectric constants, and excellent weather-ability. These resins are particularly useful for electrical applications and for composites.

- ***Aliphatic epoxies*** are produced by the reaction of epichlorohydrin with aliphatic diols or polyols of various chain lengths (e.g., 1,4-butanediol, polypropylene glycol, or glycerol) to produce glycol ethers. Also, they can be reacted with aliphatic carboxylic acids to produce glycidyl esters. Aliphatic epoxies are mostly used as reactive diluents (to modify viscosity), as flexibilizing agents to increase elongation and impact resistance, or as plasticizers and stabilizers for vinyl resins.

38. Producers in China, Korea, Taiwan and Thailand manufacture the vast majority of their epoxy resin by reacting ECH with BPA.[6] Even though there are some producers that have some level of upstream-downstream integration either with BPA or ECH, the large majority of the producers in the countries concerned are not integrated.

39. The figure below illustrates the production process of the epoxy resin industry chain in China, which is very similar to the process in the EU, Korea, Taiwan, and Thailand. The figure depicts both the upstream and the downstream industries, including the production of ECH and BPA, and the variety of epoxy resins that can be produced with BADGE-type epoxy resins, and their main applications:

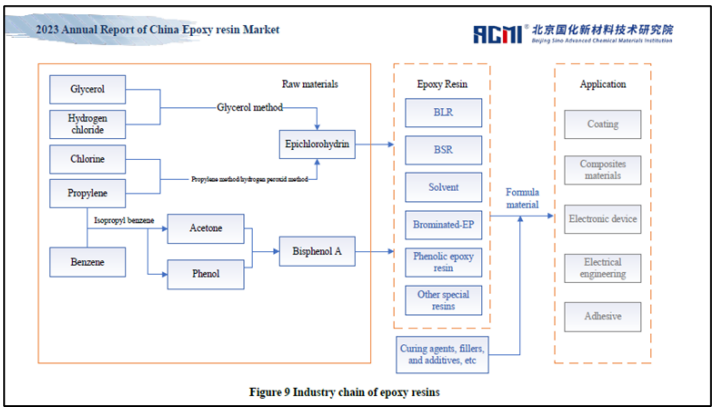


Figure 9 Industry chain of epoxy resins

[6] Around [Confidential: 80 - 90]% of the total capacity in China is dedicated to basic BPA-type epoxy resins. In Korea and Taiwan, basic BPA-type epoxy resins account for [Confidential: 70 - 80]% and [Confidential: 60 - 70]% of production, respectively. *See* 2022 CEH *Epoxy Resin*, pp. 73, 90, 92, attached as *Exhibit 3-1*.

40. As illustrated above, epoxy resin producers in the countries concerned produce BADGE-type epoxy resins through the reaction of ECH and BPA. Producers in the countries concerned also produce other epoxy resin types such as brominated epoxy resins, phenolic epoxy resins, and other specialty epoxy resins. However, as mentioned above, the large majority of epoxy resins is BADGE-type epoxy resins.

### 3.1.4 Uses

41. Epoxy resins are widely used in different industrial segments, such as infrastructure, construction, paints and coatings, adhesives, wind blades, electronic laminates, automotive, and transportation.

42. In their cured form, epoxy resins possess the following properties: great adhesion, excellent resistance to corrosion and chemicals, high mechanical strength, and excellent properties for insulation applications. Epoxy resins range in physical form from low-viscosity liquids to solids and are used in a wide range of applications such as, for example, coatings (including wind energy blades), paints, adhesives, composite materials, insulating materials, and electronics.

43. The leading applications for epoxy resins are the following:

- ***Coatings***: Protective coatings have traditionally been the largest market for epoxy resins, accounting for around half of total consumption. The major coating markets for these applications include powder coatings, industrial maintenance and marine finishes, original equipment manufacturer ("OEM") automotive primers, beer, beverage, and food can interiors, machinery and equipment, and appliances. Epoxy surface coatings are among the more widely used industrial coatings.

- ***Construction***: Epoxy resins are used in flooring, paving, and construction, primarily in industrial and commercial flooring applications. Epoxy flooring products include floor coatings, self-leveling floors, trowelable floors, and pebble-finished floors, which are used in production and assembly areas, clean rooms, machine shops, control rooms, laboratories, and meat-preparation areas.

- ***Composites***: A composite is created when continuous, chopped, or woven fibers are embedded in a resin matrix. Epoxy-based composites are made from liquid epoxy resins and reinforced glass, carbon, or aramid fibers. Composites made with epoxies have been used for several years in military and space applications. Composites are also used in wind turbine blades, automotive and aerospace parts, pipes, tanks, snow skis, tennis racquets, fishing rods, surfboards, and golf club shafts.

- ***Electrical and electronics laminates***: Brominated epoxy resins are used in the manufacture of printed circuit boards because of its flame-retardant properties. These epoxy resins are also used as an embedding compound to enclose, encapsulate, or seal a device in a protective matrix.

- ***Adhesives***: Epoxy resin adhesives are among the most widely used structural adhesives, noted especially for their excellent adhesion to a variety of materials. These are used in greater quantities in automotive assembly operations to bond dissimilar materials (*e.g.*, steel, plastics, and aluminum), which are difficult to bond with mechanical fasteners. Adhesives are also used in the aerospace segment. A typical formulation may include a conventional liquid resin, icyandiamide as a curing agent, an imidazole or polyamide accelerator, and other additives such as carbon black, aluminum silicate, and titanium dioxide.

44. Epoxy resin increases the efficiency and energy output of windmills. Epoxy resins are an essential part of windmills' large rotor blades as they enable strength while reducing weight, enabling more efficient and durable energy production. This is particularly important in Offshore Wind Parks, as epoxy resins enable length increases in these blades and subsequently increase the turbine yield and efficiency. In this context, epoxy resin may also be used with composite pipes to enhance durability and chemical resistance or to lower weight.

45. The use of epoxy resins in the transport sector improves vehicle resilience. Indeed, epoxy-based composites lower weight and increase mechanical strength, which in turn reduces maintenance needs and fuel consumption, increases safety, and reduces CO2 emissions. Epoxy resin also reduces the need for repair and maintenance of transportation vehicles due to its excellent corrosion resistance. Epoxy resin ensures that the European vehicle, shipping, aircraft, and railway manufacturing industries remain competitive. Epoxy resins also enable EV's by making battery carriage composites stronger and safer.

46. Finally, epoxy resin usage in information technology, electronics, and high-voltage electric components has increased significantly. Considering their properties as electric insulators, epoxy resins are a vital component in internal circuits, transistors, printed circuit boards, light-emitting diodes, solar panels, and many other devices. Epoxy resins are also used for key components of energy infrastructure, such as high-voltage transformers, insulators, bushings, etc. Electricity distribution and transformation in the Union would not be possible without the availability of epoxy resins. Without such resins, essential everyday items such as smartphones or medical equipment like MRI scanning equipment would not exist.

### 3.2 Like product

47. Epoxy resin produced in the Union is a like product to epoxy resin produced in China, Korea, Taiwan and Thailand.

48. Union epoxy resin producers use the same raw materials and have a production process similar to that used by Chinese, Korean, Taiwanese and Thai producers. Union producers manufacture BADGE epoxy resin by reacting ECH with BPA and then with caustic soda. Like in the countries concerned, BADGE epoxy resins constitute most of the epoxy resin produced and sold in the Union. Union epoxy resin producers also produce other types of epoxy resins depending on the desired properties and characteristics.

49. The manufacturing process for BADGE-type epoxy resins begins with the reaction of ECH and BPA. These are melted and undergo the first stage reaction, which takes place at a constant temperature. Then, a solution of 20 to 40% caustic soda is added to the reaction vessel as the solution is brought to the boiling point. Subsequent phases of the production process include evaporation, in which ECH evaporates under a vacuum, and separation the two phases are separated by adding an inert solvent, which is used to eliminate sodium chloride and the reaction by-product by the difference in specific gravity. Finally, the resin is washed with water, and the solvent is removed by vacuum distillation.

50. Like producers in the countries concerned, Union producers also produce other types of epoxy resins. The production process of these other types of epoxy resins is similar to the production process presented for BAGDE-type epoxy resins, but certain raw materials replace BPA in the reaction with ECH. Like in the countries concerned, these epoxy resins are the result of the reaction of ECH with other raw materials and/or by adding additives, co-solvents, or extra

catalysts to basic epoxies to achieve desired properties (*e.g.*, flexibility, viscosity, color, adhesiveness, and faster curing.

51. For example, like in the countries concerned, the Union-produced brominated epoxy resins are the product of the reaction of ECH with halogenated BPA and are treated or caused to combine with bromine or a compound of bromine. Also, novolac resins are produced by the reaction of ECH with phenol novolac resin, and the remaining steps are similar to the production process of BADGE-epoxy resins, which is summarized above. Many other specialty epoxies are produced in the Union depending on the desired physical characteristics and applications. These characteristics are achieved by adding the different chemical compounds to the basic epoxy resin.

52. The Union epoxy resin industry has Union producers which have different types of vertical integration. This is the case [Confidential: This information pertains to individual members of the Coalition production processes. The disclosure of this information would provide a significant advantage to competitors and is not susceptible of non-confidential summary.]. The production processes use to produce ECH does not affect the chemical or physical characteristics of the epoxy resin, nor affect their quality, use, or application.

53. A flowchart illustrating this epoxy resin chain process is presented below:

[Confidential: This information pertains to individual members of the Coalition production processes. The disclosure of this information would provide a significant advantage to competitors and is not susceptible of non-confidential summary.].

54. Epoxy resin manufactured in the Union has similar end-uses. Both the imported epoxy resin and the like Union products are used in coatings, construction, composites, electrical and electronics laminates, and adhesives. Both the imported epoxy resin and the like Union products are used to manufacture several products. Composites, for example, are also used in wind turbine blades, automotive and aerospace parts, pipes, tanks, snow skis, tennis racquets, fishing rods, surfboards, and golf club shafts.

55. In conclusion, epoxy resin produced in the Union and epoxy resin imported from China, Korea, Taiwan and Thailand are like products for the purposes of the present complaint.

## 4. EVIDENCE OF DUMPING

56. Dumping occurs when a company exports a product to the EU at a lower price than the product's normal value in its home market. The comparison between the normal value and the export price shall be fair and shall be made at the ex-factory level as a percentage of the import price.

### 4.1 China

#### 4.1.1 Normal value determination

57. As per Article 2(1) of the basic AD Regulation, the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country.

58. However, Article 2(6a) of the basic AD Regulation states that in case it is determined that it is not appropriate to use domestic prices and costs in the exporting country due to the existence of

significant distortions in that country, the normal value shall be constructed exclusively on the basis of costs of production and sales reflecting undistorted prices or benchmarks.

59. As shown below, the prices and costs of epoxy resins in China are not the result of free market forces since they are affected by substantial government intervention within the meaning of Article 2(6a)(b) of the basic AD Regulation. It is thus inappropriate to use domestic prices and costs to establish the normal value in the present case.

#### 4.1.1.1 Existence of significant distortions in the Chinese epoxy resin sector

60. Article 2(6a)(b) of the basic AD Regulation provides that significant distortions are those distortions that occur when reported prices or costs, including the costs of raw materials and energy, are not the result of free market forces as they are affected by substantial government intervention. In assessing the existence of significant distortions, regard shall be had, *inter alia*, to the potential impact of one or more of the following elements:

- The market in question being served to a significant extent by enterprises that operate under the ownership, control, or policy supervision or guidance of the authorities of the exporting country;
- State presence in firms allowing the state to interfere with respect to prices or costs;
- Public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces;
- The lack, discriminatory application, or inadequate enforcement of bankruptcy, corporate, or property laws;
- Wage costs being distorted;
- Access to finance granted by institutions that implement public policy objectives or otherwise do not act independently of the state.

61. The Commission considers that this list is not cumulative and that, consequently, not all the elements need to be given regard for a finding of significant distortions. The Commission considers that the assessment of the existence of significant distortion may also take into account the general context and situation in the exporting country.

62. Below, the Complainant provides details of these distortions. First, the Complainant summarizes how the distortion in Chinese markets has been approached by the Commission. Second, the Complainant provides an overview of the state-owned enterprises that interfere with the epoxy resin costs in China. Third, the Complainant describes measures taken by the Government of China ("GOC") that impact the costs and prices of epoxy resin in China. Fourth, the Complainant details measures favoring epoxy resin producers. Fifth, the Complainant describes how the lack, discriminatory application, or inadequate enforcement of bankruptcy, corporate, or property laws impact the epoxy resin costs in China. Sixth, the Complaint provides evidence that the market of ECH – one of the major inputs for epoxy resins – is also distorted.

##### *a) General remark*

63. In its 2024 report on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations[7], the Commission found that the concept of a "socialist market economy," introduced in the Chinese Constitution, is central. It further stressed that the General Program of the Chinese Communist Party (CCP) Constitution "reaffirms the

[7] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/ 10.4.2024, p. 2, 84, 474.

socialist market economy as China's economic system and the CCP's active role"[8]. In application of this principle, the CCP guides both the public and private sector[9].

64. In the same report, the Commission highlighted a number of "cross-cutting"[10] distortions that are systematic in China. It showed the existence of substantial government intervention at many levels of the economy, including specific distortions in many key factors of production (such as land, energy, capital, raw materials, and labour)[11] as well as in specific economic sectors (such as steel and chemicals)[12].

65. Among the "cross-cutting" distortions, the Commission noted certain provincial plans in key investment projects, including in new materials like "multifunctional special epoxy resin", and "cycloaliphatic epoxy resin"[13].

66. For the reasons described below, the Complainant considers that significant distortions exist in the Chinese epoxy resin sector.

***b) Chinese market served by enterprises that operate under the ownership, control, or policy supervision or guidance of the Chinese authorities***

67. The Commission's report on China found that "*the supremacy of the public sector under the CCP leadership over the private sector is there to stay. Moreover, the development of the private sector should continue to be guided by the authorities. In other words, the socialist market economy concept remains at the core of China's economic setup, with the role of the CCP growing in importance*".[14] In several of its investigations, the Commission stressed that these distortions applied throughout the country and across sectors of the economy[15].

68. In China, state-owned enterprises ("SOEs") represent a majority in the following raw material industries: support activities for mining (SOEs own 90% of assets in this industry), mining and washing of coal (88%), production and supply of glass (82%), mining and processing of ferrous metal ores (77%), mining and processing of non-ferrous metal ores (73%), smelting and

[8] *Id.*, p.8.
[9] *Id.*, p. 9.
[10] *Id.*, p. 4.
[11] *Id.*, chapter 9 (land), chapter 10 (energy), chapter 11 (capital), chapter 12 (raw materials and other material inputs), chapter 13 (labour).
[12] *Id.*, chapter 14 (steel), chapter 15 (aluminium), chapter 16 (chemicals), chapter 17 (ceramic).
[13] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/ 10.4.2024, p. 84.
[14] *Id.*, p. 15.
[15] Commission Implementing Regulation (EU) 2021/983 of 17 June 2021, imposing a provisional anti-dumping duty on imports of aluminium converter foil originating in the People's Republic of China, OJ L 216, 18.6.2021, p. 142, recital 140. *See also* Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019, imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8, recital 114; Commission Implementing Regulation (EU) 2019/687 of 2 May 2019, imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 116, 3.5.2019, p. 5, recital 89; Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019, imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China, OJ L 259, 10.10.2019, p. 15, recital 109; Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021, imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China, OJ L 410, 18.11.2021, p. 51, recital 139.

processing of non-ferrous metals (55%), smelting and processing of ferrous metals (54%), and manufacturing of raw chemical materials and chemical products (49%)[16].

69. The Chinese epoxy resin industry is part of the Chinese chemical industry. The Chinese epoxy resin industry is largely influenced by how the chemical industry is structured in China. Manufacturing of raw chemical materials and chemical products represented the largest subsector, manufacturing of rubber and plastics products was the second largest subsector, and the processing of petroleum, coal and other fuels was the third[17].

70. Large SOEs have played a dominant role in China's petrochemical industry due to their oligopoly position in upstream/feedstock, easy access to government-allocated resources (funds, loans, land, etc.) and strong influence in government decision making[18]. SOEs account for almost a quarter of total assets and for more than 40% of the total market value of listed chemical companies[19].

71. For example, the three largest chemical companies (by sales revenue) in China in 2021 were central SOEs, namely Sinochem Holding, Sinopec, and PetroChina[20].

72. In 2021, Sinochem and ChemChina undertook a joint restructuring with the approval of the State Council. With the merger, Sinochem Holdings Corporation Ltd. was established as the holding entity for both companies and is wholly owned by the State-owned Assets Supervision and Administration Commission on behalf of the State Council[21]. "Government-owned Sinochem is a primary example of a large-scale diversified enterprise. It has a vast range of activities spanning energy, agriculture, chemicals, real estate and financial services"[22].

73. Many Chinese epoxy resin producers are heavily linked with the GOC:

- Sinochem Holdings owns epoxy resin producers such as Jiangsu Ruiheng New Material Technology Co., Ltd. and Zhejiang Haobang Chemical Co., Ltd. Sinochem invested RMB 13,913 billion in its subsidiary's advanced materials industry, which benefited the epoxy resin supply chain, including the increased production of BPA and ECH:

  *"On February 18, Sinochem International (600500.SH) announced its subsidiary Jiangsu Ruiheng New Materials Technology Co., Ltd. will invest RMB 13.913 billion into the first phase of C3 (3-carbon) chemical project. It is a strategic business layout of the company, a major move to tap into the potential of China's advanced materials industry. . . .*

  *The project leverages mostly self-developed technology innovations while also introduce international advanced technologies to build a circular economy with integrated supply chains featuring high tech, low cost, green process, and high resource utilization."*

  *Exhibit 4-2 - Sinochem website, News*

[16] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/ 10.4.2024, p. 353.
[17] *Id.*, p. 459.
[18] *Id.*, p. 462.
[19] *Id.*
[20] *Id.*, p. 463.
[21] Sinochem, Overview, available at https://www.sinochem.com/newen/17186.html, attached as *Exhibit 4-1*.
[22] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/10.4.2024, p. 404.

- SOE Jiangsu Ruiheng New Materials Technology Co., Ltd., which is owned by Sinochem, is the parent company of Zhejiang Haobang Chemical Co., Ltd., another epoxy resin producer:

  *"It is reported that the epoxy resin plant (phase I) of Zhejiang Haobang Chemical Co., Ltd., which has been built for several years after the Spring Festival, is about to be completed and put into operation, followed by the epoxy resin plant of Zhejiang Wuzhong Chemical Co., Ltd. The trial operation of Jiangsu Ruiheng New Material Epoxy Resin and Guodu Chemical's re-production of liquid epoxy resin will greatly increase the market volume, and the supply tension will be eased."*

  *Exhibit 4-3 - Echemi website, The Delivery of Liquid Resin Before The Festival Is Slightly Nervous, And The Price After The Festival Is Confusing*

- China National BlueStar (Group) Co. ("BlueStar") is a large-scale enterprise with important market shares in the production of epoxy resin. BlueStar is part of Sinochem Holdings, a large state-owned enterprise group:

  *"The China National Bluestar (Group) Co, Ltd is a strategic business unit under Sinochem Holdings Corporation Ltd. and a world leading company specializing in chemical materials and specialty chemicals."*

  *Exhibit 4-4 - BlueStar website, Overview*

  *"Sinochem Holdings Corporation Ltd. (Sinochem Holdings) was established through the joint restructuring of Sinochem Group Co., Ltd. and China National Chemical Corporation Ltd. on May 8, 2021. Sinochem Holdings is one of the leading state-owned enterprises under the supervision of the SASAC (State-owned Assets Supervision and Administration Commission of the State Council). It boasts over 220,000 employees."*

  *Exhibit 4-5 - Sinochem website, Summary*

- BlueStar is also "a *subsidiary of China National Chemical Corporation (ChemChina)*".[23] ChemChina, owned by Sinochem Holdings Co., Ltd., is a state-owned enterprise financed and owned by the central government[24].

  *Exhibit 4-6 - BlueStar website, Business Structure*

- Sinopec Baling Petrochemical Company is one of the top 500 enterprises in China and the largest Chinese manufacturer of epoxy resin[25]. Sinopec is an SOE that works to promote official Chinese policy. For example, the company's party group "*conveyed and studied the important instructions of General Secretary Xi Jinping when he inspected Jiujiang Petrochemical*"[26]. "*Sinopec is a large-scale integrated energy and chemical company with*

[23] Commission Regulation (EC) No 139/2004 Merger Procedure, Case No COMP/M.6082 – China National BlueStar/Elkem, 31 March 2011, para. 3, p.2.
[24] *Id.*, para. 14, p.3.
[25] Sinopec website, About Sinopec, available at http://www.sinopec.com/listco/en/about_sinopec/subsidiaries/refinery_petrochemical/20161109/news_20161109_371685608526.shtml, attached as *Exhibit 4-7*.
[26] Sinopec website, Party Group, available at http://www.sinopecgroup.com/group/, attached as *Exhibit 4-8*.

*upstream, mid-stream and downstream operations . . . and has a well-established marketing network for chemical products*"[27].

*"Sinopec Group, the largest shareholder of Sinopec Corp., is a super-large petroleum and petrochemical group incorporated by the State in 1998 based on the former China Petrochemical Corporation. Funded by the State, it is a State authorized investment arm and State-owned controlling company."*

*Exhibit 4-9: Sinopec, Our Company*

74. The GOC influences the epoxy resin industry through its presence as a market player. State-owned companies are among the major epoxy resin producers. These manufacturers are affiliated with the largest SOEs in China, such as the conglomerate Sinochem-ChemChina and Sinopec. These SOEs carry the government's policies, which distort the epoxy resin market.

75. In sum, the GOC has the ability to control and coordinate the commercial strategy of the companies involved in epoxy resin production.

***c) State presence in firms allowing the state to interfere with respect to prices and costs***

76. State presence in firms does not only concern state-owned enterprises but also private companies. In previous investigations, the Commission found that the CCP exercised pressure on private companies "to put patriotism first and to follow party discipline"[28]. It reported that "party cells existed in 70% of some 1,86 million privately owned companies, with growing pressure for the CCP organisations to have the final say over the business decisions within their respective companies"[29]. The Commission stressed that these rules "are of general application throughout the Chinese economy, across all sectors […]"[30].

77. Article 33 of the CCP Constitution states that:

*"Primary-level Party organisations in non-public sector entities shall implement the Party's principles and policies, guide and oversee their enterprises' observance of state laws and regulations, exercise leadership over trade unions, Communist Youth League organisations, and other people's group organisations, promote unity and cohesion among workers and office*

[27] Sinopec, Our Company, available at www.sinopec.com/listco/en/about_sinopec/our_company/company.shtml, attaches as Exhibit 4-9.
[28] Commission Implementing Regulation (EU) 2021/983 of 17 June 2021 imposing a provisional anti-dumping duty on imports of aluminium converter foil originating in the People's Republic of China, OJ L 216, 18.6.2021, p. 142, recital 93. See also, Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8, recital 75; Commission Implementing Regulation (EU) 2019/687 of 2 May 2019 imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 116, 3.5.2019, p. 5, recital 65; Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China, OJ L 259, 10.10.2019, p. 15, recital 82; Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China, OJ L 410, 18.11.2021, p. 51, recital 93.
[29] *Ibidem*.
[30] *Ibidem*.

*staff, safeguard the legitimate rights and interests of all parties, and promote the healthy development of their enterprises*"[31].

78. The requirement of a Party cell within each company was approved by the National People's Congress under Article 19 of the Company Law, which provides that: "In a company, an organisation of the Communist Party of China shall be established to carry out the activities of the party in accordance with the charter of the Communist Party of China. The company shall provide the necessary conditions for the activities of the party organisation"[32].

79. Jiangsu Yangnong Kumho Chemical Co., Ltd.'s financial statements stated that it conforms to its business model according to the CCP's ideology:

*"Business guiding ideology in 2023: Deeply implement the spirit of the 20th National Congress of the Communist Party of China and the Central Economic Work Conference, take seeking progress in stability and improving in progress as the general keynote, actively implement the new development concept, firmly grasp the company's operation and management work, and comprehensively win four entrepreneurial breakthroughs war, promote the company to achieve high-quality development"[33].*

*Exhibit 4-10 - Jiangsu Yangnong Kumho Chemical Co., Ltd. 2022 Financial Statements*

80. Several individuals serving as directors, supervisors, and senior management also occupy various roles in the CCP[34]. Finally, the CCP Party Committee inside the company is also responsible for "inspect[ing] subsidiaries every year and requires rectification in time when problems are found"[35].

81. Communist Party members hold executive positions in the Jiangsu Sanmu Group[36]. The Jiangsu Sanmu Group stated on its website that several individuals serving as directors, supervisors, and senior management also occupy various roles in the CCP[37].

82. Jiang Xintao, current director of the human resources department of the group, is a member of the Communist Party of China and that "[h]e always keeps in mind that he is a member of the Communist Party . . ."[38] Also, Dong Zhiping, director of Amino General Factory in the New Industrial Zone of the Group Headquarters, is a member of the CPP of China. He won Guanlin Town's "Excellent Communist Party Member". Finally, Jiang Yifeng, in charge of the research and development of light-cured resins in the group's technical department, is a member of the CCP.[39]

83. In light of the above, there is *prima facie* evidence that the epoxy resin sector in China is subject to State presence, allowing the GOC to interfere with prices or costs.

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[31] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/10.4.2024, p. 47.
[32] *Ibidem*.
[33] Jiangsu Yangnong Kumho Chemical Co., Ltd. 2022 Financial Statements – English Translation, attached as Exhibit 4-10.
[34] *See id.*, p. 60-66.
[35] *Id.*, p. 87-88
[36] Sanmu Group website, Staff demeanor, available at http://www.sanmuchem.com/html/about/culture/am2/296.html, attached as *Exhibit 4-11*.
[37] *Ibidem.*
[38] *Ibidem.*
[39] *Ibidem.*

### *d) Public policies or measures discriminating in favour of domestic suppliers or otherwise influencing free market forces*

84. In previous anti-dumping investigations involving imports originating in China, the Commission stated that "[o]verall, the system of planning in the PRC results in resources being allocated to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces"[40].

85. The central objective of the 1st Chinese Five-Year Plan ("FYP") (1953-1957) was the nationalisation and rapid development of the industrial sector. Since the 13th FYP (2016-2020), the petrochemical and chemical industry gained relevance. The 13th FYP for the Petrochemical and Chemical Industry "*not only set[] development objectives and [gave] instructions on production targets by industry segments, but also impose[d] government control over production capacity, and over corporate decisions*"[41].

86. Today, the 14th FYP (2021-2025) expounds on China's strategic intentions, specifies the government's priorities, and regulates the behaviour of market entities. The petrochemical and chemical products industry is regarded as a strategic industry by the GOC. One of the key objectives of the 14th FYP is to ensure "*China's petrochemical industry will follow a high-quality development pattern featuring a strong independent innovation capability, […] [with] strict[] control new capacity in its oil refining industry and [] the elimination of inefficient and outdated production*." According to the State Council, China is committed to using its petrochemical and chemical products industries to promote the country's economic and social development:

*"China has vowed high-quality development of the country's petrochemical and chemical industries during the 14th Five-Year Plan period (2021-25), eyeing to extend its petrochemical industry chain with its rate of capacity utilization for bulk chemical products exceeding 80 percent by 2025.*

*China's Ministry of Industry and Information Technology has launched a set of guidelines recently for the development of the petrochemical industry, part of its efforts to promote refining and production to reduce the output of refined oil products and increase chemical products to extend the petrochemical industry chain."*

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[40] Commission Implementing Regulation (EU) 2021/983 of 17 June 2021 imposing a provisional anti-dumping duty on imports of aluminium converter foil originating in the People's Republic of China, OJ L 216, 18.6.2021, p. 142, recital 99. See also, Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8, recital 80; Commission Implementing Regulation (EU) 2019/687 of 2 May 2019 imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 116, 3.5.2019, p. 5, recital 68; Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China, OJ L 259, 10.10.2019, p. 15, recital 86; Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China, OJ L 410, 18.11.2021, p. 51, recital 106.

[41] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2017) 483 final/2, 20.12.2017, p. 406.

*Exhibit 4-12 - State Council website, High-quality development of petrochemical industry on cards*

87. Thus, the recent developments of the chemical sector in China had a strong regulatory drive-in pursuit of several policy objectives, including industry upgrading in technical capabilities, moving towards more specialty products, and tightening of environmental requirements[42]. These higher-level objectives are supported by related policy measures, such as relocating chemical production sites or making available financing for chemical projects[43].

88. In the context of the 14th FYP, the Commission noted that the Chinese national level industrial policies are often effectively carried out at sub-national levels, and illustrated the 14th FYP on high-end development of chemical industry of Jiangsu (where several Chinese epoxy resin producers are located) as one of the most telling examples[44]. Among the objectives for individual locations in Jiangsu, the Commission reported epoxy resins as one of the examples of chemicals listed in the plan for promoting special chemicals in the Jiangsu location of Yangzhou[45].

89. Accordingly, the GOC implements policies that operators must follow, thus impeding market forces from operating freely, including in the epoxy resin sector.

***e) The lack, discriminatory application, or inadequate enforcement of bankruptcy, corporate, or property laws***

90. China has inadequate enforcement of bankruptcy, corporate, or property laws, which generally apply to all sectors. The GOC plays an important role in insolvency proceedings and often has a direct influence on the outcome through various means. For instance, the Chinese People's Court is subordinated to the GOC. The latter must give prior approval for the court to decide on whether to accept or reject the applications of listed companies in practice.

91. Many insolvent firms end up with restructuring plans and are rarely delisted. This translates into SOEs benefiting from *de facto* governmental guarantees. Due to the absence of normal market mechanisms, such as effective and transparent bankruptcy procedures, the Chinese financial system remains highly distorted.

92. In its investigation on steel road wheels, the Commission highlighted the fact that "*the Chinese bankruptcy system delivers inadequately on its own main objectives such as to fairly settle claims and debts and to safeguard the lawful rights and interest of creditors and debtors*"[46]. The Commission concluded that the sector under investigation was subject to these ordinary Chinese rules and that the investigation had "revealed nothing that would call those findings into question"[47].

[42] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/10.4.2024, p. 464.
[43] *Id.*
[44] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2024) 91 final/ 10.4.2024, p. 471-472.
[45] *Id.*, p. 474.
[46] Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China, OJ L 259, 10.10.2019, p. 15, recital 93.
[47] *Id.*, recital 95. The Commission followed the same reasoning in its investigation on optical fibre cables, organic coated steel, aluminium foil in rolls, and ceramic tableware and kitchenware, for instance.

93. With regard to property laws in China, the general rule is that all land is owned by the State. Thus, the allocation of land is solely dependent on the GOC. In addition, the rules on land provision and acquisition in the PRC are often unclear and non-transparent, and the prices are often set by the authorities based on non-market considerations[48].

94. The epoxy resin sector likely benefits from inadequate enforcement of bankruptcy, corporate, or property laws in China.

### *f) The Chinese Government also distorts the general ECH market*

95. Market distortions in the glycerin market in China pass on to the epoxy resin market through the primary epoxy resin feedstock, ECH. Below, Complainant explains the recent evolution of the overcapacity issue in the Chinese ECH market. Then, Complainant details specific measures that distort and cause overcapacity in the market of one of ECH's main feedstock, glycerin.

#### *a. The Chinese Government is creating overcapacity in the ECH market*

96. As previously mentioned, ECH is a major input in the production of epoxy resin. With the help of significant government distortions and support, China has ramped up substantial additional capacity for ECH:

- In 2005, China imposed anti-dumping duties on imports of ECH, which helped to exponentially increase China's capacity from around 100 000 tonnes per year to 1 000 000 tonnes per year in 2017[49]. Approximately [Confidential: 30 - 40]% of the 2017 capacity was based on the glycerin to ECH production process. The rest relied on the propylene-based process[50].

- After the GOC terminated the anti-dumping duties in 2017, Chinese ECH capacity continued to accelerate, way beyond their domestic demand, reaching [Confidential: 1 500 000 – 2 000 000] tonnes per year at the end of 2022[51] and [Confidential: 2 000 000 – 2 500 000] tonnes in 2023. Approximately [Confidential: 65 - 75]% of the 2022 and 2023 capacity was based on the glycerin to ECH production process.[52]

- From 2017 to 2023, the Chinese glycerin-to-ECH capacity increased almost five times, *i.e.*, from [Confidential: 200 000 – 400 000 tonnes to [Confidential: 1 500 000 – 2 000 000 tonnes. The proportion of Chinese glycerin-to-ECH capacity within total Chinese ECH capacity increased by [Confidential: 30 - 40] percentage points in the same period.[53]

- From 2018 to 2022, China's ECH export volume increased gradually with a five-year compound annual growth rate of [Confidential: 170 - 180]%, reaching [Confidential: 50 000

[48] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2017) 483 final/2, 20.12.2017, p. 216.
[49] Laws of the People's Republic Of China, Announcement No.35, 2006 of the General Administration of Customs on collecting anti-dumping duty on epichlorohydrin (ECH) originating from Russia, the Republic of Korea, Japan and the United States, available at http://www.asianlii.org/cn/legis/cen/laws/an352006otgaococadoeofrtrokjatus1677/.
[50] *See* ECH production route in China, attached as *Exhibit 4-13*.
[51] 2022-2023 China ECH Market Annual Report - SCI99, p. 8, attached as Exhibit 1-1.
[52] *See* Exhibit 4-13.
[53] *Ibidem.*

– 100 000] tonnes in 2022.[54] China's aggressive exports of cheap ECH have even triggered the initiation of an anti-dumping petition by the Indian trade remedies' authority.[55]

### *b. The glycerin-based ECH market in China is also distorted*

97. As stated above, ECH can be produced through two different production processes: propylene and glycerin. Because most of the Chinese epoxy resin production is derived from ECH produced using the glycerin production process, any distortions in the upstream glycerin market will significantly distort downstream markets, including ECH and epoxy resins.

98. The increase in capacity and export performance resulted from the support of the GOC. As shown below, the GOC's policies and measures distorted the biodiesel and glycerin markets, making them more attractive due to the incentives and directives given to local producers. Such distortions were passed on to the ECH and epoxy resin markets.

99. In China, glycerin is produced as a byproduct of the biodiesel production. One of the biodiesel production processes involve the transesterification of vegetable oils, namely, the mingling of vegetable and/or animal oils or fats with alcohol. The transesterification produces biodiesel and the byproduct, glycerin.

100. The governmental incentives in the biodiesel and glycerin markets provided the downstream industries with the support to reposition China in both the ECH and epoxy resins. Below the Complainant details how the GOC's incentives to the biodiesel industry distorted market incentives in glycerin. Then, the complainant explains how the overcapacity in glycerin impacted the ECH market.

#### *i. Evidence that distortions in the biodiesel market in China creates a distorted market for glycerin*

101. The general remarks about the presence of the GOC in the Chinese economy outlined above also apply to the biodiesel market. The Complainant considers that significant distortions exist in the Chinese biodiesel sector. Such distortions are passed on to the epoxy resin market via the incentivized overproduction of glycerin, a byproduct of biodiesel production.

102. Through the governmental incentives to the Chinese biodiesel industry, the government indirectly promotes the production of glycerin, making it abundantly and unfairly available to manufacture one of the main raw materials (ECH) for epoxy resin production.

103. The development of the Chinese biodiesel capacity has exclusively been made to meet EU mandates, as China has not put any longstanding efforts in developing domestic biodiesel mandates. As a result, more than 95% of biodiesel exports from China are intended to the Union market.

[54] 2022-2023 China ECH Market Annual Report - SCI99, p. 16, attached as Exhibit 1-1.
[55] Initiation Notification, Anti-Dumping Investigation concerning imports of "Epichlorohydrin" originating in or exported from Korea RP, Thailand and China PR, Case No.: 06/15/2023-DGTR, 23 September 2023, available at https://www.dgtr.gov.in/anti-dumping-cases/anti-dumping-investigation-concerning-imports-%E2%80%9Cepichlorohydrin%E2%80%9D-originating-or.

104. The Commission initiated an anti-dumping investigation on imports of biodiesel originating in China, where it will assess distortions in the Chinese biodiesel market[56]. Because glycerin is a byproduct of the production of biodiesel, the conclusion on significant distortions in the biodiesel investigation will confirm the distortions in the epoxy resin industry as a result of the distorted purchase prices for key inputs.

105. Several biodiesel producers in China are linked with the GOC as follows:

- **Beijing Sanju Environmental Protection and New Materials Co Ltd** is a major biodiesel producer in China. Public sources report that this company is a state-owned enterprise:

  - Pitchbook reported that Beijing Sanju Environmental Protection's ownership status is "*publicly held*"[57];
  - I3 market reported that Sanju company type is "public"[58].

- **Beijing Haixin Energy Technology Co., Ltd,** a Chinese biodiesel producer that is related to Sanju Environmental Protection, is owned by public stakeholders. Beijing Haixinzhi Low Carbon Technology Development and Beijing Haidian District Assets, the two main stakeholders of the company, own 35,2% of the company's shares[59]. In 2022, the company's production of biodiesel "*entered the stage of mass production, and the production, sales and safety stock amount increased significantly year-on-year*"[60].

106. As a state-owned enterprise, the GOC has the ability to control and coordinate the company's commercial strategy.

107. However, GOC's influence goes beyond ownership in the industry. In its investigation on imports of ceramic tableware and kitchenware originating from China, the Commission found that while there was no significant State ownership in the ceramic tableware and kitchenware industry, the GOC and the CCP maintained structures to influence private companies. The Commission referred to its analysis regarding policy supervision and guidance under the second and third indent of Article 2(6a)(b) of the basic AD Regulation and concluded that the ceramic tableware and kitchenware market in China was served to a significant extent by enterprises subject to control or policy supervision or guidance by the GOC[61].

108. In the present case there are also several indications that the GOC provides supervision and guidance to biodiesel producers:

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[56] Commission notice of initiation (EU) C/2023/1574 of 20 December 2023 initiating an anti-dumping proceeding concerning imports of biodiesel originating in the People's Republic of China, OJ C, 20.12.2023, p. 2, recital 3.

[57] PitchBook profile, Beijing Sanju Environmental Protection & New Material Overview, available at Beijing Sanju Environmental Protection & New Material Company Profile: Stock Performance & Earnings | PitchBook , attached as, *Exhibit 4-14*.

[58] i3 market intelligence profile, Beijing Sanju Environmental Protection & New Material Overview, attached as *Exhibit 4-15*.

[59] Beijing Haixin Energy Technology Co., Ltd Annual Report (2022), p. 6, attached as *Exhibit 4-16*.

[60] *Id.,* p. 34.

[61] Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8, recitals 70-74.

- **The Strategic Action Plan for Energy Development (2014-2020)**: This action plan was released on 19 November 2014 and aimed to "*actively develop transportation fuel substitution*" and to "*focus on the development of new generation of non-grain fuel ethanol and biodiesel*"[62].

- **The 14th Five-Year-Plan (2021-2025) for Renewable Energy Development**: The 14th Five-Year-Plan was published in June 2022 and called for the promotion of the use of advanced technology and equipment in biodiesel and jet fuel[63]. The Chinese National Energy Administration has published on its website a statement dated 16 August 2021 in which it stressed that "*the State actively supports the development of the biodiesel industry*" and that the "*Renewable Energy Law clearly stipulates that petroleum sales enterprises should incorporate bio-liquid fuels that meet national standards into their fuel sales system*"[64]. The administration explained that the next steps include working "*to guide pilot cities to promote biodiesel, strengthen the construction and supervision of 'gutter oil' collection, storage and transportation systems, prevent 'gutter oil' from flowing back to the table and polluting the environment, stabilize the supply of raw materials for biodiesel enterprises, and promote the industry*"[65].

- On its website, Zhuoyue New Energy, the second largest Chinese biodiesel producer, boasts having "*successfully undertaken several important programs, including: National Key New Product Plan, National Torch Plan, National Tenth Five-Year Science and Technology Research Plan, National Eleventh Five-Year Science and Technology Supporting Program, National Twelfth Five-Year Science and Technology Research Program*"[66].

109. In light of the above, and in light of the analysis developed below regarding State presence in firms and measures influencing free market forces, it can be concluded that the biodiesel sector in China is being served to a significant extent by enterprises that operate under the control or policy supervision or guidance of the authorities.

110. The conclusion can be extended to glycerin producers as glycerin is a byproduct of the biodiesel production. The second largest biodiesel producer is also one of the most important glycerin producers in China. For instance, Zhuoyue New Energy stated on its website that it is "*a leading enterprise with large production capacity, large export volume and strong innovation ability in China's biodiesel industry*" and its main products are "*bio-ester plasticizers, environmentally friendly alkyd resins, and industrial glycerin[, with a] combined annual production capacity exceeds 90 000 tons*"[67].

111. In previous anti-dumping investigations involving imports originating in China, the Commission stated that "*[o]verall, the system of planning in the PRC results in resources being*

[62] Chinese government website, Notice of the General Office of the State Council on Issuing the Notice the Energy Development Strategic Action Plan (2014-2020), 19 November 2014, attached as *Exhibit 4-17*.
[63] USDA Foreign Agricultural Service, Global Agricultural Information Network (GAIN) Report – Biofuels Annual, China, 6 September 2022, p. 11, attached as *Exhibit 4-18*.
[64] Statement of the Chinese National Energy Administration, 16 August 2021, attached as *Exhibit 4-19*.
[65] *Ibidem*.
[66] Zhuoyue New Energy website, attached as *Exhibit 4-20*.
[67] *Ibidem.*

*allocated to sectors designated as strategic or otherwise politically important by the government, rather than being allocated in line with market forces*"[68].

112. Moreover, there are policies influencing free market forces and leading to cost distortions. In its report on significant distortions in China, the Commission established that the energy sector in China is heavily distorted. The Commission found that "*[a]round 50% of the generation capacity is state-owned as well as the entire transmission grid*"[69]. It further highlighted that prices are controlled by the Chinese State and that prices differ depending on the industries, so as to favour specific industries[70]. The Commission also stressed the fact that China has provided "*considerable subsidies for the production of coal*"[71].

113. There are several public policies in China that favour domestic biodiesel suppliers.

114. First, regarding energy, coal remains the main source of energy in China[72]. This appears to be a long-term strategy given that China's new coal project announcements accelerated dramatically in 2022.[73] Consequently, it is likely that the energy used to manufacture biodiesel in China is also derived from coal. The prices of coal, and more generally of electricity, are controlled by the State, as recognized by the government itself.[74] The prices of electricity are set by the Department of Price in NDRC[75] and can differ by province depending on the local situation and policy objectives pursued[76].

115. Second, to support the economic development of the Chinese biodiesel industry and boost biodiesel exports, China has introduced a VAT refund policy which allows biodiesel producers to enjoy a 70%-VAT rebate if biodiesel is made from used animal and vegetable oils.[77] In

[68] Commission Implementing Regulation (EU) 2021/983 of 17 June 2021 imposing a provisional anti-dumping duty on imports of aluminium converter foil originating in the People's Republic of China, OJ L 216, 18.6.2021, p. 142, recital 99. *See also* Commission Implementing Regulation (EU) 2019/1198 of 12 July 2019 imposing a definitive anti-dumping duty on imports of ceramic tableware and kitchenware originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) No 2016/1036, OJ L 189, 15.7.2019, p. 8, recital 80; Commission Implementing Regulation (EU) 2019/687 of 2 May 2019 imposing a definitive anti-dumping duty on imports of certain organic coated steel products originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 116, 3.5.2019, p. 5, recital 68; Commission Implementing Regulation (EU) 2019/1693 of 9 October 2019 imposing a provisional anti-dumping duty on imports of steel road wheels originating in the People's Republic of China, OJ L 259, 10.10.2019, p. 15, recital 86; Commission Implementing Regulation (EU) 2021/2011 of 17 November 2021 imposing a definitive anti-dumping duty on imports of optical fibre cables originating in the People's Republic of China, OJ L 410, 18.11.2021, p. 51, recital 106.
[69] *Id.*, p. 233.
[70] *Id.*, p. 234.
[71] *Ibidem*.
[72] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trad defence investigations, SWD (2017) 483 final/2, 20.12.2017, para 10.1.1.
[73] Center for Research on Energy and Clean Air, *China permits two new coal power plants per week in 2022*: China permits two new coal power plants per week in 2022 – Centre for Research on Energy and Clean Air, attached as *Exhibit 4-21*.
[74] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD (2017) 483 final/2, 20.12.2017, para 10.1.1.
[75] *Id.*, para. 10.2.1.1.
[76] Council Implementing Regulation (EU) No 215/2013 of 11 March 2013 imposing a countervailing duty on imports of certain organic coated steel products originating in the People's Republic of China, OJ L 73, 15.3.2013, para. 142.
[77] 2023 GAIN Report, Biofuel Annual China, p.2, attached as *Exhibit 4-22*.

addition, according to a press release dated 13 September 2022 from China Dialogue, there is a 70% reduction in consumer taxes for biodiesel that meet the standards.[78]

116. Chinese biodiesel producers benefit from a 90% discount on taxable income from relevant products. For example, in an announcement dated 3 June 2023, Zhejiang Jiaao Environmental Protection Technology Co., Ltd. reported that Zhejiang Dongjiang Energy Technology Co has received for the period from March 2022 to March 2023 a total of 12.1296 million yuan (1 540 million €).[79] The company reported that "*the above-mentioned amount exceeds 10% of the audited net profit of the company in the latest fiscal year*".[80]

117. In view of the above, there is *prima facie* evidence that the Chinese biodiesel market is strongly affected by measures influencing free market forces. Such distortions are passed on to the epoxy resin market via ECH that is produced using the incentivized overproduction of glycerin, a byproduct of the biodiesel production.

### *ii. Measures influencing the glycerin production and prices support the ECH and epoxy resin downstream markets*

118. The cost of technical grade glycerin constitutes around 70% of its transfer price in the calculated costs of ECH. Distortions on the glycerin market will pass on to ECH. Distortions in ECH pass on to epoxy resin, as ECH constitutes around [Confidential: 30 - 40]% of epoxy resin cost of production.

119. Also, the production process of ECH is energy intensive. Energy is also affected by the market distortions in China.[81] As stated above, epoxy producer Sinopec is a large-scale integrated energy and chemical SOE.[82] Energy used to produce ECH is distorted by the presence of the GOC as a significant market player and the policies it carries out.

120. Some Chinese epoxy resin producers are vertically integrated and the production of ECH from glycerin is only one step in the production of epoxy resins. However, even though the vast majority of epoxy resin producers is not fully integrated, they benefit from procuring artificially low-priced ECH available in the Chinese market.

121. The glycerin-based ECH production amounts to 69% of the Chinese capacity. The table below summarizes the production capacity of ECH according to the relevant production route:

| **Epichlorohydrin (ECH) production route** | **2023 Chinese capacity** |
|---|---|
| Glycerin | [1 500 - 1 700] |
| Propylene | [200 - 300] |
| Other | [300 - 400] |
| **Total** | [2 000 - 2 400] |

[78] China Dialogue, "The place of biodiesel as China eyes carbon neutrality", 13 September 2022, attached as *Exhibit 4-23*.
[79] Announcement of Zhejiang Dongjiang Energy Technology Co on VAT tax refund, 3 June 2023, attached as *Exhibit 4-24*.
[80] *Ibidem*.
[81] Commission staff working document on significant distortions in the economy of the People's Republic of China for the purposes of trade defence investigations, SWD(2017) 483 final/2, 20.12.2017, p. 234 ("[E]nergy prices in China are still not market-based. Prices are still largely controlled by the state. While regulatory control is normal for this sector, the Chinese energy sector has a number of features that go beyond it.")
[82] *See* Sinopec, Our Company, available at www.sinopec.com/listco/en/about_sinopec/our_company/company.shtml, attached as Exhibit 4-9.

| | |
|---|---|
| % Glycerin | [65 - 75]% |

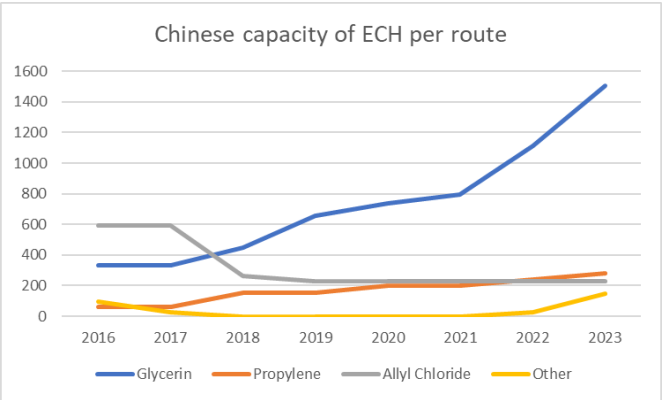
*Source: Exhibit 4-13 - ECH production route in China [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, ranges are provided in the table above]*

122. As shown in the table below, in 2016, Chinese ECH was mainly produced through the allyl chloride route, while ECH produced through the glycerin route represented only [Confidential: 30 - 40]% of production. Glycerin-based ECH became the main route to produce ECH in China by 2018. Its rapid increase led glycerin-based ECH to represent [Confidential: 65 - 75]% of total capacity in China in 2022 and 2023.

| Chinese capacity of ECH | **2016** | **2017** | **2018** | **2019** | **2020** | **2021** | **2022** | **2023** |
|---|---|---|---|---|---|---|---|---|
| Glycerin | [300 - 400] | [300 - 400] | [400 - 600] | [600 - 800] | [600 - 800] | [600 - 800] | [1 000 - 1 200] | [1 500 - 1 700] |
| Propylene | [0 - 100] | [0 - 100] | [100 - 200] | [100 - 200] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] |
| Allyl Chloride | [400 - 600] | [400 - 600] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] |
| Other | [0 - 100] | [0 - 100] | [0 - 100] | [0 - 100] | [0 - 100] | [0 - 100] | [0 - 100] | [100 - 200] |
| **Total** | [1 000 - 1 200] | [1 000 - 1 200] | [800 - 1 000] | [1 000 - 1 200] | [1 000 - 1 200] | [1 200 - 1400] | [1 400 - 1 600] | [2 000 - 2 400] |
| % Glycerin | [30 - 40]% | [30 - 40]% | [50 - 60]% | [60 - 70]% | [60 - 70]% | [60 - 70]% | [65 - 75]% | [65 - 75]% |

*Source: Exhibit 4-13 - ECH production route in China [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, ranges are provided in the table above]*

123. As shown in the graph below, the increase in the Chinese capacity of glycerin-based ECH has two inflection points. Until 2017, the capacity of glycerin-based ECH was stable and was less representative than allyl chloride ECH. The increase from 2018 to 2020 coincided with the Strategic Action Plan for Energy Development (2014-2020), which was released to promote the development of a new generation of non-grain fuel ethanol and biodiesel. In 2022, GOC published the 14th Five-Year-Plan (2021-2025) for Renewable Energy Development with the mandate for enterprise to incorporate biofuels into their fuel sales system:

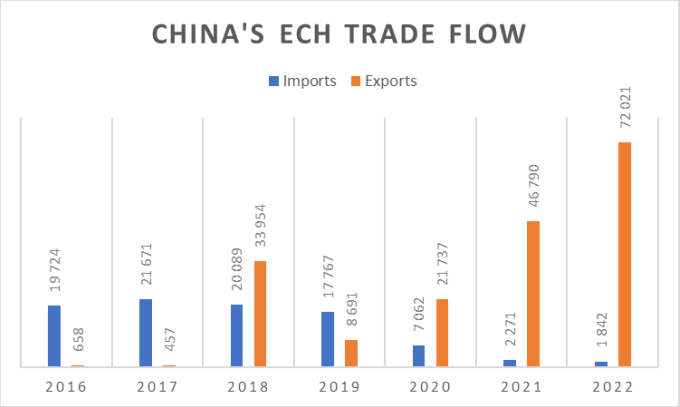



*Source: Exhibit 4-13 - ECH production route in China [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, trends are provided in the picture above]*

124. Concomitantly, in the last few years, due to the GOC's incentives in the entire supply chain, China has converted from being a net importer of ECH to being a large net exporter. China became a relevant ECH exporter in 2018 when it expanded its capacity of glycerin-based ECH

by [Confidential: 30 – 40]%, reaching [Confidential: 400 000 – 600 000] tonnes in capacity, which represented [Confidential: 50 – 60]% of the total Chinese ECH capacity. At the same time, China's exports reached almost [Confidential: 300 000 – 400 000] tonnes in 2018.

125. From 2019 to 2022, glycerin-based ECH capacity in China increased by [Confidential: 65 – 75]%, reaching [Confidential: 1 – 2] million tonnes in 2022. ECH exports from China increased by 729%, reaching 72 thousand tonnes in 2022. At the same time, imports of ECH to China decreased from 17,7 thousand tonnes to 1,8 thousand tonnes, *i.e.*, a reduction of 90% in four years:




*Source: Exhibit 4-25 - China ECH trade flow*

126. As stated above, ECH, one of the main raw materials used in the production of epoxy resins, can be produced through two different production processes: propylene and glycerin. Because most of the Chinese ECH production derives from the glycerin production process, any distortions in the upstream glycerin market will significantly distort the downstream markets, including ECH and epoxy resins.

127. In view of the above, there is prima facie evidence that measures influencing glycerin production passed on to the epoxy resin market via the incentivized overproduction of glycerin and ECH.

#### 4.1.1.2 Normal value construction

128. The epoxy resin sector in China suffers from significant distortions. It is thus not appropriate to use domestic prices and costs in China, which are not reliable, and the normal value shall be constructed exclusively on the basis of costs of production and sales reflecting undistorted prices or benchmarks.

129. The BAGDE-type epoxy is the most common produced epoxy resin and exported to the Union from China, which is formed by reacting ECH with BPA. As mentioned above, around [Confidential: 80 - 90]% of total capacity in China is dedicated to basic BAGDE-type epoxy resins[83]. Accordingly, the Complainant constructed the normal value below based on the cost structure of BAGDE-type epoxy resins of the Union producers.

#### 4.1.1.3 Choice of a representative country

[83] *See* 2022 CEH Epoxy Resin, p. 73, attached as Exhibit 3-1.

130. As per Article 2(6a)(a) of the basic AD regulation, the choice of an appropriate representative country is based on the following criteria:

- The country selected must have a level of economic development similar to China;
- The country selected must have production of the product under investigation;
- The relevant public data must be available; and
- Where there is more than one possible representative country, preference shall be given, where appropriate, to countries with an adequate level of social and environmental protection.

131. Moreover, the normal value shall be constructed exclusively on the basis of costs of production and sales reflecting undistorted prices or benchmarks. Therefore, the cost of the representative country must not suffer from distortions in the representative country.

132. To the best of the Complainant's knowledge, epoxy resin is manufactured in the following countries in addition to China:

| Country | Capacity (in tonnes) – 2021 |
|---|---|
| Korea | [700 000 - 800 000] |
| United States of America | [500 000 - 600 000] |
| Taiwan | [400 000 - 500 000] |
| Japan | [300 000 - 400 000] |
| Saudi Arabia | [100 000 - 150 000] |
| Thailand | [50 000 - 100 000] |
| Switzerland | [50 000 - 100 000] |
| Brazil | [30 000 - 40 000] |
| Russia | [20 000 - 30 000] |
| Iran | [10 000 - 20 000] |
| Malaysia | [10 000 - 20 000] |

*Source: IHS Markit [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, ranges are provided in the table above]*

*Exhibit 4-26 - Capacity - IHS Markit*

133. According to the World Bank classification, China is ranked as an "upper middle-income country"[84]. Among the 54 countries that fall under the category of upper-middle-income countries[85], only Brazil, Malaysia, Russia, and Thailand have epoxy resin domestic production.

134. As a preliminary remark, the Complainant rejected Russia as an appropriate representative country as it considers that distortions exist domestically as identified by the Commission in the report on "significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations"[86]. The Commission identified several distortions, including

[84] World Bank website, upper-middle-income countries, available at https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups.

[85] Albania, American Samoa, Argentina, Armenia, Azerbaijan, Belarus, Fiji, Belize, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, China, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Equatorial Guinea, Gabon, Georgia, Grenada, Guatemala, Guyana, Iraq, Jamaica, Jordan, Kazakhstan, Kosovo, Libya, Malaysia, Maldives, Marshall islands, Mauritius, Mexico, Moldova, Montenegro, Namibia, North Macedonia, Palau, Paraguay, Peru, Russian Federation, Serbia, South Africa St. Lucia, St. Vincent and the Grenadines, Suriname, Thailand, Tonga, Türkiye, Turkmenistan and Tuvalu.

[86] *See* Commission staff working document on significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations, SWD(2020) 442 final/2, 22.1.0.2020.

distortions in energy[87], which is an important component of the cost structure in the production process of epoxy resins and its upstream products.

135. For the purpose of this complaint, the Complainant selected Thailand as the representative country because all data for the construction of the normal value in Thailand are publicly available.

136. First, Brazil's epoxy resin producer is not required by law to publish its financial statement and does not publish it[88]. Second, Malaysia's epoxy resin producer is affiliated with the Japanese epoxy resin producer, DIC Corporation. DIC Corporation publishes a consolidated financial statement for the whole group, including a larger epoxy resin plant located in Japan and the financial results of other products. Because the operation in Malaysia is less significant than the operations in Japan, the Complaint believes the financial results from DIC Corporation reflect the Japanese operations and are not representative of the epoxy resin market in Malaysia. In addition to the production and commercialization of other products, the epoxy resin capacity in Japan is 2,6 times the capacity in Malaysia[89]. Moreover, the Complainant understands that the production capacity of epoxy resins in Malaysia is extremely limited (only [10 000 – 20 000 tons], as shown in para. 131 above), and may include epoxy resin used for internal consumption, different from the epoxy resin manufactured in the targeted countries. Thus, the Complaint believes Malaysia does not offer at this stage detailed data on profit margin and SG&A to be used as the most appropriate representative country at the stage of the complaint.

137. Consequently, the Complainant has selected Thailand as the most representative country for the purpose of normal value calculation in its complaint.

138. The following methodology was used to calculate the normal value:

- Regarding the factors of production: The Complainant has taken the cost structure of the Union industry manufacturing epoxy resin to obtain the consumption volumes for each factor of production.

- The Complainant then multiplied the consumption volumes for each factor of production of the Union industry manufacturing epoxy resin by the undistorted costs per unit established in Thailand;

- Furthermore, the Complainant applied the manufacturing overheads to the undistorted costs of manufacturing and the SG&A and profit established for Aditya Birla Chemical (Thailand) Ltd., which is an epoxy resin producer in the representative country, for the IP.[90]

139. To determine the prices of the various factors of production in Thailand, the Complainant relied on publicly available information and based its calculation on cost of production and sales that reflect undistorted prices or benchmarks, in accordance with Article 2(6a)(a) of the basic AD Regulation.

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[87] *Id.*, chapter 10.

[88] It is however possible that the Commission will find the relevant financial data in the course of its investigation through ORBIS which would allow Brazil to be considered as the most appropriate representative country.

[89] DIC Corporation has an installed capacity of 26 000 tonnes in Japan and 10 000 in Malaysia, according to IHS Markit.

[90] To determine SG&A and profit for the IP, the Complainant calculated a weighted average between 2022 and 2023, where the year of 2022 represented one-fourth and 2023 three-fourths of the final calculations. See *Exhibit 4-27* – Dumping margin calculation - China.

#### 4.1.1.4 Factors of production

140. Chinese producers manufacture epoxy resin using a similar production process as the Union producers; namely, reacting epichlorohydrin (ECH) and bisphenol-A (BPA)[91].

141. The factors of production are as follows:

| Factors of production and sources of data | | | |
|---|---|---|---|
| **Factor of Production** | **HS Code** | **Source of data the Complainant used** | **Unit of measurement** |
| Epichlorohydrin (ECH)[92] | 2910 30 | Trade Map[93] | €/tonne |
| Bisphenol-A (BPA[94]) | 2907 23 | Trade Map | €/tonne |
| Caustic Soda (50%)[95] | 2815 12 | Trade Map | €/tonne |
| Steam[96] | - | Energy Policy and Planning Office of the Ministry of Energy | mmBtus/tonne |
| Natural Gas | - | Energy Policy and Planning Office of the Ministry of Energy | mmBtus/tonne |
| Electricity | - | Metropolitan Electricity Authority | €/Mwh |
| Labour costs | - | National Statistical Office Thailand | Hours |

*Exhibit 4-27 - Dumping margin calculation - China*
*Exhibit 4-28 - Natural Gas - Energy Policy and Planning Office of the Ministry of Energy*
*Exhibit 4-29 - Natural Gas to steam conversion*
*Exhibit 4-30 - Electricity - Metropolitan Electricity Authority*
*Exhibit 4-31 - Labour Costs - National Statistical Office Thailand*
*Exhibit 4-32 - Labour Costs - PwC - Social Security taxes*

***Manufacturing overheads, SG&A, and profits***

142. As per Article 2(6a)(a) of the basic AD Regulation, the constructed normal value shall include an undistorted and reasonable amount for administrative, selling, and general costs (SG&A) and for profits.

143. The Complainant identified the financial statement of Aditya Birla Chemical (Thailand) Ltd., which is a Thai epoxy resin producer. The Complainant calculated a reasonable amount for administrative, selling, and general costs (SG&A) and for profits based on a weighted average of Aditya Birla's financial statements for 2022 and 2023. To reach a result for the IP, the Complainant used the 2023 results to represent three-fourths and the 2022 results to represent one-fourth of the SG&A and profits. Thus, the Complainant calculated 17,8% for SG&A and 22,6% for profit.

[91] BPA may sometimes be replaced by other raw materials (such as aliphatic glycols, phenol and o-cresol novolacs) to produce specialty resins.
[92] The general rate applied to imports of ECH in Thailand is 0%.
[93] To the import price the Complainant added reasonable amount for import costs and domestic freight from the port to the production facility. Evidence of such costs is available in the sheets "Border and Doc compliance" and "Transport cost" of Exhibit 4-27.
[94] The general rate applied to imports of BPA in Thailand is 0%.
[95] The general rate applied to imports of caustic soda in Thailand is 3%.
[96] Natural gas consumed to produce steam is reported as "steam".

*Exhibit 4-27 - Dumping margin calculation - China (SG&A and Profit)*
*Exhibit 4-33 - Aditya Birla Chemical (Thailand) Ltd.'s financial statement*

144. In view of the above, the Complainant calculated the following constructed ex-works normal values during the IP amounting to [Confidential: 5 100 – 5 600] €/tonne:

| Constructed normal value – Thailand | Unit to produce 1 tonne of epoxy resin | Cost per unit in Thailand (€ per unit) | Cost (€ / tonne of epoxy resin) |
|---|---|---|---|
| Epichorohydrin (ECH) | [Confidential] | 1 246,11 | [Confidential] |
| Bisphenol-A (BPA) | [Confidential] | 1 280,86 | [Confidential] |
| Caustic Soda (50%) | [Confidential] | 524,15 | [Confidential] |
| Xylene | [Confidential] | - | [Confidential] |
| Monophosphate (20%) | [Confidential] | - | [Confidential] |
| Other | [Confidential] | - | [Confidential] |
| Steam | [Confidential] | 8,580 | [Confidential] |
| Electricity | [Confidential] | 5,629 | [Confidential] |
| Natural Gas | [Confidential] | 8,580 | [Confidential] |
| Other utilities: Nitrogen, DEIO water, Pressurized air, utility water, condensate | [Confidential] | - | [Confidential] |
| Direct labour | [Confidential] | 2,224 | [Confidential] |
| Tools, supplies, maintenance, laboratory | [Confidential] | - | [Confidential] |
| Transfer CM (transfer fee) between SBU | [Confidential] | - | [Confidential] |
| Depreciation | [Confidential] | | [Confidential] |
| Maintenance | [Confidential] | | [Confidential] |
| Personnel cost | [Confidential] | | [Confidential] |
| Waste water and ecological cost | [Confidential] | | [Confidential] |
| Manufacturing overheads | [Confidential] | | [Confidential] |
| **Total Manufacturing Costs** | | | [Confidential] |
| SGA | 17,8% | % of the normal value ex-works | [Confidential] |
| Profit | 22,6% | % of the normal value ex-works | [Confidential] |
| **NORMAL VALUE EX-WORKS (in EUR/tonne)** | **-** | | **[5 100 – 5 600]** |

*Exhibit 4-27: Dumping margin calculation - China (Normal Value)*

### 4.1.2 Export price determination

145. To establish the Chinese ex-works export price to the Union, the Complainant relied on the weighted average FOB Chinese export price under customs code 3907 30 00, which amounted to 1 994 €/tonne during the IP, as reported by the General Administration of Customs of the People's Republic of China ("GACC").

146. The Complainant used the GACC to be as close as the ex-works export price. By relying on the export price to the EU as declared by Chinese epoxy resin producers, the Complainant considers that it provides the most reliable price for the determination of the export price.

147. To corroborate GACC's reliability, the Complainant attaches a call report from a communication with a client, in which [Confidential: Name of the company] memorialized price quotation from Chinese exporters it received from a client. The import price in Q3 2023 was quoted between [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary.]€/tonne (on CIF basis)[97]. During the same period, the average Chinese FOB export price to the EU amounted, according to GACC, was 2 007 €/tonne (or 1 919 €/tonne on EXW basis)[98], while in comparison, the Eurostat import price for the same period was at 2 051 €/tonne[99].

148. Thus, the GACC Chinese export price to the EU during this period was much more in line with the price quotations received from customers than the Eurostat import price. In view of the above, the Complainant relied on the Chinese official export statistics (GACC) to determine the ex-works export price.

149. To obtain an ex-factory export price from China to the EU, the Complainant must deduct the internal freight between the port in China and the Chinese epoxy resin factory.

150. The domestic transport cost for epoxy resin in China was estimated by the Complainant at 88 €/tonne. To determine the transport cost, the Complainant considered the distance between the epoxy resin producer Sanmu Chemical and the Shanghai Port (245 km and the price).

*Exhibit 4-34 - Evidence of domestic freight in China – Doing Business*
*Exhibit 4-27 - Dumping margin calculation – China (Transport cost)*

151. The ex-factory export price from China to the Union during the IP was as follows:

| Epoxy resin (€/tonne) | IP (Q4 2022 – Q3 2023) |
|---|---|
| Chinese export price to the Union | 1 994 |
| Domestic freight in €/tonne | 88 |
| **Ex-factory export price in €/tonne** | **1 906** |

*Exhibit 4-27: Dumping margin calculation – China (Export Price)*

### 4.1.3 Dumping margin

152. For the purpose of calculating the dumping margin, the Complainant compared the ex-factory normal value with the ex-factory export price calculated following the above methodology.

153. Based on the above elements, the Complainant calculated the dumping margin by applying the following formula:

[97] *See* Call report of customer interaction 1, attached as *Exhibit 4-35*.
[98] Exhibit 4-27: Dumping margin calculation – China (China Export Data).
[99] Exhibit 5-1 – Statistics of exports (GACC, KCS, CPT) and of imports (Eurostat)

$$\frac{\text{(ex-factory normal value) – (ex-factory export price)}}{\text{CIF border value}} \text{ X } 100$$

154. To obtain the CIF border value, the Complainant relied on the FOB export price under GACC. The Complainant must include the international freight between a port in China and a port in the Union, estimated by the Complainant at [Confidential: 100 - 150] €/tonne. The Chinese CIF export price to the EU amounted to [Confidential: 2 000 - 2 500] €/tonne during the IP.

*Exhibit 4-27 - Dumping margin calculation – China (Transport cost)*

155. The results of the calculations show the following dumping margins:

| **Dumping margin calculation** | **Q4 2022 – Q3 2023** |
|---|---|
| Normal value (€/tonne) | [5 100 – 5 600] |
| Ex-works export price to the EU (€/tonne) | 1 906 |
| CIF border value (€/tonne) | [2 000 - 2 500] |
| **Dumping margin (%)** | **[140 - 170]%** |

*Exhibit 4-27 - Dumping margin calculation – China*

156. In view of the above, Chinese exporters have been practicing significant dumping on the Union market.

## 4.2 Korea

### 4.2.1 Normal value determination

157. As per Article 2(1) of the basic AD Regulation, the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country.

158. Article 5(2)(c) of the basic AD Regulation states that a complaint shall include evidence of dumping, injury and a causal link between the allegedly dumped imports, and the alleged injury, as the information is reasonably available to the Complainant, including "*the prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export . . . or on the constructed value of the product*".

159. The Complainant has not been able to find reliable domestic prices in Korea during the period considered.[100]

160. In the absence of such of reliable data on domestic prices for the country concerned, the Complainant constructed the normal value of the product concerned, using all factors of production in Korea which are used by Korean epoxy resin producers.

[100] Specifically, the Complainant sought to obtain reliable pricing information of epoxy resins in Korea, i.e. on company website, annual reports of the company and market intelligence reports. Despite such attempts, the Complainant was unable to obtain such reliable pricing information. The Complainant [Confidential: Confidential information regarding the identity of an external service provider] to find domestic prices. However, this [Confidential: Confidential information regarding the identity of an external service provider]. See Exhibit 4-36A – Declaration on absence of reliable domestic prices.

#### 4.2.1.1 Normal value construction

161. According to the basic AD Regulation, a complaint shall include evidence of dumping, including evidence on the constructed normal value, which shall be calculated on the basis of the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs, and profits.

162. As mentioned above, the Complainant considers that most of the epoxy resin exported from Korea to the Union is of BAGDE type. BAGDE-type epoxy resins are the most prominent epoxy type produced in Korea and consumed in the Union. In Korea, basic BPA-type epoxy resins account for [Confidential: 70 - 80]% of epoxy resin production[101]. In view of the above, the Complainant constructed the normal value based on the cost structure of BAGDE-type epoxy resins of the Union producers.

163. The following methodology was used to calculate the normal value:

- Regarding the factors of production: The Complainant has taken the cost structure of the Union industry manufacturing epoxy resin to obtain the consumption volumes for each factor of production.

- The Complainant then multiplied the consumption volumes for each factor of production of the Union industry manufacturing epoxy resin by the costs per unit established in the domestic markets of the country of origin or export;

- Furthermore, the Complainant applied the manufacturing overheads to the undistorted costs of manufacturing and the average SG&A and profit established for two Korean epoxy resin producers, Kukdo Chemicals and Kumho Petro Chemical, for the period between 1 January and 30 September 2023.

164. To determine the prices of the various factors of production in Korea, the Complainant relied on publicly available information.

***(a)*** **Factors of production**

165. Korean producers manufacture epoxy resin using a production process similar to that of the Union producers which are not vertically integrated.

166. The factors of production are as follows:

| **Factors of production and sources of data** | | | |
|---|---|---|---|
| **Factor of Production** | **HS Code** | **Source of data the Complainant used** | **Unit of measurement** |
| Epichlorohydrin (ECH)[102] | 2910 30 | Trade Map[103] | €/tonne |
| Bisphenol-A (BPA[104]) | 2907 23 | Trade Map | €/tonne |

[101] *See* 2022 CEH Epoxy Resin, p. 90, attached as Exhibit 3-1.
[102] The general rate applied to imports of ECH in Korea is 5,5%.
[103] To the import price, the Complainant added reasonable amount for import costs and domestic freight from the port to the production facility. Evidence of such costs are available at the sheets "Border and Doc compliance" and "Transport cost" of the Exhibit 4-36B.
[104] The general rate applied to imports of BPA in Korea is 5,5%.

| | | | |
|---|---|---|---|
| Caustic Soda (50%)[105] | 2815 12 | Trade Map | €/tonne |
| Steam[106] | - | GlobalPetrolPrices | mmBtus/tonne |
| Natural Gas | - | GlobalPetrolPrices | mmBtus/tonne |
| Electricity | - | GlobalPetrolPrices | €/Mwh |
| Labour costs | - | International Labor Organization | Hours |

*Exhibit 4-36B - Dumping margin calculation – Korea*

***(b) Manufacturing overheads, SG&A, and profits***

167. The Complainant identified the financial statements of the two main Korean epoxy resin producers, Kukdo Chemicals and Kumho Petro Chemical. The Complainant relied on the amount for administrative, selling, and general costs (SG&A) and for profits based on an average of Kukdo's and Kumho's financial statements for the period from 1 January to 30 September 2023. The aforementioned period is the most current data reasonably available to the Complainant and reflects the SGA and profit of epoxy resin producers during the IP. Thus, the Complainant calculated 9,9% for SG&A and 7,1% for profit.

*Exhibit 4-36B - Dumping margin calculation – Korea (SG&A and Profit)*

168. In view of the above, the Complainant calculated the following constructed ex-works normal values during the IP amounting to [Confidential: 3 200 – 3 700] €/tonne:

| **Constructed normal value – Thailand** | **Unit to produce 1 tonne of epoxy resin** | **Cost per unit in Thailand (€ per unit)** | **Cost (€ / tonne of epoxy resin)** |
|---|---|---|---|
| Epichorohydrin (ECH) | [Confidential] | 1 443 | [Confidential] |
| Bisphenol-A (BPA) | [Confidential] | 1 388 | [Confidential] |
| Caustic Soda (50%) | [Confidential] | 742 | [Confidential] |
| Xylene | [Confidential] | - | [Confidential] |
| Monophosphate (20%) | [Confidential] | - | [Confidential] |
| Other | [Confidential] | - | [Confidential] |
| Steam | [Confidential] | 17,35 | [Confidential] |
| Electricity | [Confidential] | 5,629 | [Confidential] |
| Natural Gas | [Confidential] | 17,35 | [Confidential] |
| Other utilities: Nitrogen, DEIO water, Pressurized air, utility water, condensate | [Confidential] | - | [Confidential] |
| Direct labour | [Confidential] | 17,19 | [Confidential] |
| Tools, supplies, maintenance, laboratory | [Confidential] | - | [Confidential] |
| Transfer CM (transfer fee) between SBU | [Confidential] | - | [Confidential] |
| Depreciation | [Confidential] | | [Confidential] |
| Maintenance | [Confidential] | | [Confidential] |
| Personnel cost | [Confidential] | | [Confidential] |

[105] The general rate applied to imports of caustic soda in Korea is 8%.
[106] Natural gas consumed to produce steam is reported as "steam".

| | | | |
|---|---|---|---|
| Waste water and ecological cost | [Confidential] | | [Confidential] |
| Manufacturing overheads | [Confidential] | | [Confidential] |
| **Total Manufacturing Costs** | | | [Confidential] |
| SGA | 9,9% | % of the normal value ex-works | [Confidential] |
| Profit | 7,1% | % of the normal value ex-works | [Confidential] |
| **NORMAL VALUE EX-WORKS (in EUR/tonne)** | **-** | | **[3 200 – 3 700]** |

*Exhibit 4-36B - Dumping margin calculation – Korea*

#### 4.2.1.2 Existence of a particular market in the Korean epoxy resin sector

169. According to Article 2(3) of the basic AD Regulation, "*[a] particular market situation for the product concerned […] may be deemed to exist, inter alia, when prices are artificially low*". In addition, as per Article 2(5) of the basic AD Regulation, costs shall normally be calculated on the basis of records kept by the party under investigation, provided that such records are in accordance with the generally accepted accounting principles of the country concerned and that it is shown that the records reasonably reflect the costs associated with the production and sale of the product under consideration. If costs associated with the production and sale of the product under investigation are not reasonably reflected in the records of the party concerned, they shall be adjusted or established on the basis of the costs of other producers or exporters in the same country or, where such information is not available or cannot be used, on any other reasonable basis, including information from other representative markets.

170. The Complainant considers that there is a particular market situation for epoxy resins in Korea due to artificially low electricity and gas prices. As a result, the Complainant argues that costs associated with the production and sale of epoxy resin are not reasonably reflected in the records of Korean exporting producers and shall be adjusted.

171. As a threshold matter, it is critical to understand the basics of the epoxy resin manufacturing and supply chain. The inputs (ECH and BPA and caustic soda) for manufacturing epoxy resin are highly energy-intensive:

- ECH is produced through either the propylene or the glycerin process:
  - In the propylene process, chlorine and propylene are reacted to make allyl chloride, which is then either used together with chlorine and caustic soda to produce ECH or converted to ECH by reaction with hydrogen peroxide.
  - In the glycerin process, glycerin and hydrogen chloride ("HCl") are reacted to make ECH. Glycerin is a byproduct of the biodiesel production process.
- BPA is reacted from phenol and acetone, which are produced from cumene, while the reaction of propylene and benzene produces cumene.
- Caustic soda is produced through the electrolysis of brine (an aqueous solution of NaCl).

172. Each stage of the epoxy resin supply chain requires a significant amount of energy, including electricity and natural gas:

- The chlor-alkali process, the electrolysis that manufactures chlorine and caustic soda, is among the highest energy-consuming industrial processes. The cost of electricity can represent 70% of the variable costs of chlor-alkali plants.[107]
- Research in an Asian academic institution estimated that the global chlor-alkali industry consumes around 10% of global electricity.[108]
- In Europe, energy costs represent around half of the production costs of epoxy resin.[109] In Asia, these energy costs likely represent an even higher share because of the cheaper labour costs.
- The production of BPA is also highly energy intensive.[110]

173. The epoxy resin sector in Korea is significantly distorted because of substantial government intervention in the price of energy, in particular, electricity and gas. The Korean government has kept artificially low the price of electricity and gas to be paid by epoxy resin producers in Korea. The cost of energy for the production of epoxy resins in Korea is, therefore, artificially low due to substantial government intervention, within the definition of "particular market situation" as set out in the basic AD Regulation.

174. The provision of cheap energy by the Government of Korea ("GOK") to epoxy resin producers in Korea creates a highly significant distortion in the epoxy resin sector. As shown above, the production process of epoxy resins is very energy intensive, notably to produce certain epoxy resin inputs like chlorine and caustic soda.[111]

175. To evidence the artificially low electricity and gas prices caused by government intervention, the Complainant compared natural gas and electricity prices in Korea and Japan, a neighboring country of equal level of development and that also produces epoxy resins. The natural gas price in Korea is 17% lower than in Japan; the electricity price in Korea is 35% lower than in Japan.

| | **Natural Gas (USD/kWh)** | **Electricity (USD/kWh)** |
|---|---|---|
| Korea | 0,062 | 0,126 |
| Japan | 0,075 | 0,194 |
| **Difference** | **-17%** | **-35%** |

*Source: Exhibit 4-43 - Energy prices – Global Petro Prices*

176. Furthermore, the Korean epoxy resin sector is also distorted by measures affecting the ECH market in China. As previously mentioned, ECH is a major input in the production of epoxy resin. The Korean producers do not have their epoxy resin production integrated with the production of ECH. Therefore, they have to source ECH from the market. Korean producers

[107] Yasmin Pascual Khalil, Changing Regulations and Energy Costs Impact the Global Chlor-alkali Industry (21 April 2015), available at https://insights.globalspec.com/article/855/changing-regulations-and-energy-costs-impact-the-global-chlor-alkali-industry, attached as *Exhibit 4-37*.
[108] Kai Li et all, Revisiting Chlor-Alkali Electrolyzers: from Materials to Devices (13 April 2021), available at https://link.springer.com/article/10.1007/s12209-021-00285-9#citeas, attached as *Exhibit 4-38*.
[109] Euro chlor, Electrolysis and production costs (November 2023), available at https://www.eurochlor.org/wp-content/uploads/2018/06/12-Electrolysis-production-costs-November-2023.pdf, attached as *Exhibit 4-39*.
[110] Decarbonization Options For the Dutch Polycarbonate Industry, PBL Netherlands Environmental Assessment Agency, (October 12, 2021), p. 9, attached as *Exhibit 4-40*.
[111] *See* Hartmut Stiller, *Material Intensity of Advanced Composite Materials*, in Wuppertal Papers 16 (1999), attached as *Exhibit 4-41* (showing material intensity of epoxy resin production)

benefit from the huge increase in ECH production capacity in China and the consequent availability of cheap and unfair ECH imports from that country.

177. As a result of artificially low energy prices, which can represent a significant portion of the total cost of production of epoxy resins, there is a particular market situation for epoxy resins in Korea due to artificially low electricity and gas prices.

178. In view of the above, the Complainant requests the Commission to investigate the epoxy resin market and its upstream sector during the investigation in order to determine that there exists a particular market situation for epoxy resins in Korea due to artificially low electricity and gas, and that costs associated with the production and sale of epoxy are not reasonably reflected in the records of the Korean exporting producers. As a result, the Complainant requests the Commission to disregard the distorted energy costs and to adjust them with undistorted energy prices.

### 4.2.2 Export price determination

179. To establish the Korean ex-works export price to the Union, the Complainant relied on the weighted average Korean FOB export price under customs code 3907 30, which amounted to 2 800 €/tonne during the IP, as reported by the Korean Customs Service ("KCS").

180. The Complainant used the KCS to be as close as the ex-works export price. By relying on the export price to the EU as declared by Korean epoxy resin producers, the Complainant considers that it generates the most reliable and fairest calculations.

181. The Complainant has gathered evidence showing that the Korean import price under Eurostat may be affected by many factors, including terms of commerce, the existence of intermediaries or other customs strategy considerations.

182. In fact, the Complainant gathered information from customers about the Korean import price into the Union in Q3 2023. The Complainant attaches a call report from a communication with a client, in which [Confidential: name of the company] memorialized price quotations from Korean exporters it received from a client, amounting to [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary.][112] in Q3 2023 (on CIF basis). The average Korean FOB export price to the EU amounted, according to KCS, to 2 335 €/tonne, while in comparison, the Eurostat CIF import price for the same period was at 2 700 €/tonne[113].

183. Thus, the Korean export price to the EU during this period was much more in line with the price quotations received from customers than the Eurostat import price. In view of the above, the Complainant relied on the Korean official export statistics (KCS) to determine the ex-works export price.

184. To obtain an ex-factory export price from Korea to the EU, the Complainant must deduct the internal freight between the port in Korea and the Korean epoxy resin factory.

185. The domestic transport cost for epoxy resin in China was estimated by the Complainant at 35 €/tonne. To determine the transport cost, the Complainant considered the distance between the

[112] *See* Call report of customer interaction 2, attached as *Exhibit 4-42*.
[113] Exhibit 5-1 – Statistics of exports (GACC, KCS, CPT) and of imports (Eurostat)

epoxy resin producer Kumho Petro Chemical, located in Yeosu-si, and the Incheon Port (312 km and the price).

*Exhibit 4-44 - Evidence of domestic freight in Korea - Doing Business*

186. The ex-factory export price from Korea to the Union during the IP was as follows:

| Epoxy resin (€/tonne) | IP (Q4 2022 – Q3 2023) |
|---|---|
| Korean export price into the Union | 2 800 |
| Domestic freight in €/tonne | 35 |
| **Ex-factory export price in €/tonne** | **2 765** |

*Exhibit 4-36B - Dumping margin calculation – Korea (Export Price)*

### 4.2.3 Dumping margin

187. For the purpose of calculating the dumping margin, the Complainant compared the ex-factory normal value with the ex-factory export price calculated following the above methodology.

188. Based on the above elements, the Complainant calculated the dumping margin by applying the following formula:

$$\frac{\text{(ex-factory normal value) – (ex-factory export price)}}{\text{CIF border value}} \times 100$$

189. To obtain the CIF border value, the Complainant relied on the FOB export price under KCS. The Complainant must include the international freight between a port in Korea and a port in the Union. The international freight for epoxy resin between Korea and the Union was estimated by the Complainant at [Confidential: 50 - 150] €/tonne. The Korean CIF export price to the EU thus amounted to [Confidential: 2 500 - 3 000] €/tonne during the IP.

*Exhibit 4-36B - Dumping margin calculation – Korea (Transport cost)*

190. The results of the calculations show the following dumping margins:

| Dumping margin calculation | Q4 2022 – Q3 2023 |
|---|---|
| Normal value (€/tonne) | [3 100 - 3 400] |
| Ex-works export price to the EU (€/tonne) | 2 765 |
| Import price (€/tonne) | [2 500 - 3 000] |
| **Dumping margin (%)** | **[10 - 40]%** |

*Exhibit 4-36B - Dumping margin calculation – Korea*

191. In view of the above, Korean exporters have been practicing significant dumping on the Union market.

192. However, for the reasons explained above, the Complainant considers that such margin is largely underestimated and does not fully reflect the amount of dumping practices from Korean exporters due to distorted energy costs in Korea. Should this distorted energy costs in Korea be

addressed and captured in the normal value calculation, the Complainant considers that the amount of dumping margin will be much more significant.

## 4.3 Taiwan

### 4.3.1 Normal value determination

193. As per Article 2(1) of the basic AD Regulation, the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the xporting country.

194. Article 5(2)(c) of the basic AD Regulation states that a complaint shall include evidence of dumping, injury and a causal link between the allegedly dumped imports, and the alleged injury, as the information is reasonably available to the Complainant, including "*the prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export . . . or on the constructed value of the product*".

195. The Complainant has not been able to find reliable domestic prices in Taiwan during the period considered.[114]

196. In the absence of such of reliable data on domestic prices for the country concerned, the Complainant constructed the normal value of the product concerned, using all factors of production in Taiwan which are used by Taiwanese epoxy resin producers.

#### 4.3.1.1 Normal value construction

197. According to the basic AD Regulation, a complaint shall include evidence of dumping, including evidence on the constructed normal value, which shall be calculated on the basis of the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs, and profits.

198. As mentioned above, the Complainant considers that most of the epoxy resin exported from Taiwan to the EU is of BAGDE type. BAGDE-type epoxy resins are the most prominent epoxy type produced in Taiwan and consumed in the Union.

199. In Taiwan, basic BPA-type epoxy resins account for [Confidential: 60 - 70]% of epoxy resin production.[115] Also, epoxy resins exported by Taiwan can be classified in different customs codes that reflect differences in product type. The vast majority of the epoxy resins exported from Taiwan to the Union during the IP, *i.e.*, 76%, is of BADGE type, while 23% represents other epoxy resins in primary forms and only 1% is of novolac epoxy resins.[116] In view of the above, the Complainant constructed the normal value based on the cost structure of BAGDE-type epoxy resins of the Union producers.

200. The following methodology was used to calculate the normal value:

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[114] Specifically, the Complainant sought to obtain reliable pricing information of epoxy resins in Taiwan, i.e. on company website, annual reports of the company and market intelligence reports. Despite such attempts, the Complainant was unable to obtain such reliable pricing information. The Complainant [Confidential: Confidential information regarding the identity of an external service provider] to find domestic prices. However, this [Confidential: Confidential information regarding the identity of an external service provider]. See Exhibit 4-45A – Declaration on absence of reliable domestic prices.

[115] *See* 2022 CEH Epoxy Resin, p. 92, attached as Exhibit 3-1.

[116] *See* Exhibit 4-45B - Dumping margin calculation - Taiwan (Taiwan Export Data)

- Regarding the factors of production: The Complainant has taken the cost structure of the Union industry manufacturing epoxy resin to obtain the consumption volumes for each factor of production.

- The Complainant then multiplied the consumption volumes for each factor of production of the Union industry manufacturing epoxy resin by the costs per unit established in the domestic markets of the country of origin or export;

- Furthermore, the Complainant applied the manufacturing overheads to the undistorted costs of manufacturing and the SG&A and profit established for Nan Ya Plastics, an epoxy resin producer in the domestic markets of the country of origin or export for the period between 1 January and 30 September 2023.

201. To determine the prices of the various factors of production in Taiwan, the Complainant relied on publicly available information.

***(a) Factors of production***

202. Taiwanese producers manufacture epoxy resin using a production process similar to that of the Union producers which are not vertically integrated.

203. The factors of production are as follows:

| **Factors of production and sources of data** | | | |
|---|---|---|---|
| **Factor of Production** | **HS Code** | **Source of data the Complainant used** | **Unit of measurement** |
| Epichlorohydrin (ECH)[117] | 2910 30 | Trade Map[118] | €/tonne |
| Bisphenol-A (BPA[119]) | 2907 23 | Trade Map | €/tonne |
| Caustic Soda (50%)[120] | 2815 12 | Trade Map | €/tonne |
| Steam[121] | - | GlobalPetrolPrices | mmBtus/tonne |
| Natural Gas | - | GlobalPetrolPrices | mmBtus/tonne |
| Electricity | - | GlobalPetrolPrices | €/Mwh |
| Labour costs | - | International Labor Organization | Hours |

*Exhibit 4-45B - Dumping margin calculation - Taiwan*

***(b) Manufacturing overheads, SG&A, and profits***

204. The Complainant identified the financial statement of Nan Ya Plastics, which is a Taiwanese epoxy resin producer. The Complainant relied on the amount for administrative, selling, and general costs (SG&A) and for profits based on the period from 1 January to 30 September 2023. The aforementioned period is the most current data reasonably available to the Complainant and

[117] The general rate applied to imports of ECH in Taiwan is 1%.
[118] To the import price the Complainant added reasonable amount for import costs and domestic freight from the port to the production facility. Evidence of such costs is available in the sheets "Border and Doc compliance" and "Transport cost" of Exhibit 4-45B.
[119] The general rate applied to imports of BPA in Taiwan is 2,5%.
[120] The general rate applied to imports of caustic soda in Taiwan is 2,5%.
[121] Natural gas consumed to produce steam is reported as "steam".

reflects the SGA and profit of epoxy resin producers during the IP. Thus, the Complainant calculated 8,3% for SG&A and 4,6% for profit.

*Exhibit 4-45B - Dumping margin calculation – Taiwan (SG&A and Profit)*

205. In view of the above, the Complainant calculated the following constructed ex-works normal values during the IP amounting to [Confidential: 2 600 – 3 100] €/tonne:

| **Constructed normal value – Thailand** | **Unit to produce 1 tonne of epoxy resin** | **Cost per unit in Thailand (€ per unit)** | **Cost (€ / tonne of epoxy resin)** |
|---|---|---|---|
| Epichorohydrin (ECH) | [Confidential] | 1 200 | [Confidential] |
| Bisphenol-A (BPA) | [Confidential] | 1 347 | [Confidential] |
| Caustic Soda (50%) | [Confidential] | 305 | [Confidential] |
| Xylene | [Confidential] | - | [Confidential] |
| Monophosphate (20%) | [Confidential] | - | [Confidential] |
| Other | [Confidential] | - | [Confidential] |
| Steam | [Confidential] | 7,96 | [Confidential] |
| Electricity | [Confidential] | 0,14 | [Confidential] |
| Natural Gas | [Confidential] | 7,96 | [Confidential] |
| Other utilities: Nitrogen, DEIO water, Pressurized air, utility water, condensate | [Confidential] | - | [Confidential] |
| Direct labour | [Confidential] | 4,99 | [Confidential] |
| Tools, supplies, maintenance, laboratory | [Confidential] | - | [Confidential] |
| Transfer CM (transfer fee) between SBU | [Confidential] | - | [Confidential] |
| Depreciation | [Confidential] | | [Confidential] |
| Maintenance | [Confidential] | | [Confidential] |
| Personnel cost | [Confidential] | | [Confidential] |
| Waste water and ecological cost | [Confidential] | | [Confidential] |
| Manufacturing overheads | [Confidential] | | [Confidential] |
| **Total Manufacturing Costs** | | | [Confidential] |
| SGA | 8,3% | % of the normal value ex-works | [Confidential] |
| Profit | 4,6% | % of the normal value ex-works | [Confidential] |
| **NORMAL VALUE EX-WORKS (in EUR/tonne)** | **-** | | **[2 600 - 3 100]** |

*Exhibit 4-45B - Dumping margin calculation - Taiwan*

#### 4.3.1.2 Existence of a particular market in the Taiwan epoxy resin sector

206. According to Article 2(3) of the basic AD Regulation, "*[a] particular market situation for the product concerned […] may be deemed to exist, inter alia, when prices are artificially low*". In addition, as per Article 2(5) of the basic AD Regulation, costs shall normally be calculated on the basis of records kept by the party under investigation, provided that such records are in

accordance with the generally accepted accounting principles of the country concerned and that it is shown that the records reasonably reflect the costs associated with the production and sale of the product under consideration. If costs associated with the production and sale of the product under investigation are not reasonably reflected in the records of the party concerned, they shall be adjusted or established on the basis of the costs of other producers or exporters in the same country or, where such information is not available or cannot be used, on any other reasonable basis, including information from other representative markets.

207. The Complainant considers that there is a particular market situation for epoxy resins in Taiwan due to artificially low electricity and gas prices. As a result, the Complainant argues that costs associated with the production and sale of epoxy resin are not reasonably reflected in the records of Taiwanese exporting producers and shall be adjusted.

208. As mentioned above, the inputs (ECH and BPA and caustic soda) for manufacturing epoxy resin are highly energy-intensive.

209. The provision of cheap energy by the Government of Taiwan ("GOT") to epoxy resin producers in Taiwan thus creates a highly significant distortion in the epoxy resin sector.

210. To evidence the artificially low electricity and gas prices caused by government intervention, the Complainant compared natural gas and electricity prices in Taiwan and Japan, a neighboring country of equal level of development and that also produces epoxy resins. The natural gas price in Taiwan is 67% lower than in Japan; the electricity price in Taiwan is 21% lower than in Japan:

| | **Natural Gas (USD/kWh)** | **Electricity (USD/kWh)** |
|---|---|---|
| Taiwan | 0,025 | 0,154 |
| Japan | 0,075 | 0,194 |
| **Difference** | **-67%** | **-21%** |

*Source: Exhibit 4-43 - Energy prices – Global Petro Prices*

211. As a result of artificially low energy prices, which can represent a significant portion of the total cost of production of epoxy resins, there is a particular market situation for epoxy resins in Taiwan due to artificially low electricity and gas prices.

212. In view of the above, the Complainant requests the Commission to investigate the epoxy resin market and its upstream sector during the investigation in order to determine that there exists a particular market situation for epoxy resins in Taiwan due to artificially low electricity and gas, and that costs associated with the production and sale of epoxy are not reasonably reflected in the records of the Korean exporting producers. As a result, the Complainant requests the Commission to disregard the distorted energy costs and to adjust them with undistorted energy prices.

### 4.3.2 Export price determination

213. To establish the Taiwanese ex-works export price to the Union, the Complainant relied on the export price from the CPT Single Window ("CPT").

214. The Complainant used the CPT to be as close as the ex-works export price. By relying on the export price to the EU as declared by Taiwanese epoxy resin producers, the Complainant considers that it generates the most reliable and fairest calculations.

215. CPT provides exports of the product concerned by different product types, namely "Bisphenol A type epoxy resin", "Novolac resin type epoxy resin" and "Other epoxide resins, in primary forms"). CPT confirms that the vast majority of epoxy resins exported to the EU is Bisphenol A type (BADGE type). Since as mentioned above, the Complainant constructed the normal value based on the cost structure of BAGDE-type epoxy resins of the Union producers, it has relied on the Korean average export price of Bisphenol A type to the EU during the IP to determine the ex-works export price.

216. In addition, the Complainant has gathered evidence showing that the Taiwanese import price under Eurostat may be affected by many factors, including terms of commerce, the existence of intermediaries or other customs strategy considerations.

217. In fact, the Complainant gathered information from customers about Asian quotations outside China to the EU, which is possibly Taiwan. The Complainant attaches a call report from a communication with a client, in which [Confidential: Name of the company], which is possibly Taiwan. The import price in Q3 2023 was quoted at [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary.] €/tonne122. To reach the FOB export price, insurance and transport cost and other associated costs with the importation process should be deducted, which would make the prices more in line with the official Taiwanese statistics. During the same period, the average Taiwanese FOB export price to the EU amounted for Bisphenol A type epoxy resin, according to CPT, to 2 257,52 €/tonne, while in comparison, the Eurostat import price for the same period was at 2 502 €/tonne[123].

218. Thus, the Taiwan export price to the EU during this period was much more in line with the price quotations received from customers than the Eurostat import price. In view of the above, the Complainant relied on the Taiwanese official export statistics (CPT) to determine the Taiwanese ex-works export price and retained the average export price to the EU under customs code 39073010000 (Bisphenol A type epoxy resin) during the IP which amounted to 2 257,52 €/tonne.

219. To obtain an ex-factory export price from Taiwan to the EU, the Complainant must deduct the internal freight between the port in Taiwan and the Taiwanese epoxy resin factory.

220. The domestic transport cost for epoxy resin in China was estimated by the Complainant at 19 €/tonne. To determine the transport cost, the Complainant considered the distance between the epoxy resin producer Nan Ya Plastics and the Kaohsiung Port (356 km and the price).

*Exhibit 4-47 - Evidence of domestic freight in Taiwan - Doing Business*

221. The ex-factory export price from Taiwan to the Union during the IP was as follows:

| Epoxy resin (€/tonne) | IP (Q4 2022 – Q3 2023) |
|---|---|
| Taiwanese export price into the Union | 2 258 |

[122] *See* Call report of customer interaction 3, attached as *Exhibit 4-46*.
[123] Exhibit 5-1 – Statistics of exports (GACC, KCS, CPT) and of imports (Eurostat)

| | |
|---|---|
| Domestic freight in €/tonne | 19 |
| **Ex-factory export price in €/tonne** | **2 239** |

*Exhibit 4-45B - Dumping margin calculation - Taiwan (Export Price)*

### 4.3.3 Dumping margin

222. For the purpose of calculating the dumping margin, the Complainant compared the ex-factory normal value with the ex-factory export price calculated following the above methodology.

223. Based on the above elements, the Complainant calculated the dumping margin by applying the following formula:

$$\frac{\text{(ex-factory normal value) – (ex-factory export price)}}{\text{CIF border value}} \times 100$$

224. To obtain the CIF border value, the Complainant relied on the FOB export price under CPT. The Complainant must include the international freight between a port in Taiwan and a port in the Union. The international freight for epoxy resin between Taiwan and the Union was estimated by the Complainant at [Confidential: 50 - 150] €/tonne. The Taiwanese CIF export price thus amounted to [Confidential: 2 000 – 2 500] €/tonne during the IP.

*Exhibit 4-45B: Dumping margin calculation – Taiwan (Transport cost)*

225. The results of the calculations show the following dumping margins:

| **Dumping margin calculation** | **Q4 2022 – Q3 2023** |
|---|---|
| Normal value (€/tonne) | [2 700 - 3 100] |
| Ex-works export price to the EU (€/tonne) | 2 239 |
| Import price (€/tonne) | [2 300 - 2 500] |
| **Dumping margin (%)** | **[20 - 40]%** |

*Exhibit 4-45B - Dumping margin calculation – Taiwan*

226. In view of the above, Taiwanese exporters have been practicing dumping on the Union market.

227. However, for the reasons explained above, the Complainant considers that such margin is largely underestimated and does not fully reflect the amount of dumping practices from Taiwanese exporters due to distorted energy costs in Taiwan. Should this distorted energy costs in Taiwan be addressed and captured in the normal value calculation, the Complainant considers that the amount of dumping margin will be much more significant.

## 4.4 Thailand

### 4.4.1 Normal value determination

228. As per Article 2(1) of the basic AD Regulation, the normal value shall normally be based on the prices paid or payable, in the ordinary course of trade, by independent customers in the exporting country.

229. Article 5(2)(c) of the basic AD Regulation states that a complaint shall include evidence of dumping, injury and a causal link between the allegedly dumped imports, and the alleged injury, as the information is reasonably available to the Complainant, including "*the prices at which the product in question is sold when destined for consumption in the domestic markets of the country or countries of origin or export . . . or on the constructed value of the product*".

230. The Complainant has not been able to find reliable domestic prices in Thailand during the period considered.[124]

231. In the absence of such of reliable data on domestic prices for the country concerned, the Complainant constructed the normal value of the product concerned, using all factors of production in Thailand which are used by Thai epoxy resin producer.

#### 4.4.1.1 Normal value construction

232. According to the basic AD Regulation, a complaint shall include evidence of dumping, including evidence on the constructed normal value, which shall be calculated on the basis of the cost of production in the country of origin plus a reasonable amount for selling, general and administrative costs, and profits.

233. The Complainant considers that most of the epoxy resin manufactured and exported from Thailand to the EU is of BAGDE type. BAGDE-type epoxy resins are the most prominent epoxy type produced in Thailand and consumed in the Union.

*Exhibit 4-48: Extracts of technical sheets of Aditya Birla*

234. Epoxy resins are manufactured in Thailand by Aditya Birla Chemicals (Thailand), Ltd. ("Aditya Birla"). According to information reasonably available to Complainant, Aditya Birla is the only known producer of epoxy resins in Thailand and one of the largest exporters of epoxy resins.

*Exhibit 4-49: Aditya Birla website*

235. The following methodology was used to calculate the normal value:

- Regarding the factors of production: The Complainant has taken the cost structure of the Union industry manufacturing epoxy resin to obtain the consumption volumes for each factor of production.

- The Complainant then multiplied the consumption volumes for each factor of production of the Union industry manufacturing epoxy resin by the undistorted costs per unit established in Thailand;

[124] Specifically, the Complainant sought to obtain reliable pricing information of epoxy resins in Thailand, i.e. on company website, annual reports of the company and market intelligence reports. Despite such attempts, the Complainant was unable to obtain such reliable pricing information. The Complainant hired [Confidential: Confidential information regarding the identity of an external service provider] to find domestic prices. However, [Confidential: Confidential information regarding the identity of an external service provider]. See Exhibit 4-50A – Declaration on absence of reliable domestic prices.

- Furthermore, the Complainant applied the manufacturing overheads to the undistorted costs of manufacturing and the SG&A and profit established for Aditya Birla Chemical (Thailand) Ltd[125].

236. To determine the prices of the various factors of production in Thailand, the Complainant relied on publicly available information.

***(a) Factors of production***

237. Thai producers manufacture epoxy resin using a using a similar production process as the Union producers; namely, reacting epichlorohydrin (ECH) and bisphenol-A (BPA)[126].

238. The factors of production are as follows:

| Factors of production and sources of data | | | |
|---|---|---|---|
| **Factor of Production** | **HS Code** | **Source of data the Complainant used** | **Unit of measurement** |
| Epichlorohydrin (ECH)[127] | 2910 30 | Trade Map | €/tonne |
| Bisphenol-A (BPA[128]) | 2907 23 | Trade Map | €/tonne |
| Caustic Soda (50%)[129] | 2815 12 | Trade Map | €/tonne |
| Steam[130] | - | Energy Policy and Planning Office of the Ministry of Energy | mmBtus/tonne |
| Natural Gas[131] | - | Energy Policy and Planning Office of the Ministry of Energy | mmBtus/tonne |
| Electricity[132] | - | Metropolitan Electricity Authority | €/Mwh |
| Labour costs[133] | - | National Statistical Office Thailand | Hours |

*Exhibit 4-50B - Dumping margin calculation - Thailand*

***(b) Manufacturing overheads, SG&A, and profits***

239. The Complainant identified the financial statement of Aditya Birla Chemical (Thailand) Ltd., which is a Thai epoxy resin producer. The Complainant calculated a reasonable amount for administrative, selling, and general costs (SG&A) and for profits based on a weighted average

[125] To determine SG&A and profit for the IP, the Complainant calculated a weighted average between 2022 and 2023, where the year of 2022 represented one-fourth and 2023 three-fourths of the final calculations. See *Exhibit 4-49 – Dumping margin calculation – Thailand.* See also Exhibit 4-33 - Aditya Birla Chemical (Thailand) Ltd.'s financial statement.
[126] BPA may sometimes be replaced by other raw materials (such as aliphatic glycols, phenol and o-cresol novolacs) to produce specialty resins.
[127] The general rate applied to imports of ECH in Thailand is 0%.
[128] The general rate applied to imports of BPA in Thailand is 0%.
[129] The general rate applied to imports of caustic soda in Thailand is 3%.
[130] Natural gas consumed to produce steam is reported as "steam". See Exhibit 4-29 - Natural Gas to steam conversion
[131] See Exhibit 4-28 - Natural Gas - Energy Policy and Planning Office of the Ministry of Energy
[132] See Exhibit 4-30 - Electricity – Metropolitan Electricity Authority
[133] See Exhibit 4-31 - Labour Costs - National Statistical Office Thailand; See Exhibit 4-32 - Labour Costs - PwC - Social Security taxes

of Aditya Birla's financial statements for 2022 and 2023. To reach a result for the IP, the Complainant used the 2023 results to represent three-fourths and the 2022 results to represent one-fourth of the SG&A and profits. Thus, the Complainant calculated 17,8% for SG&A and 22,6% for profit.

240. In view of the above, the Complainant calculated the following constructed ex-works normal values during the IP amounting to [ Confidential: 5 000 – 5 500 ] €/tonne:

| **Constructed normal value – Thailand** | **Unit to produce 1 tonne of epoxy resin** | **Cost per unit in Thailand (€ per unit)** | **Cost (€ / tonne of epoxy resin)** |
|---|---|---|---|
| Epichorohydrin (ECH) | [Confidential] | 1 186,02 | [Confidential] |
| Bisphenol-A (BPA) | [Confidential] | 1 197,17 | [Confidential] |
| Caustic Soda (50%) | [Confidential] | 360,40 | [Confidential] |
| Xylene | [Confidential] | - | [Confidential] |
| Monophosphate (20%) | [Confidential] | - | [Confidential] |
| Other | [Confidential] | - | [Confidential] |
| Steam | [Confidential] | 8,580 | [Confidential] |
| Electricity | [Confidential] | 5,629 | [Confidential] |
| Natural Gas | [Confidential] | 8,580 | [Confidential] |
| Other utilities: Nitrogen, DEIO water, Pressurized air, utility water, condensate | [Confidential] | - | [Confidential] |
| Direct labour | [Confidential] | 2,341 | [Confidential] |
| Tools, supplies, maintenance, laboratory | [Confidential] | - | [Confidential] |
| Transfer CM (transfer fee) between SBU | [Confidential] | - | [Confidential] |
| Depreciation | [Confidential] | | [Confidential] |
| Maintenance | [Confidential] | | [Confidential] |
| Personnel cost | [Confidential] | | [Confidential] |
| Waste water and ecological cost | [Confidential] | | [Confidential] |
| Manufacturing overheads | [Confidential] | | [Confidential] |
| **Total Manufacturing Costs** | | | **[Confidential]** |
| SGA | 17,8% | % of the normal value ex-works | [Confidential] |
| Profit | 22,6% | % of the normal value ex-works | [Confidential] |
| **NORMAL VALUE EX-WORKS (in EUR/tonne)** | **-** | | **[ 5 000 – 5 500 ]** |

*Exhibit 4-50B - Dumping margin calculation – Thailand*

### 4.4.2 Export price determination

241. To establish the Thai ex-works export price to the Union, the Complainant relied on the weighted average FOB Thai export price reported by the Thai official export statistics, which amounted to 2 835 €/tonne during the IP.

242. The Complainant used the Thai official export statistics to be as close as the ex-works export price. This is supported by the fact that the customs code 3907.30.30 (000) stands for epoxy resin "in the form of liquid or pastes (KGM"), confirming the accuracy of the product code in the Thai official export statistics. By relying on the export price to the EU as declared by Thai epoxy resin producers for epoxy resin in liquid form (which is by far the largest type of epoxy resin exported to the EU), the Complainant considers that it generates the most reliable and fairest calculations for the dumping margin.

243. The Complainant has gathered evidence showing that the Thai import price under Eurostat may be affected by many factors, including terms of commerce, the existence of intermediaries or other customs strategy considerations.

244. In fact, the Complainant gathered information from customers about Asian quotations outside China to the EU, which possibly covers Thailand. The Complainant attaches a call report from a communication with a client, in which [Confidential: name of the company] memorialized price quotations from Asia outside China, which possibly covers Thailand. The import price in Q3 2023 was quoted at [Confidential: This information pertains to a call report memorializing interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary.] €/tonne.[134] To reach the FOB export price, insurance and transport cost and other associated costs with the importation process should be deducted, which would make the prices more in line with the official Thai statistics.

245. In view of the above, the Complainant relied on the Thai official export statistics to determine the Thai ex-works export price.

246. To obtain an ex-factory export price from Thai to the EU, the Complainant must deduct the internal freight between the port in Thailand and the Thai epoxy resin factory.

247. The domestic transport cost for epoxy resin in Thailand was estimated by the Complainant at 4.5 €/tonne. To determine the transport cost, the Complainant considered the distance between the epoxy resin producer Aditya Birla Chemical (Thailand) Ltd. and the Thai Laem Chabang Port (63 km and the price).

*Exhibit 4-51 - Evidence of domestic freight in Thailand - Doing Business*

248. The ex-factory export price from Thailand to the Union during the IP was as follows:

| Epoxy resin (€/tonne) | IP (Q4 2022 – Q3 2023) |
|---|---|
| Thai export price into the Union | 2 835 |
| Domestic freight in €/tonne | 4.5 |
| **Ex-factory export price in €/tonne** | **2 831** |

### 4.4.3 Dumping margin

249. For the purpose of calculating the dumping margin, the Complainant compared the ex-factory normal value with the ex-factory export price calculated following the above methodology.

[134] *See* Call report of customer interaction 3, attached as Exhibit 4-46.

250. Based on the above elements, the Complainant calculated the dumping margin by applying the following formula:

$$\frac{\text{(ex-factory normal value) – (ex-factory export price)}}{\text{CIF border value}} \times 100$$

251. To obtain the CIF border value, the Complainant relied on the FOB export price under the Thai official export statistics. The Complainant must include the international freight between a port in Thailand and a port in the Union. The international freight for epoxy resin between Thailand and the Union was estimated by the Complainant at 160 €/tonne. The Thai CIF export price thus amounted to 2 995 €/tonne during the IP.

252. The results of the calculations show the following dumping margins:

| **Dumping margin calculation** | **Q4 2022 – Q3 2023** |
|---|---|
| Normal value (€/tonne) | [5 000 – 5 500] |
| Ex-works export price to the EU (€/tonne) | 2 831 |
| Import price (€/tonne) | 2 995 |
| **Dumping margin (%)** | **[60 – 90] %** |

*Exhibit 4-50B - Dumping margin calculation – Thailand*

253. In view of the above, Thai exporters have been practicing dumping on the Union market.

### 4.5 Conclusion

254. As shown above, Chinese, Korean, Taiwanese and Thai exporters practice dumping on the Union market.

## 5. MATERIAL INJURY

255. As per Article 3(4) of the basic Regulation, the effects of imports from more than one country shall be cumulatively assessed (i) if the margin of dumping for each country is more than *de minimis*; and (ii) if such an assessment is appropriate in light of the conditions of competition between the imported products and between imported products and the like Union products.

256. The Complainant considers it appropriate to cumulatively assess the effects of imports from the targeted countries in the present case. First, the margin of dumping calculated above for each targeted country is more than *de minimis*, estimated at [Confidential: 140 - 170]% for China, [Confidential: 10-40]% for Korea, [Confidential: 20-40]% for Taiwan, and [Confidential: 60-90]% for Thailand. Second, epoxy resin exported from China, Korea, Taiwan and Thailand are interchangeable and in strong competition with each other as well as with products manufactured by Union producers. All products have similar characteristics, end-use, and substitutability. The types of epoxy resins exported by the targeted countries to the EU follow the Union demand and are thus all in strong competition with each other as well as with the products manufactured in the Union.

### 5.1 Evolution of epoxy resin exports from China, Korea, Taiwan and Thailand to the EU

257. For the reasons explained in the previous section, the Complainant has relied on the official export statistics from the countries targeted by this complaint for the purpose of the export price calculation, considering their accuracy regarding the price availability and the product type description. For consistency, the Complainants also relies on the export volumes from the countries targeted by this complaint to the Union in this present section[135]. The Complainant notes that the export volumes from the countries targeted by this complaint to the EU and the Eurostat import statistics are not disconnected with each other[136]. Thus, even assuming that Eurostat import data - in volume and value - would be used to assess the injury, the Complainant would reach the exact same findings on the material injury suffered by the EU industry, because there is a reasonable alignment between export and import statistics in terms of volume and because the use of the Eurostat import price would also lead to severe undercutting margins.

258. As shown in the table below, unfair exports from China, Korea, Taiwan and Thailand to the Union increased from 54 993 tonnes in 2020 to 96 603 tonnes in 2022 and 113 985 tonnes during the IP, *i.e.,* a total increase of 108% between 2020 and IP:

| **Volume of epoxy resin exports to the EU (in tonnes)** | **2020** | **2021** | **2022** | **IP (Q4 2022-Q3 2023)** |
|---|---|---|---|---|
| Korea | 42 212 | 52 253 | 47 244 | 51 051 |
| China | 436 | 17 294 | 23 896 | 31 559 |
| Taiwan | 7 250 | 20 220 | 20 602 | 21 269 |
| Thailand | 5 034 | 6 229 | 4 860 | 10 106 |
| **Subtotal** | **54 993** | **95 996** | **96 603** | **113 985** |
| *Index 2020 = 100* | 100 | 175 | 176 | 208 |

*Source: Official export statistics*

*Exhibit 5-1 – Statistics of exports (GACC, KCS, CPT and Thai Customs) and of imports (Eurostat)*

259. As shown in the table below, unfair exports from Korea to the Union increased from 42 212 tonnes in 2020 to 51 051 tonnes during the IP, *i.e.,* a total increase of 21% between 2020 and IP:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Korea epoxy resin exports to the Union | 42 212 | 52 253 | 47 244 | 51 051 |
| *Index 2020 = 100* | 100 | 124 | 112 | 121 |

*Source: Official export statistics*

260. As shown in the table below, unfair exports from China to the Union increased from 436 tonnes in 2020 to 23 896 tonnes in 2022 and 31 559 tonnes during the IP, *i.e.,* a total increase of 7 136% between 2020 and IP:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| China epoxy resin exports to the Union | 436 | 17 294 | 23 896 | 31 559 |

[135] For China, the Complainant relied on export statistics reported by GACC. For Korea, the Complaint relied on export statistics reported by KCS. For Taiwan, the Complainant relied on export statistics reported by CPT.
[136] See Exhibit 5-1 "comparison imports v. exports". There are some discrepancies in the volume of exports from Taiwan to the EU and the volume of imports from Taiwan into the EU for the IP, which is possibly due to products being customs cleared in the EU under customs code other than CN code 39073000. However, this difference marginally impacts the analysis made by the Complainant in the present section.

| | | | | |
|---|---|---|---|---|
| *Index 2020 = 100* | 100 | 3 965 | 5 479 | 7 236 |

*Source: Official export statistics*

261. As shown in the table below, unfair exports from Taiwan to the EU increased from 7 250 tonnes in 2020 to 20 602 tonnes in 2022 and to 21 269 during the IP. Considering the extremes of the period considered unfair exports from Taiwan to the Union almost tripled, reaching a total increase of 193% between 2020 and IP:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Taiwan epoxy resin exports to the Union | 7 250 | 20 220 | 20 602 | 21 269 |
| *Index 2020 = 100* | 100 | 279 | 284 | 293 |

*Source: Official export statistics*

262. As shown in the table below, unfair exports from Thailand to the EU increased from 5 034 tonnes in 2020 to 10 106 tonnes during the IP. While Thai exports to the EU remained rather stable between 2020 and 2022, they surged during the IP at levels closely approaching the volume of Taiwanese exports to the EU. During the period considered, Thai exports to the EU increased by 101%:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Thailand epoxy resin exports to the Union | 5 034 | 6 229 | 4 860 | 10 106 |
| *Index 2020 = 100* | 100 | 124 | 97 | 201 |

*Source: Official export statistics*

263. As shown in the table below, the share of unfairly traded exports of epoxy resin from China, Korea, Taiwan and Thailand to the EU within total imports increased from 44% in 2020 to 67% during the IP:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022-Q3 2023) |
|---|---|---|---|---|
| Epoxy exports from China, Korea, Taiwan and Thailand to the EU | 54 933 | 95 996 | 96 603 | 113 985 |
| Total imports | 123 552 | 169 294 | 164 982 | 170 820 |
| *Share of imports concerned* | **44%** | **57%** | **59%** | **67%** |

*Source: Eurostat, Official export statistics*

264. The table below shows the share of unfairly traded exports of epoxy resin from China, Korea, and Taiwan to the EU, individually within total imports:

| Epoxy resin exports to the EU - in tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Korea | 42 212 | 52 253 | 47 244 | 51 051 |
| **Share of Korea within total imports** | 34% | 31% | 29% | 30% |
| China | 436 | 17 294 | 23 896 | 31 559 |
| **Share of China within total imports** | 0% | 10% | 14% | 18% |
| Taiwan | 7 250 | 20 220 | 20 602 | 21 269 |
| **Share of Taiwan within total imports** | 6% | 12% | 12% | 12% |
| Thailand | 5 034 | 6 229 | 4 860 | 10 106 |
| **Share of Thailand within total imports** | 4% | 4% | 3% | 6% |

| | | | | |
|---|---|---|---|---|
| **Total imports** | **123 552** | **169 294** | **164 982** | **170 820** |

*Source: Eurostat, Official export stastics*

265. The share of unfairly traded exports of epoxy resin from Korea within total imports reduced from 34% in 2020 to 29% in 2022. From 2022 to the IP, Korea's share within total imports increased from 29% to 30%. China's share within total imports increased throughout the entire period concerned, from 0% in 2020 to 18% during the IP. Taiwan's share within total imports increased from 6% in 2020 to 12% during the IP. Finally, Thailand's share within total imports increased from 4% in 2020 to 6% during the IP.

## 5.2 Economic and financial situation of the Union epoxy resin industry

266. Dumped imports of epoxy resin from China, Korea, Taiwan and Thailand have caused material injury to the Union industry.

267. The Complainant provides below the macro-economic indicators of the Union epoxy resin industry and the micro-economic indicators of the Complainants. As mentioned above, the Complainant represented 68% of the total Union epoxy resin industry during the IP. The Complainant is, therefore, fully representative of an assessment of the micro-indicators.

### 5.2.1 Macro economic indicators

268. To assess the evolution of the situation of the Union industry, the following indicators will be examined:

- Production
- Production capacity
- Capacity utilisation
- Union sales
- Employment
- Union consumption
- Market shares of the Union industry

*Exhibit 5-2 - Macro data*

269. As will be shown below, there is a direct correlation between the evolution of the Chinese, Korean, Taiwanese and Thai epoxy resin imports and the injury suffered by the EU industry.

#### *a) Production, capacity, and capacity utilisation*

270. While the production of the Union epoxy resin industry increased by 3% from 2020 to 2021 to reach [Confidential: 500 000 - 550 000] tonnes, the Union epoxy resin production reduced in the following years. From 2021 onwards, the Union epoxy resin industry significantly decreased its volume of production, reaching [Confidential: 300 000 - 350 000] tonnes during the IP, i.e., a decrease of 41% compared to 2020:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Union epoxy resin production | [500 000 - 550 000] | [500 000 - 550 000] | [350 000 - 400 000] | [300 000 - 350 000] |

| | | | | |
|---|---|---|---|---|
| *Index 2020=100* | 100 | 103 | 69 | 59 |

*Exhibit 5-2 - Macro data*

271. The capacity of the Union epoxy resin industry remained relatively stable between 2020 and 2022. However, it decreased by 4% between 2020 and the IP, namely [Confidential: 600 000 – 650 000] tonnes in 2020 and [Confidential: 600 000 – 650 000] tonnes during the IP:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Union Epoxy Resin capacity | [600 000 - 650 000] | [600 000 - 650 000] | [600 000 - 650 000] | [600 000 - 650 000] |
| *Index 2020=100* | 100 | 100 | 100 | 96 |

*Exhibit 5-2 - Macro data*

272. The reduction in the Union's capacity can be explained by the pressure exerted by the Chinese, Korean, Taiwanese, and Thai imports, which have led Union epoxy resin producers to reduce their capacity.

273. Except for 2021, a constant decrease in the production of the Union epoxy led to a decrease in capacity utilisation during the entire injury period. During the IP, the capacity utilization of the Union industry amounted to [Confidential: 50 - 55]%., i.e., a decrease of [Confidential: 25 - 35] percentage points compared to 2020:

| | **2020** | **2021** | **2022** | **IP (Q4 2022 – Q3 2023)** |
|---|---|---|---|---|
| Union epoxy resin production | [500 000 - 550 000] | [500 000 - 550 000] | [350 000 - 400 000] | [300 000 - 350 000] |
| Union epoxy resin capacity | [600 000 - 650 000] | [600 000 - 650 000] | [600 000 - 650 000] | [600 000 - 650 000] |
| Union capacity utilisation (%) | [80 - 85]% | [80 - 85]% | [55 - 60]% | [50 - 55]% |
| *Index 2020=100* | 100 | 104 | 69 | 61 |

*Exhibit 5-2 - Macro data*

***b) Union sales***

274. Union sales of the Union industry to unrelated companies increased by 3% between 2020 and 2021 to amount to [Confidential: 250 000 – 300 000] tonnes in 2021. As of 2022, due to the increase of dumped imports, Union sales started to significantly decrease to reach [Confidential: 150 000 – 200 000] tonnes during the IP, *i.e.*, a decrease of 37% compared to 2020:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Union sales of epoxy resin | [250 000 - 300 000] | [250 000 - 300 000] | [200 000 - 250 000] | [150 000 - 200 000] |
| *Index 2020=100* | 100 | 103 | 74 | 63 |

*Exhibit 5-2 - Macro data*

***c) Union employment***

275. During the period considered, Union employment decreased by 2% between 2020 and 2021 and then increased by 3% between 2021 and 2022. During the IP, the number of employees decreased in comparison to 2022 and 2020. From 2020 to the IP, Union employment decreased by 1%:

| Number of employees | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Union epoxy resin employment | [2 800 - 3 000] | [2 800 - 3 000] | [2 800 - 3 000] | [2 800 - 3 000] |
| *Index 2020=100* | 100 | 98 | 101 | 99 |

*Exhibit 5-2 - Macro data*

***d) Union consumption***

276. The Union consumption – which amounted to [Confidential: 400 000 - 450 000] tonnes in 2020 – increased by 13% in 2021 to reach [Confidential: 420 000 - 470 000] tonnes. As of 2021 onwards, the Union consumption decreased from [Confidential: 420 000 - 470 000] tonnes in 2021 to [Confidential: 300 000 - 350 000] tonnes during the IP. From 2020 to the IP, the Union consumption decreased by 14%, as shown in the table below:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Union sales | [250 000 - 300 000] | [250 000 - 300 000] | [200 000 - 250 000] | [150 000 - 200 000] |
| *2020=100* | *100* | *103* | *74* | *63* |
| Total imports from non-EU countries | 123,462 | 169,143 | 165,000 | 172,200 |
| *2020=100* | *100* | *137* | *134* | *139* |
| Union consumption | [400 000 - 450 000] | [420 000 - 470 000] | [350 000 - 400 000] | [300 000 - 350 000] |
| *2020=100* | *100* | *113* | *92* | *86* |

*Exhibit 5-2 - Macro data*

277. The decrease in the Union's consumption of epoxy resin in 2022 onwards was broadly in line with the decline in global consumption of epoxy resin. Many factors explain the decrease in the Union consumption of epoxy resins in the most recent years, mainly the evolution of certain industries and energy costs.

278. Epoxy resins are used in a variety of industries, including paint and coating, construction, wind energy, and automobile industries. During the period 2020 and 2021, there was extraordinary growth in the global consumption of paints due to a "stay-at-home" economy, which had an outsized impact on the epoxy resin industry. Epoxy resins are an important raw material needed to produce paint and coatings, and during the Covid-19 pandemic, paint consumption in the Union and around the world rose rapidly as consumers benefitted from the "stay-at-home" lifestyle during lockdowns.

279. As of 2022 onwards, the "Covid-19 effect" had worn off. Paint companies who had built up large inventories of epoxy resins in anticipation of continued growth in demand suddenly needed to "de-stock". They thus used existing epoxy resins inventories to manufacture paint rather than purchasing new product.

280. In addition, the Union's consumption has been impacted by Russia's invasion of Ukraine in February 2022. Fears of recessions coupled with the existing inventories on hand at the paint manufacturers had a relatively large impact on epoxy resin consumption in the Union. Also, Russia's invasion of Ukraine significantly increased the energy prices, impacting the competitiveness of the Union producers. The higher prices and fear of recession impacted the construction, wind energy, and automotive industries more severely.

281. While the Union epoxy resin consumption decreased during the period considered, Union sales decreased much faster, which demonstrated that the unfair exports from China, Korea and Taiwan to the EU have unfairly taken market shares from the Union industry. Epoxy resin exports from targeted countries to the EU have significantly increased and gained market shares, from [Confidential: 10 - 20]% in 2020 to [Confidential: 20 - 30]% during the IP:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Exports from China, Korea, Taiwan and Thailand to the EU | 54 933 | 95 996 | 96 603 | 113 985 |
| Union consumption | [400 000 - 450 000] | [420 000 - 470 000] | [350 000 - 400 000] | [300 000 - 350 000] |
| % Market share | [10 - 20]% | [10 - 20]% | [20 - 30]% | [30 - 40]% |

*Exhibit 5-2 - Macro data*

282. Market share of the Union industry sharply fell during the period considered, from [Confidential: 60 - 70]% in 2020 to [Confidential: 40 - 50]% during the IP:

| In tonnes | 2020 | 2021 | 2022 | IP (Q3 2022 – Q4 2023) |
|---|---|---|---|---|
| Union sales | [250 000 - 300 000] | [250 000 - 300 000] | [200 000 - 250 000] | [150 000 - 200 000] |
| *2020=100* | 100 | 103 | 74 | 63 |
| Union consumption | [400 000 - 450 000] | [420 000 - 470 000] | [350 000 - 400 000] | [300 000 - 350 000] |
| *2020=100* | 100 | 113 | 92 | 86 |
| Market shares | [60 - 70]% | [60 - 70]% | [50 - 60]% | [40 - 50]% |

*Exhibit 5-2 - Macro data*

***e) Interim conclusions***

283. It results from the above that all the major macro-economic indicators have significantly reduced during the period considered. The continued increase of the epoxy resin exports to the EU from targeted countries in 2022 onwards led to the decrease of the Union industry's production, capacity utilization, Union employment, Union sales, and market shares.

### 5.2.2 Micro economic indicators

284. To assess the economic and financial situation of the Union epoxy resin industry, the following indicators will be examined. The indicators are based on the data from Union producers composing the Coalition.

- Production, production capacity, and capacity utilisation of the Complainant;
- Sales volumes and values of the Complainant;
- Market shares;
- Costs of production of the Complainant,

- Profitability of the Complainant;
- Stocks of the Complainant;
- Investments of the Complainant;
- Employment of the Complainant.

*Exhibit 5-3 - Micro data*

***a) Production, capacity, and utilisation rate of the Complainant***

285. The production of the Complainants increased by 7% from 2020 to 2021 to reach [Confidential: 400 000 – 450 000] tonnes. However, from 2022 onwards, the production of the Complainant decreased significantly due to the increase of dumped imports, reaching [Confidential: 200 000 – 250 000] tonnes during the IP, *i.e.*, a decrease of 41% compared to 2020:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Production | [375 000 - 425 000] | [400 000 - 450 000] | [250 000 - 300 000] | [200 000 - 250 000] |
| *Index 2020=100* | 100 | 107 | 70 | 59 |

*Exhibit 5-3 - Micro data*

286. The capacity of the Complainants remained relatively stable from 2020 to 2022. More recently, however, the Union's capacity decreased. During the IP, the Union capacity amounted to [Confidential: 475 000 – 525 000] tonnes, *i.e.*, a decrease of 5% compared to 2020:

| **In tonnes** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Union capacity | [475 000 - 525 000] | [475 000 - 525 000] | [475 000 - 525 000] | [475 000 - 525 000] |
| *Index 2020=100* | 100 | 99 | 100 | 95 |

*Exhibit 5-3 - Micro data*

287. Due to the capacity reduction and increase in production of the Complainants, the capacity utilisation improved in 2021. However, the capacity utilisation declined from 2022 onwards due to a sharp decrease in production. During the IP, the capacity utilisation of the Complainants amounted to [Confidential: 45 - 55]%:

| | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Capacity utilization (%) | [75 - 85]% | [80 - 90]% | [50 - 60]% | [45 - 55]% |
| *Index 2020=100* | 100 | 108 | 70 | 62 |

*Exhibit 5-3 - Micro data*

***b) Union sales of the Complainant***

288. As shown in the table below, the volume of sales of the Complainants to unrelated companies increased by 11% from 2020 to 2021, reaching [Confidential: 150 000 – 200 000] tonnes. As of 2021, the Union sales of the Complainant started to fall, reaching [Confidential: 100 000 – 150 000] tonnes in 2022 and [Confidential: 100 000 – 150 000] tonnes during the IP, *i.e.*, a decrease of 21% and 34%, respectively, compared to 2020:

| | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Union sales to unrelated companies (in tonnes) | [150 000 - 200 000] | [150 000 - 200 000] | [100 000 - 150 000] | [100 000 - 150 000] |
| *Index 2020=100* | 100 | 111 | 79 | 66 |

*Exhibit 5-3 - Micro data*

289. The value of sales of the Complainants increased by 113% between 2020 and 2021, as a result of the cost increase. From 2021 onwards, the value of sales of the Complainant showed a decrease, especially during the IP, where the value of sales decreased by 32% compared to 2022.

| | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Union sales to unrelated companies (in €) | [350 000 - 400 000] | [750 000 - 800 000] | [650 000 - 700 000] | 450 000 - 500 000] |
| *Index 2020=100* | 100 | 213 | 184 | 125 |

*Exhibit 5-3 - Micro data*

290. As shown in the table below, the Union sales price of the Complainant to unrelated companies significantly increased in 2020 and 2021. The Complainants' cost of production also increased during the period, pressuring the Complainant's sales price. Considering the extremes of the period, the sales price increased from [Confidential: 2 200 – 2 500] €/tonne in 2020 to [Confidential: 4 200 – 4 500] €/tonne during the IP:

| | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Union sales price (in €/tonne) | [ 2 200 - 2 500] | [ 4 200 - 4 500] | [ 5 200 - 5 500] | [ 4 200 - 4 500] |
| *Index 2020=100* | 100 | 191 | 232 | 188 |

*Exhibit 5-3 - Micro data*

291. This increase in the sales price of the Complainant during the period is explained by the increase in its costs of production. However, as will be shown below, due to the pressure exerted by the concerned imports, the Complainants were unable to raise its epoxy resin selling price to offset the cost increase, thereby directly impacting its profitability.

### *c) Cost of production*

292. The average cost of production of the Complainants increased during the period concerned. The cost of production of the Complainant followed an upward trend and reached a peak in 2022 and during the IP, amounting to [Confidential: 4 800 – 5 100] €/tonne and [Confidential: 4 800 – 5 100] €/tonne, respectively:

| In €/tonne | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Cost of production | [ 2 200 - 2 500] | [2 700 - 3 000] | [4 800 - 5 100] | [4 800 - 5 100] |
| *Index 2020=100* | 100 | 131 | 225 | 229 |

*Exhibit 5-3 - Micro data*

293. The increase in the production costs of the Complainant can largely be explained by the rise in energy costs that impacted feedstock costs. The rise in energy costs passed on to the epoxy resin

cost of production through the increase in the cost of production of the raw materials. The production processes of ECH, BPA, and caustic Soda are energy-intensive. Additionally, the diminished capacity utilisation due to unfair competition with imports from the targeted countries raised fixed costs per unit.

***d) Profitability***

294. Due to the pressure exerted by the concerned imports, the Complainants were unable to increase their epoxy resin selling price to offset the rise of the feedstock costs and, thus, significantly reduced profit margins.

295. As shown below, the Complainants' profitability increased by 459% from 2020 to 2021. 2021 was an exceptionally profitable year because the pandemic lockdowns shifted work to home offices, which coupled with the EU's monetary easing to boost the economy led to an enormous boom in demand for consumer supplies and intermediates, including epoxy resins. This rapid increase in demand led to a similarly high demand for foreign chemicals, including from the subject countries, but their supply could not immediately meet such suddenly high demand increase in the EU. This caused significant unreliability on supplies of chemicals from Asia to the EU. In addition, EU consumers were willing to pay significant premium on top of import prices to ensure their plants would continue to run, contributing to the exceptionally high profitability in 2021.

296. In 2021, the global economy was hit by significant inflationary pressures and disrupted global supply chains. The price of commodities, including epoxy resins rose in 2021 with the disruption of supply chain, and the Union epoxy resin producers were able to maintain the supply of raw materials to production. Epoxy resin producers were able to maintain the utilisation of their production capacities and meet their customer's demands.

297. For instance, Spolchemie stated in its 2021 financial statement that steady sales volume "combined with significant supply chain constraints, strong demand and disruptions in some European production, has significantly increased unit margins for epoxy resins"[137].

298. Then, in 2022, new vessel capacity in Asia started to be built-on, significantly improving supply availability for exports of chemicals to Europe. The energy crisis in the EU unfolded in the second half of 2022 harmed European producers, while the imports from Asia, notably Korea, Taiwan, and China, continued to benefit from subsidized energy prices. Thus, from 2022 onwards, imports from these origins significantly increased, significantly reducing the domestic EU share, and the Complainant's profit margin, which sharply dropped to [Confidential: 4 - 8]% in 2022 and [Confidential: -16 - -12]% during the IP:

| **In %** | **2020** | **2021** | **2022** | **IP (Q4 2022 - Q3 2023)** |
|---|---|---|---|---|
| Profit margin | [4 - 8]% | [30 - 34]% | [4 - 8]% | [- 16 - -12]% |
| *Index 2020=100* | 100 | 559 | 112 | -257 |

*Exhibit 5-3 - Micro data*

299. Most importantly, the significant decrease in the Complainant's profit margin from 2021 to 2022 is a reflection of the Complainant's inability to increase its epoxy resin selling prices due to the pressure exerted by the dumped exports from China, Korea, Taiwan and Thailand to the Union. The situation worsened from 2022 to the IP, a period during which the selling price of

[137] Exhibit 5-9 – Spolchemie 2021 Annual Report, p. 8.

the Complainant decreased by 19%, clearly evidencing the pressure from the dumped exports to the EU on the Union selling price. In fact, in 2023, considering the massive presence of dumped exports to the EU, Union epoxy resin producers had no choice other than lowering the prices of epoxy resins across the board, incurring in severe financial losses, notably in profitability.

***e) Stocks***

300. As shown in the table below, the volume of stocks of the Complainant increased by 26% over the period considered, from [Confidential: 25 000 - 30 000] tonnes in 2020 to [Confidential: 30 000 - 35 000] tonnes during the IP:
c

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Stocks | [25 000 - 30 000] | [40 000 - 45 000] | [25 000 - 30 000] | [30 000 - 35 000] |
| *Index 2020=100* | 100 | 159 | 104 | 126 |

*Exhibit 5-3 - Micro data*

***f) Investments***

301. As shown below, investments of the Complainants decreased over the period considered, from [Confidential: 25 – 30] million € in 2020 to [Confidential: 20 – 25] million € during the IP, *i.e.*, a decrease of 20%:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Investment | [25 000 000 - 30 000 000] | [20 000 000 - 25 000 000] | [20 000 000 - 25 000 000] | [20 000 000 - 25 000 000] |
| *Index 2020=100* | 100 | 87 | 81 | 80 |

*Exhibit 5-3 - Micro data*

***g) Employment***

302. During the period considered, Union employment decreased by 1%, reaching [Confidential: 1 200 – 1 500] employees in the IP:

| | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Number of employees (FTE) | [1 200 - 1 500] | [1 200 - 1 500] | [1 200 - 1 500] | [1 200 - 1 500] |
| *Index 2020=100* | 100 | 98 | 101 | 99 |

*Exhibit 5-3 - Micro data*

***h) Productivity***

303. As a result of a decrease in production and employment, the productivity of the Complainants also decreased over the period considered.

304. As shown in the table below, the productivity of the Complainant reduced from [Confidential: 300 - 400] tonnes produced per employee in 2020 to [Confidential: 150 - 250] tonnes produced per employee during the IP, *i.e.*, a decrease of 41%:

| In tonnes produced per employee (FTE) | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Productivity | [300 - 400] | [300 - 400] | [200 - 300] | [150 - 250] |
| *Index 2020=100* | 100 | 109 | 70 | 59 |

*Exhibit 5-3 - Micro data*

***i) Market shares of the Complainant***

305. The market share of the Complainants sharply fell during the period considered. As shown above, while the Union epoxy resin consumption decreased during the period considered, Union sales decreased much faster, which demonstrated that the unfair exports to the EU from China, Korea,Taiwan, and Thailand have unfairly taken market shares from the Union industry. As shown below, the market share of the Union industry sharply fell from [Confidential: 40 - 50]% in 2020 to [Confidential: 30 - 40]% during the IP:

| In tonnes | 2020 | 2021 | 2022 | IP (Q4 2022 – Q3 2023) |
|---|---|---|---|---|
| Union sales | [150 000 - 200 000] | [150 000 - 200 000] | [100 000 - 150 000] | [100 000 - 150 000] |
| *Index 2020=100* | 100 | 113 | 80 | 67 |
| Union consumption | [400 000 - 450 000] | [420 000 - 470 000] | [350 000 - 400 000] | [300 000 - 350 000] |
| *Index 2020=100* | 100 | 113 | 92 | 86 |
| Market shares | [40 - 50]% | [40 - 50]% | [30 - 40]% | [30 - 40]% |

*Exhibit 5-2: Macro data*

### 5.2.3 Price undercutting

306. The Complainant has calculated the price undercutting by comparing its Union sale price with the aggregated export price to the EU from China, Korea,Taiwan and Thailand reported by each country's official export statistics, as adjusted to a CIF level. The results show a price undercutting of [Confidential: 30 - 40]% as follows:

| Price undercutting | IP (2022-Q4 – 2023-Q3) |
|---|---|
| Average Sales price of the Complainant (€/tonne) | [4 000 - 5 000] |
| CIF import price of epoxy resin from targeted countries (€/tonne) | [2 000 - 3 000] |
| Import duty (average for the countries concerned) | [50 - 150] |
| Post clearance costs (4%)[138] | [50 - 150] |
| Import price of epoxy resin from targeted countries (€/tonne) | [2 000 - 3 000] |
| Undercutting (€/tonne) | [800 - 1 800] |
| **Undercutting (%)** | [30 - 40]% |

[138] The Complainant estimates that post clearance cost represent 4% of the import price.

*Exhibit 5-4 - Price undercutting and underselling*

307. The Complainant has also calculated the price undercutting for each of the targeted countries individually by comparing its Union sale price with the export price as reported by each country's official export statistics, as adjusted to a CIF level. The results show a price undercutting between [Confidential: 20 - 50]% as follows:

| **Price undercutting - CHINA** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Average Sales price of the Complainant (€/tonne) | [4 000 - 5 000] |
| CIF import price of epoxy resin from China (€/tonne) | [2 000 - 3 000] |
| Import duty (6,5%) | [50 - 150] |
| Post clearance costs (4%)[139] | [50 - 150] |
| Import price of epoxy resin from China (€/tonne) | [2 000 - 3 000] |
| Undercutting (€/tonne) | [1 200 - 2 200] |
| **Undercutting (%)** | **[40 - 50]%** |

*Exhibit 5-4 - Price undercutting and underselling*

| **Price undercutting - KOREA** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Average Sales price of the Complainant (€/tonne) | [4 000 - 5 000] |
| CIF import price of epoxy resin from Korea (€/tonne) | [2 000 - 3 000] |
| Import duty (0%) | 0 |
| Post clearance costs (4%)[140] | [50 - 150] |
| Import price of epoxy resin from Korea (€/tonne) | [2 500 - 3 500] |
| Undercutting (€/tonne) | [700 - 1 700] |
| **Undercutting (%)** | **[20 - 30]%** |

*Exhibit 5-4 - Price undercutting and underselling*

| **Price undercutting - TAIWAN** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Average Sales price of the Complainant (€/tonne) | [4 000 - 5 000] |
| CIF Import price of epoxy resin from Taiwan (€/tonne) | [2 000 - 3 000] |
| Import duty (6,5%) | [100 - 200] |
| Post clearance costs (4%)[141] | [50 - 150] |
| Import price of epoxy resin from Taiwan (€/tonne) | [2 000 - 3 000] |
| Undercutting (€/tonne) | [800 - 1 800] |
| **Undercutting (%)** | **[30 - 40]%** |

*Exhibit 5-4 - Price undercutting and underselling*

[139] The Complainant estimates that post clearance cost represent 4% of the import price.
[140] The Complainant estimates that post clearance cost represent 4% of the import price.
[141] The Complainant estimates that post clearance cost represent 4% of the import price.

| Price undercutting - THAILAND | IP (2022-Q4 – 2023-Q3) |
|---|---|
| Average Sales price of the Complainant (€/tonne) | [4 000 - 5 000] |
| CIF Import price of epoxy resin from Thailand (€/tonne) | [2 500 - 3 500] |
| Import duty (6,5%) | [100 - 200] |
| Post clearance costs (4%)[142] | [50 - 150] |
| Import price of epoxy resin from Taiwan (€/tonne) | [2 500 - 3 500] |
| Undercutting (€/tonne) | [800 - 1 800] |
| **Undercutting (%)** | **[20 - 30]%** |

*Exhibit 5-4 - Price undercutting and underselling*

308. The Complainant notes that its selling price during the IP was significantly depressed and suppressed by the dumped imports. Consequently, the Complainant considers it relevant to calculate a price underselling by constructing the EU target price with a reasonable profit that the Union industry could achieve in the absence of dumping practices from the targeted countries.

309. The Complainant considers that a reasonable profit that it could achieve in the absence of unfair imports should amount to a minimum [Confidential: 10 - 20]%, which is the average profit margin between 2020 and 2022.

310. In view of the above, the underselling calculation is as follows:

| Price underselling | IP (2022-Q4 – 2023-Q3) |
|---|---|
| Cost of production (in €/tonne) | [4 500 - 5 500] |
| Profit ([Confidential: 10 - 20]%) | [450 - 1 100] |
| EU target price | [4 950 - 6 600] |
| Import price of epoxy resin from countries concerned (€/tonne) | [2 000 - 3 000] |
| Underselling (in €/tonne) | [2 300 - 3 300] |
| **% of underselling** | **[50 - 60]%** |

*Exhibit 5-4: Price undercutting and underselling*

311. The Complainant has also calculated the price underselling for each of the targeted countries individually by comparing its Union sale price with the export price as reported by each country's official export statistics, as adjusted to a CIF level. The results show a price undercutting between [Confidential: 40 - 60]% as follows:

| Price underselling - CHINA | IP (2022-Q4 – 2023-Q3) |
|---|---|
| Cost of production (in €/tonne) | [4 500 - 5 500] |
| Profit ([Confidential: 10 - 20]%) | [450 - 1 100] |
| EU target price | [4 950 - 6 600] |

[142] The Complainant estimates that post clearance cost represent 4% of the import price.

| | |
|---|---|
| Import price of epoxy resin from China(€/tonne) | [2 000 - 3 000] |
| Underselling (in €/tonne) | [2 500 - 3 500] |
| **% of underselling** | **[50 - 60]%** |

*Exhibit 5-4: Price undercutting and underselling*

| **Price underselling - KOREA** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Cost of production (in €/tonne) | [4 500 - 5 500] |
| Profit ([Confidential: 10 - 20]%) | [450 - 1 100] |
| EU target price | [4 950 - 6 600] |
| Import price of epoxy resin from Korea (€/tonne) | [2 500 - 3 500] |
| Underselling (in €/tonne) | [2 100 - 3 100] |
| **% of underselling** | **[40 - 50]%** |

*Exhibit 5-4: Price undercutting and underselling*

| **Price underselling - TAIWAN** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Cost of production (in €/tonne) | [4 500 - 5 500] |
| Profit ([Confidential: 10 - 20]%) | [450 - 1 100] |
| EU target price | [4 950 - 6 600] |
| Import price of epoxy resin from Taiwan (€/tonne) | [2 000 - 3 000] |
| Underselling (in €/tonne) | [2 350 - 3 350] |
| **% of underselling** | **[50 - 60]%** |

*Exhibit 5-4: Price undercutting and underselling*

| **Price underselling - THAILAND** | **IP (2022-Q4 – 2023-Q3)** |
|---|---|
| Cost of production (in €/tonne) | [4 500 - 5 500] |
| Profit ([Confidential: 10 - 20]%) | [450 - 1 100] |
| EU target price | [4 950 - 6 600] |
| Import price of epoxy resin from Taiwan (€/tonne) | [2 500 - 3 500] |
| Underselling (in €/tonne) | [2 350 - 3 350] |
| **% of underselling** | **[40 - 50]%** |

*Exhibit 5-4: Price undercutting and underselling*

312. The most recent export price statistics are alarming for the Union industry. As shown below, the export price from all targeted countries to the Union decreased within the IP. Korean export price to the EU, which amounted to 3 799 €/tonne during the first quarter of the IP (2022-Q4), has decreased to 2 335 €/tonne in the fourth quarter of the IP (2023-Q3), *i.e.*, a decrease of 39%. Chinese export price to the EU, which amounted to 2 424 €/tonne during the first quarter of the IP (2022-Q4), has decreased to 1 688 €/tonne in the fourth quarter of the IP (2023-Q3), *i.e.*, a decrease of 30%. Taiwanese export price to the EU, which amounted to 2 697 €/tonne during the first quarter of the IP (2022-Q4), has decreased to 2 042 €/tonne in the fourth quarter of the IP (2023-Q3), *i.e.*, a decrease of 24%. Finally, Thai export price to the EU, which amounted to

4 062 €/tonne during the first quarter of the IP (2022-Q4), has decreased to 2 489 €/tonne in the fourth quarter of the IP (2023-Q3), *i.e.*, a decrease of 39%:

| **Export price to the EU (€/tonne)** | **Q4 2022** | **Q1 2023** | **Q2 2023** | **Q3 2023** |
|---|---|---|---|---|
| From Korea | 3 799 | 2 835 | 2 600 | 2 335 |
| *Index Q4 2022 = 100* | *100* | *75* | *68* | *61* |
| From China | 2 424 | 2 106 | 1 914 | 1 688 |
| *Index Q4 2022 = 100* | *100* | *87* | *79* | *70* |
| From Taiwan | 2 697 | 2 391 | 2 331 | 2 042 |
| *Index Q4 2022 = 100* | *100* | *89* | *86* | *76* |
| From Thailand | *4 062* | *2 857* | *2 772* | *2 489* |
| Index Q4 2022 = 100 | *100* | *70* | *68* | *61* |

Source: Official export statistics

313. The above-mentioned export price to the EU during the most recent period clearly confirms the strategy of the exporting producers from China, Korea, Taiwan and Thailand to severely injure the Union epoxy resin industry with a view to making it disappear.

314. Interactions from the Union producers with their clients confirm that the export prices for the countries concerned have a deleterious effect on the Union producers' selling prices, materially injuring the Union epoxy resin industry.

315. Union producers have lowered their prices in an attempt to compete with dumped imports. For example, [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary][143].

316. In July 2023, [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary][144].

317. In Portugal, [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary][145].

318. Similar occurrences have been reported for dumped imports from Taiwan. [Confidential: This information pertains to a call report memorialising interactions with clients. The disclosure of this information would provide a significant advantage to competitors and is not susceptible to non-confidential summary][146].

319. As shown above, the concerned dumped import price significantly undercut and undersold the EU price during the IP, evidencing the serious injury caused by these unfairly priced imports.

[143] *See* Call report of customer interaction 4, attached as Exhibit 5-5.
[144] *See* Call report of customer interaction 5, attached as Exhibit 5-6.
[145] *See* Call report of customer interaction 6, attached as Exhibit 5-7.
[146] *See* Call report of customer interaction 7, attached as Exhibit 5-8.

### 5.2.4 Interim conclusions

320. The above economic indicators evidence the material injury suffered by the Union epoxy resin industry due to the surge of dumped imports. There is a direct correlation between the surge of the concerned imports and their pressure on Union prices, as well the progressive deterioration of the situation of the Union industry.

321. While the Union epoxy resin industry succeeded to limit its injury in 2021 – notably due to exceptional market considerations linked to extended Covid-19 effect – the continued increase of the dumped imports in 2022 led to a significant decrease of the Union industry's production, capacity utilisation, Union sales, employment, and market shares.

322. In a situation where the Union consumption was reduced, the pressure exerted by the concerned dumped imports prevented the Union industry from maintaining its market shares. The Union industry raised its price due to an increase in the cost of production. However, the price increase was insufficient to offset the cost increase due to the pressure exerted by unfair imports, resulting in lower profits.

323. The pressure exerted by the concerned imports has also led Union producers to reduce production and capacity utilisation. The situation will continue to worsen if no measures are taken rapidly to restore a level playing field in the Union.

324. There is no publication that projects capacity for the various types of epoxy resins, although the Complainant tracks the development of LER capacity in several market reports. Even though the figures below are underestimated because they do not account for the totality of epoxy resins, the evolution of production capacity in the targeted countries demonstrates that the pressure exerted by the concerned imports will likely increase if no measure is taken:

| **Capacity LER** | **2020** | **2021** | **2022** | **2023** | **2024** | **2025** | **2026** |
|---|---|---|---|---|---|---|---|
| China | [1 800 - 2 000] | [2 000 - 2 200] | [2 400 - 2 600] | [3 200 - 3 400] | [3 400 - 3 600] | [3 800 - 4 000] | [3 800 - 4 000] |
| Taiwan | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] | [200 - 300] |
| Korea | [400 - 500] | [400 - 500] | [400 - 500] | [400 - 500] | [400 - 500] | [400 - 500] | [400 - 500] |
| Thailand | [50 - 100] | [50 - 100] | [50 - 100] | [50 - 100] | [50 - 100] | [50 - 100] | [50 - 100] |
| **Total** | **[2 650 - 2 900]** | **[2 850 - 3 100]** | **[3 250 - 3 500]** | **[3 850 - 4 100]** | **[4 250 - 4 500]** | **[4 450 - 4 700]** | **[4 450 - 4 700]** |

*Source: ACMI, CMA, Tecnon, ICIS, IHS [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, ranges are provided in the table above]*

325. The increased capacity built up in China has distorted trade between China and its neighbours, turning China from a net importer to a net exporter. As a result, the abundant epoxy resin capacity in Korea. Taiwan and Thailand is directed to the Union. The situation will continue to worsen if no measures are taken rapidly to restore a level playing field for the Union industry.

## 6. CAUSATION

326. The Complainant has assessed whether other known factors, individually or collectively, can break the causal link established between Chinese, Korean, Taiwanese and Thai dumped imports to the Union and the injury suffered by the Union industry. Those other known factors are as follows:

- The impact of epoxy resin imports from other sources (6.1);
- The exceptional events during the period considered (6.2); and
- The export performance of the Union industry (6.3).

327. For the reasons explained below, the Complainant is convinced that dumped imports of epoxy resin from China, Korea, Taiwan and Thailand are the main cause of the injury suffered by the Union epoxy resin industry.

## 6.1 Impact of epoxy resin imports from other sources

328. The table below shows that the main sources of epoxy resin imports into the Union – in addition to China, Korea, Taiwan and Thailand – are Switzerland and India:

| | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Switzerland | 34 166 | 40 716 | 33 930 | 28 160 |
| India | 10 832 | 11 251 | 14 686 | 9 466 |
| United States | 8 329 | 5 235 | 5 151 | 4 177 |
| United Kingdom | 6 133 | 5 177 | 4 193 | 3 969 |
| Turkey | 2 945 | 4 049 | 3 565 | 3 412 |
| Japan | 2 319 | 1 989 | 2 210 | 2 240 |
| Saudi Arabia | 2 261 | 2 312 | 1 948 | 2 611 |
| Others | 1 634 | 2 568 | 2 696 | 2 799 |
| **Total imports** | **123 552** | **169 294** | **164 982** | **170 820** |

*Source: Eurostat*

329. As shown in the table above, imports from sources other than Switzerland and India represented less than 3% of total imports in the IP.

330. The table below shows the import prices from Switzerland and India into the Union:

| | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| Switzerland | 4 383 | 4 573 | 6 173 | 6 378 |
| India | 1 939 | 3 716 | 4 159 | 3 428 |

*Source: Eurostat*

331. As shown in the tables above, Swiss imports have reduced by 18% during the period. Also, the import price of epoxy resin originating in Switzerland is significantly higher than the import price from the targeted countries:

| Constructed CIF import price (€/tonne) | 2020 | 2021 | 2022 | IP (Q4 2022 - Q3 2023) |
|---|---|---|---|---|
| South Korea | 2 054 | 3 911 | 4 186 | 2 915 |
| China | 3 628 | 3 918 | 3 266 | 2 141 |
| Taiwan | 2 356 | 3 787 | 3 451 | 2 435 |
| Thailand | 2 491 | 3 633 | 4 668 | 3 037 |

*Source: Official export statistics (as adjusted for CIF level)*

332. Therefore, Swiss imports could not have contributed to the injury suffered by the Union industry.

333. Additionally, imports originating in India represented a lower share within total imports. Also, the Indian import price during the IP was higher than the import prices of the targeted countries.

334. Given the above, the Complainant considers that Indian imports have not contributed to the material injury that the Union industry suffered and are insufficient to break the causal link between the dumped imports and the injury suffered by the Union industry.

### 6.2 Exceptional events during the IP

335. The exceptional events occurring during the period concerned have also not broken the causal link between the dumped imports and the injury suffered by the Union industry. Below are descriptions of the impact of the Covid-19 pandemic and the war in Ukraine on the Union epoxy resin industry.

336. The epoxy resin industry perceived contradictory effects of the Covid-19. On the one hand, Covid-19 disrupted the supply chain, impacting feedstock production, transport, and commercialisation. The cost of production increased from 2020 to 2021 as a result of these effects on the supply chain. On the other hand, certain downstream industries benefitted from the “stay-at-home” policies implemented during the pandemic. During the period 2020 and 2021, there was an extraordinary growth in the global consumption of paints due to a "stay-at-home" economy, which had an outsized impact on the epoxy resin industry. Epoxy resins are an important raw material needed to produce paint, and coatings and during the Covid-19 pandemic, paint consumption in the Union and around the world rose rapidly as consumers benefitted from the "stay-at-home" lifestyle during lockdowns.

337. Other industries, however, such as the automotive industry suffered as more people were encouraged to stay home.

338. Even though the Covid-19 pandemic could have induced more imports from 2020 to 2021 to attend the paint and coating segments, imports from the countries concerned continued to increase even after the effects of the Covid-19 wore off and the Union consumption started to decrease. In 2021, the global economy rebounded from Covid-19, and the market became tight because of a shortage of production capacity in Asia, which was amplified by higher shipping rates around the globe. In that year, the volume of imports still increased, but the epoxy resin prices in the EU market did not fall due to market tightness.

339. In 2022, when the economic conditions normalized from Covid-19 and its 2021 rebound, unfair exports to the EU from China, Korea, Taiwan and Thailand increased to 96 603 tonnes, and the epoxy resin industry started suffering the deleterious effects of the surge of unfairly traded imports. During the IP, which is the farthest period from Covid-19, the unfairly traded exports to the EU from China, Korea, Taiwan and Thailand surged to their highest levels in the concerned period: 103 880 tonnes.

340. Furthermore, the year wherein the effects of Covid-19 were the most present in the period concerned was simultaneously the year in which the Union epoxy resin producers achieved the highest profitability rate, *i.e.*, [Confidential: 30 - 34]%. This happened because global hydrocarbon costs declined more than epoxy resin selling prices. Therefore, the profit margins were high even though volume demand and operating rates were depressed. Likewise, in the farthest period from Covid-19 (*i.e.*, the IP), the Union producers experienced a profit margin of

[Confidential: -16 - -12]%, which represented their worst profit margin in the period concerned. Because of the clearly absent correlation between the effects of the Covid-19 pandemic and the material injury to the Union industry, Covid-19 did not break the causal link between the unfairly traded imports and the material injury suffered by the Union industry.

341. Likewise, the war in Ukraine cannot break the causal link between dumped imports from the countries concerned and the injury suffered. In 2022, Russia's invasion of Ukraine led to a general increase in the energy costs in the Union. As expected, the Union industry's data show that natural gas costs per metric ton of produced epoxy resin in the last quarter of 2022 reached [Confidential: 0,02 – 0,10] €/tonne. However, over the course of 2023, the per unit natural gas cost steadily decreased. In the first quarter of 2023, the per unit cost of natural gas decreased to [Confidential: 0,02 – 0,10] €/tonne, and then it further decreased to [Confidential: 0,02 – 0,10] €/tonne in the third quarter of 2023. The Union industry's profitability trended in the opposite direction: [Confidential: 4 - 8]% in 2022 and [Confidential: -16 - -12]% during the IP.

342. The general trends of natural gas prices in Europe, similar to the per unit cost to the Union producers, show that there is no correlation between the increase in energy prices and the penetration of unfair imports from the countries concerned. As shown below, after reaching its peak at the end of 2022, natural gas prices steadily decreased while unfairly traded imports continued to enter the EU market in high volumes, displacing the Union producers and taking their market share. Furthermore, the Union epoxy resin market share of Korean, Chinese, Taiwanese and Thai producers doubled in 2023 when compared to the historical average, despite the normalization of energy prices:

*[Confidential: Graph showing the general trends of natural gas prices in Europe. The data is subject to copyright and available upon fee subscription. As non-confidential summary, we note that over the course of 2023, the per unit natural gas cost steadily decreased.]*

343. The energy cost increase has had a limited impact, as described above. While it is true that the Union industry's profitability was impacted by the increase in per-unit costs, the increase in per-unit production costs cannot be attributed to the increase in energy prices; it is clear that the cause of this per-unit cost increase was the reduction in production volumes.

344. In 2021, the Union industry's per unit cost of production was [Confidential: 2 700 - 3 000] €/tonne. In 2022 and in the IP, the per unit cost of production was [Confidential: 4 800 - 5 100] €/tonne and [Confidential: 4 800 - 5 100] €/tonne. As described above, from the peak of the energy crisis in 2022 to the investigation period, the per-unit energy costs decreased. Therefore, the increase in energy cost in the wake of the invasion of Ukraine cannot possibly explain this significant increase in per-unit costs, which severely impacted domestic producers' profitability. The most significant factor for the increase in costs was the decrease in volumes: in 2021, the domestic producers produced [Confidential: 400 000 - 450 000] tonnes, while in 2022 and in the IP, the domestic producers could only manufacture [Confidential: 250 000 - 300 000] tonnes and [Confidential: 200 000 - 250 000] tonnes of epoxy resin. In an industry with fixed costs as high as the chlor alkali products and derivatives industry, a reduction in production volume is expected to severely impact the company's profit margins, exactly as has occurred here.

345. Even disregarding the increase in energy prices and the increase in fixed costs due to the reduction in production volume, the Union domestic producers are still facing prices that are so low that they cannot even recover their raw material costs. Data from a specialized industry report shows that since the beginning of the investigation period (Q4 2022- Q3 2023), the epoxy resin prices in the Union have been falling steeply. In July of 2023, these prices were lower than even the raw materials net costs, and the Union industry's margin over raw material costs

reached zero[147]. Obviously, such low prices are only possible due to the increased availability of unfairly traded imports:

*[Confidential: Graph showing the epoxy resin production margin in West Europe. Tecnon Orbichem data is subject to copyright and available upon fee subscription. As non-confidential summary, we note that the data shows that since the beginning of the investigation period (Q4 2022- Q3 2023), the epoxy resin prices in the Union have been falling steeply.]*

346. In addition, a disruptive event causing the generalized increase in an input price in a fair market would not by itself cause a sustained injury to domestic producers. The increase in costs could create a shock in the short term, but it would not have lasting effects over the years. First, in a fair market, an increase in energy costs would be accompanied by a price increase to compensate the manufacturers. This is what happened in several industries in the Union over the last two years. In the epoxy resin case, the necessary increase in prices following the surge in energy prices was suppressed by the huge inflow of unfairly traded imports.

347. Second, in a market operating without government interference, the cost increase of a global and fungible commodity would occur in similar intensity in other countries. This would lead to a generalized price increase around the globe. However, in the epoxy resin case, the governments of China, Korea, Taiwan and Thailand have been heavily interfering in the energy market to eliminate the effects of the cost increases for its national producers. This interference has been providing an unfair advantage, which further intensified these producers' ability to sell their products at such low prices in the Union market.

348. Third, other expected consequences of this war would be China decreasing its bilateral trade with the Union because of its strategic alliance with Russia. However, the effect has been exactly the opposite. The Government of China continues supporting its producers in exporting key products, including epoxy resins, to the rest of the world, which is weakening and sometimes even destroying the local producers, leading to a long-term dependency on Chinese imports.

349. In view of the above, the material injury caused to the Union industry results from dumped imports from China, Korea, Taiwan and Thailand.

### 6.3 Export performance of the Union industry

350. Epoxy resin is a globally traded product, and exports of epoxy resin by Union producers are important for the industry's well-being.

351. However, the unfair practices of the concerned exporters also affect other export markets in addition to the Union market. Therefore, Union epoxy resin producers' ability to compete outside the Union has been as negatively impacted by the unfair behaviour of the concerned exporters.

352. As shown in the table below, epoxy resin export sales of the Union industry decreased by 3% from 2020 to 2021. From 2021 to 2022, export sales reduced from [Confidential: 100 000 – 150 000] tonnes to [Confidential: 100 000 – 150 000] tonnes, *i.e.*, a decrease of 29%. Between 2020 and IP, epoxy resin export sales, in tonnes, reduced 49%.

[147] Tecnon Orbichem - Epoxy Resins - September 2023, attached as Exhibit 6-1.

| Epoxy resin exports of the Union industry | 2020 | 2021 | 2022 | IP (Q4 22 – Q3 23) |
|---|---|---|---|---|
| Volume (tonnes) | [100 000 - 150 000] | [100 000 - 150 000] | [100 000 - 150 000] | [75 000 - 125 000] |
| Index 2020=100 | 100 | 122 | 86 | 64 |
| Value (1 000 EUR) | [375 000 - 425 000] | [550 000 - 600 000] | [550 000 - 600 000] | [375 000 - 425 000] |
| Index 2020=100 | 100 | 141 | 139 | 101 |
| Price (EUR/tonne) | [ 3 200 - 3 600] | [ 3 200 - 3 600] | [ 5 300 - 5 600] | [ 5 200 - 5 500] |
| Index 2020=100 | 100 | 116 | 161 | 156 |

*Source: Exhibit 5-3 - Micro indicators*

353. Even though export sales increased in value by 39% between 2020 and 2022, it reduced 28% between 2022 and IP. The increase in value up to 2022 can be explained by an increase in price to accompany the increase in the cost of production. The increase in prices, however, did not translate into increased profits. More importantly, from 2022 to the IP, the export prices decreased by 3% despite the increase in the cost of production.

354. The fact that the concerned epoxy resin producers have been affecting, through their unfair practices, other export markets, in addition to the Union, is evidence of how aggressively the countries concerned compete in export markets.

355. In a context where unfair competition is impacting the domestic industries globally, the evolution of Union exports of epoxy resin cannot have broken the causal link between dumped imports and the injury suffered by the Union industry.

## 7. UNION INTEREST

356. It is critical to restore a level playing field in the Union as soon as possible to avoid the disappearance of the Union epoxy resin industry.

357. As shown below:

- Epoxy resin is a strategic product for Union's environmental goals (**7.1**);
- Epoxy resin is a strategic product for Union's defence industry (**7.2**);
- The Commission should consider removing the lesser duty rule in the present case (**7.3**).

### 7.1 Epoxy resin as a strategic product for Union's environmental goals

358. The Union epoxy resin industry is fundamental to the Union 's industrial base. Epoxy resin, a water-resistant chemical, is used for coatings and adhesives in the defence, automotive, aerospace, electronics, construction, medical devices, energy, and numerous other critical industries. Epoxy resin is also used for household and consumer goods and in food processing and packing. Indeed, epoxy resin is found in nearly every sector of the Union economy.

359. Epoxy resin plays a foundational role in the transition to renewable energy and meeting EU climate goals. Products used for renewable energy production and storage – such as wind turbine blades, batteries, fuel cells, and solar panels – incorporate epoxy resin as an irreplaceable component to ensure longevity and efficiency. The EU's green transition is important for both environmental and national security reasons, with Member States agreeing as part of the March

2022 Versailles Declaration that Russia's war of aggression has intensified the need to phase out European reliance on fossil fuels[148].

360. Part of the EU's pursuit of "open strategic autonomy" consists of securing its chemical sources for the green transition, including reducing dependencies on foreign sources[149]. The Commission has committed to establishing a "fair and level playing field" for renewable energy supply chains, most recently expressed in the Commission's October 2023 statement on immediate actions to support the European wind power industry[150].

### 7.2 Epoxy resin as a strategic product for Union's defence industry

361. Epoxy resins are also an important building block of the aerospace and defence industry. Epoxy resins composite enable airplanes (commercial and defence) manufacturing as well armored land vehicles.

362. If the Union decided to reduce its dependence on foreign-sourced epoxy resins to serve the aerospace and defence industries, it would need a strong, vibrant epoxy resin industry. The absence of a strong epoxy resin industry in the Union will make it much more difficult and expensive, if not impossible, for the Union to create a viable and independent aerospace and defence industry.

363. In addition to providing a necessary building block for manufacturing in the EU and meeting climate goals and support the aerospace and defence industry, the epoxy resin industry provides good-paying jobs for over 2 800 European workers. The Union industry operates 12 facilities across 6 Member States, and these facilities feed into Union production operations for hundreds of downstream European manufacturers.

### 7.3 Evaluation as to whether the lesser duty rule should be removed in the present case with respect to imports originating in China

364. The Complainant considers that elements in the present case support the removal of the lesser duty rule under Article 7(2a) of the basic AD regulation.

365. Article 7(2a) of the basic AD regulation provides, "*[w]hen examining whether a duty lower than the margin of dumping would be sufficient to remove injury, the Commission shall take into account whether there are distortions on raw materials with regard to the product concerned*". Distortions on raw materials include, *inter alia*, "export taxes", "value added tax (VAT) refund reduction or withdrawal", "domestic market obligation" and "captive mining" if the price of a raw material is significantly lower as compared to prices in the representative international markets.

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[148] Informal meeting of the Heads of State or Government, Versailles Declaration (10-11 March 2022), available at 20220311-versailles-declaration-en.pdf (europa.eu), attached as Exhibit 7-1.

[149] "European Economic Security Strategy," European Commission, JOIN(2023) 20 final (20 June 2023), p. 3, available at https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023JC0020; attached as Exhibit 7-2."Chemicals Strategy for Sustainability," European Commission, COM(2020) 667 final (14 October 2020), available at https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM:2020:667:FIN, attached as Exhibit 7-3.

[150] "Commission sets out immediate actions to support the European wind power industry," European Commission (24 October 2023), available at https://ec.europa.eu/commission/presscorner/detail/en/ip_23_5185, attached as Exhibit 7-4.

366. In addition, Article 7(2a) of the basic AD Regulation provides that the raw material subject to distortions must correspond to at least 17% of the cost of production of the product concerned.

367. ECH is a raw material that subject to distortions and that corresponds to at least 17% of the cost of production of epoxy resins. The Complainant considers that there are raw material distortions in the Chinese epoxy resin sector in the form of VAT refund withdrawal and domestic market obligations applicable to ECH in China.

### 7.3.1 VAT refund or withdrawal

368. Normally, Chinese exporters can claim a VAT refund when their products are exported outside China. However, for certain products, China does not apply VAT refunds.[151]

369. Epichlorohydrin (ECH) – registered under HS code 291030 – is exempted from VAT export refund. Accordingly, ECH exported outside China cannot benefit from VAT export refund.

*Exhibit 7-6 - Chinese State Taxation website*

370. VAT refund reduction and withdrawal are listed in Article 7(2a), second subparagraph of the basic AD Regulation, as one of the relevant raw material distortions.

371. As stated above, VAT export refund withdrawal qualifies as an export restriction on industrial raw materials. China incentivizes domestic sales by denying VAT reimbursement and making it less advantageous to export the product. This measure lowers domestic prices by artificially increasing the supply. Thus, such measures "*encourage downstream production of products produced locally that use the raw material input. A variant is the removal or reduction of rebate from other sales taxes on exports of a product"*[152].

372. By denying VAT reimbursement in whole for ECH exports, China places ECH in a much less advantageous position when exported than when it is sold domestically.

### 7.3.2 Distorted raw materials account for over the threshold of 17% of the costs of production

373. ECH is a raw material that accounts for around [Confidential: 30 - 40]% of the epoxy resin total production costs.

374. This shows that ECH accounts for well over the threshold of 17% of the cost of production of the product under investigation in the country concerned as required by Article 7(2a), fifth subparagraph of the basic AD Regulation.

#### 7.3.2.1 ECH prices in the targeted countries are lower than those of representative international markets

375. The Complainants are convinced that ECH prices in China are significantly lower than the prices of representative international markets within the meaning of Article 7(2a), second subparagraph of the basic AD Regulation.

[151] This is also the case for electrolytic manganese dioxides. *See* Commission Regulation 2023/2120 of 12 October 2023 imposing a provisional anti-dumping duty on imports of electrolytic manganese dioxides originating in the People's Republic of China, 13.10.2023, OJ L, Recital (5).
[152] OECD Methodology on Export Restrictions on Industrial Raw Materials, p.6, attached as Exhibit 7-5, p.6.

376. Chinese ECH is artificially low because of the policies implemented to incentivise the upstream glycerin market and as a result of the government support in favour of increasing domestic supply and lowering ECH prices.

377. Tecnon Orbichem shows the price of ECH in several markets, including China, Northeast Asia, North America, and Western Europe. As shown in the table below, the ECH DDP average price in China is [Confidential: 1 000 – 1 200] USD/tonne. In comparison, average ECH prices in North America and Western Europe are [Confidential: 2 200 - 2 400] USD/tonne and [Confidential: 2 200 - 2 400] USD/tonne, respectively.

| Region | Price Series | Incoterms | Price range (USD/tonne) | Average price (USD/tonne) |
|---|---|---|---|---|
| North America | Contract | DDP | [1 800 – 2800] | [2 200 - 2 400] |
| Western Europe | Freely negotiated | DDP | [1 800 – 2800] | [2 200 - 2 400] |
| Northeast Asia | Import Spot | CFR | [1 200 - 1 400] | [1 200 - 1 400] |
| China | Domestic Spot | DDP | [1 000 - 1 200] | [1 000 - 1 200] |

*Source: Tecnon Orbichem - Epoxy Resins - September 2023 [Confidential: Data subject to copyright and available upon fee subscription. Accordingly, ranges are provided in the table above]*

*Exhibit 6-1 - Tecnon Orbichem - Epoxy Resins - September 2023, p.11.*

378. This shows that, as a general rule, ECH price in China is lower than in the international market.

### 7.3.3 Interim conclusions

379. In view of the above, the Complainants request the Commission to investigate whether there are raw material distortions that result in ECH prices in China, being significantly lower as compared to prices in the international markets, and in this case, remove the lesser duty rule in accordance with Article 7(2a) of the basic AD regulation.

## 8. CONCLUSION

380. In view of the above, the Complainant requests the Commission to:

- Initiate an anti-dumping investigation on epoxy resin imports originating in China, Korea, Taiwan and Thailand;

- Order the registration of Chinese, Korean, Taiwanese and Thai epoxy resin imports from the initiation of the anti-dumping investigation to prevent further aggravation of the situation of the Union epoxy resin industry and to allow retroactivity of the duties to be imposed;

- Impose as early as possible provisional anti-dumping duties on epoxy resin imports from China, Korea, Taiwan and Thailand in view of the critical situation of the EU epoxy resin industry.

Done in Brussels, on 5 June 2024,

On behalf of the Complainant,

Marie-Sophie Dibling
*Partner*

* * *