



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 18.10.2000  
COM(2000) 654 final

Proposal for a

**COUNCIL REGULATION**

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

(presented by the Commission)

## **EXPLANATORY MEMORANDUM**

On 19 May 2000, by Regulation (EC) No 1043/2000, the Commission imposed provisional anti-dumping measures on imports of glycine originating in the People's Republic of China in the form of a specific duty of 910 € per tonne.

Subsequently, certain Chinese producers submitted several claims regarding the product concerned, the determination of normal value and the findings made with respect to non-cooperating Chinese exporters which in turn affected the single country-wide dumping margin. These claims were rejected and the provisional findings regarding the product concerned and dumping were confirmed.

No claim was submitted that brought new evidence regarding the injury suffered by the Community industry and the causal link between this injury and the dumped imports, therefore it is definitively concluded that the Community industry has suffered material injury caused by dumped imports.

Regarding the Community interest, one supplier of the Community industry made the point that its profitability would be severely affected if the Community industry was to cease producing glycine since it was an important customer. No other information was submitted that changed the Commission's provisional findings that on one hand the impact of measures on users would be limited, whereas on the other hand, if measures were not imposed, the Community industry would have to cease producing glycine. It was therefore definitively concluded that there were no compelling reasons not to impose measures.

In view of the final conclusion of the investigation, definitive measures should be imposed as a specific duty rate of 910 €/tonne, i.e. as in the provisional Regulation. Amounts secured at the provisional stage should be definitively collected.

Proposal for a

## COUNCIL REGULATION

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

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community<sup>1</sup> and in particular Article 9 thereof,

Having regard to the proposal submitted by the Commission after consulting the Advisory Committee,

Whereas:

#### **A. PROCEDURE**

##### **1. Provisional measures**

(1) The Commission, by Regulation (EC) No 1043/2000<sup>2</sup>, (“provisional Regulation”), imposed a provisional anti-dumping duty on imports into the Community of glycine originating in the People's Republic of China (“PRC”) falling within CN code 2922 49 10. The complaint was lodged by the sole Community producer (Tessenderlo Chemie) which constitutes the Community industry.

##### **2. Subsequent procedure**

(2) Following the imposition of the provisional anti-dumping duty, interested parties received disclosure. In accordance with the provisions of Article 6(5) of Regulation (EC) No 384/96 (the “basic Regulation”), the parties which so requested were granted an opportunity to be heard by the Commission. They also made written submissions making their views known on the provisional findings. All comments made within the deadlines set for that purpose were evaluated and taken into account where appropriate.

(3) The Commission continued to seek and verify all information deemed necessary for the definitive findings. Having reviewed the provisional findings on the basis of the information gathered since then, it is concluded that the findings as set out in the provisional Regulation should be confirmed.

---

<sup>1</sup> OJ L 56, 6.3.1996, p. 1. Regulation as last amended by Regulation (EC) No 905/98 (OJ L 128, 30.4.1998, p. 18).

<sup>2</sup> OJ L 118, 19.5.2000, p. 6.

## B. THE PRODUCT CONCERNED AND LIKE PRODUCT

- (4) Recital (8) of the provisional Regulation described the product concerned glycine (amino acetic acid) as follows: glycine is produced in varying levels of purity and is used as a taste enhancer, a buffering agent, a chemical intermediate and a metal complexing agent. There are basically two grades of glycine, depending on the purity: the pharmaceutical or medical grade, and the regular grade. The regular grade can be sold, mainly for marketing purposes, under a variety of names such as technical, normal, pure, industry, food, feed grade, etc. Glycine is obtained by chemical synthesis, using either i) hydrogen cyanide (HCN) and formaldehyde or ii) monochloroacetic acid (MCCA) and ammonia.
- (5) After the publication of the provisional Regulation, certain Chinese companies reiterated their claim that the two grades, pharmaceutical and regular, should be considered as separate products, and, that glycine used for human and animal food (feed/food) should also be treated as a separate product and not considered together with the regular grade. They based their claim on the arguments that the three grades undergo different production processes and that they have different uses. They emphasised that the production of the pharmaceutical grade requires additional sophisticated analytical devices to perform the specific testing needed for its certification. However, they submitted contradicting arguments, claiming on one hand that the pharmaceutical grade could not be a substitute for feed/food grade and on the other hand that Chinese pharmaceutical grade was sold on the Community market exclusively to the food and feed industry.
- (6) This claim was rejected because the fact that different production processes are used for the production of different types is not in itself relevant for the definition of the product concerned. In addition, it was found that all grades of glycine are produced by using exactly the same process and that the testing of the purity (all grades) and the conformity assessment (pharmaceutical grade) is only carried out once the manufacturing process is finished. The testing and analysing are, therefore, ancillary activities which are performed prior to sale rather than forming part of the manufacturing process. More importantly, however, these activities do not change the basic physical and chemical characteristics of the product under consideration. In addition, there is clearly a one way interchangeability of the different product types and, therefore, any clearly delineated markets for the different types of products could not be established.
- (7) On the basis of the above, the provisional findings (see recital (8) of the provisional Regulation) are confirmed namely that the two grades of glycine identified from the start, i.e. pharmaceutical and regular covering all other types/designations, are considered to be a single product since they share the same basic chemical and physical characteristics. The conclusions of the provisional Regulation on the product concerned and the like product, as laid out in recital (9) therein are also confirmed. These conclusions are in line with the findings reached for the same product in the previous anti-dumping investigation.<sup>3</sup>

---

<sup>3</sup> Council Regulation (EEC) No 2322/85, OJ L 218 of 15.8.1985 imposing definitive anti-dumping duties on imports of glycine originating in Japan.

## C. DUMPING

### 1. Normal value

#### *Market economy treatment*

- (8) The determination concerning market economy treatment as described in recitals (10) to (15) of the provisional Regulation is confirmed.

#### *Determination of normal value*

- (9) The Chinese companies alleged that the fact that the Hungarian producer (Hungary having been chosen as analogue country) had closed its glycine production plant in 1998 and opened a new one in 1999 had caused abnormally high domestic prices.
- (10) This allegation could not be accepted because, as described in recital (17) of the provisional Regulation, Hungary was an open market where glycine was imported as well as exported. As such, prices are determined under normal conditions of competition. Since the weighted average prices of the Hungarian producer met the ordinary course of trade test (see recital (18) of the provisional Regulation) they were retained as normal values.
- (11) The same companies alleged that the ordinary course of trade test was not reliable because the Hungarian producer reported that its profitability was affected as a result of the closure of the old and the opening of the new glycine plant, as this had temporarily increased costs and lowered profits. This claim is irrelevant because normal value was based on prices. The application of the ordinary course of trade test did not lead to the elimination of sales transactions by reason of a lack of profitability.
- (12) The same companies also alleged that the domestic sales were not representative because they were subsequently exported by the domestic customers of the Hungarian producer. This claim was rejected. In fact, this matter was examined during the verification and no evidence that domestic sales of the Hungarian producer were subsequently exported was established.
- (13) In contesting the representative nature of the Hungarian producer's domestic sales, the Chinese companies also alleged that the production capacity of the new plant as reported by the Hungarian producer was overestimated. This allegation was also rejected. In fact, no evidence was submitted to support it whereas the investigation confirmed that the Hungarian producer had not reported an inflated production capacity.
- (14) In view of the above, the provisional findings as described in recitals (16) to (18) of the provisional Regulation are confirmed.

### 2. Export price

#### *Individual treatment*

- (15) Following the imposition of provisional measures, three Chinese companies which did not qualify for individual treatment because they were not considered as glycine producers, maintained the request rejected in recital (20) of the provisional Regulation. In fact, they repeatedly claimed that they purchased low purity glycine which they

processed further in order to produce different grades. However, this processing did not change either the basic chemical composition or the physical characteristics of the glycine they purchased. Since all glycine grades are considered as a single product (see recitals (4) to (7) above), these companies cannot be considered as producers of the product concerned, therefore, their request is definitively rejected.

- (16) The other two companies referred to in recital (20) of the provisional Regulation, which were also not granted individual treatment, did not provide any new information that could justify a change of the provisional findings in their respect. The findings, therefore, as described in recitals (19) and (20) of the provisional Regulation are confirmed.

#### *Determination of export price*

- (17) None of the claims made affected the determination of the export price. The provisional findings as described in recital (21) of the provisional Regulation are confirmed.

### **3. Comparison**

- (18) Further to the findings as described in recital (22) of the provisional Regulation it is noted that adjustments to normal value were made only in respect of transport costs, while adjustments to export price were made, where appropriate, both in respect of transport and insurance costs. No other allowances were claimed and demonstrated to affect price comparability. Thus, the provisional findings as described in recital (22) are confirmed.

### **4. Dumping margin**

- (19) The co-operating Chinese companies firstly claimed that they represented almost all Chinese exports of glycine and questioned the reliability of Eurostat import statistics which showed otherwise. Secondly, they claimed that if the Eurostat statistics were to be considered reliable as far as the import volume was concerned, the export price (average price of all glycine grades) as provided by these statistics should also be used.
- (20) With regard to the first claim no reason was found as to why Eurostat statistics should not be considered as reliable for the purpose of determining the import volume of glycine from the PRC. It is also noted that the Chinese companies in question did not provide any evidence casting any doubt on the reliability of Eurostat data. The extent of non-cooperation as set out in recital (24) of the provisional Regulation is therefore confirmed.
- (21) In relation to the second claim it is noted that the dumping margin for those exports for which cooperation was not obtained was based, in accordance with Article 18(1) of the basic Regulation, on the facts available. In this respect, it was considered appropriate to set the dumping margin for these imports at the level of the highest dumping margin established for the co-operating exporter with representative export volumes. The resulting margin based on the facts available was averaged with the margins of the co-operating exporters, for which detailed calculations by grade were made, in order to arrive at the overall dumping margin for the PRC. This approach is justified by the fact that no individual treatment could be granted for the reasons given above (see recitals

(15) and (16)). Moreover, the Eurostat figures do not allow accurate calculations by grade to be made because they provide only an aggregated average price for all grades of the product under consideration. Therefore, the claim for the use of an average price as set out in Eurostat was rejected.

- (22) In view of the above, the methodology used for establishing the dumping margin as described in recitals (23) to (25) of the provisional Regulation and also its level of 45,9% are hereby confirmed.

#### **D. INJURY**

- (23) In view of their repeated claim to consider regular, feed/food and pharmaceutical grades separately, certain Chinese companies argued that the situation of the Community industry should be assessed separately for the alleged three grades of glycine. However, since it has been concluded in recitals (4) to (7) above that all glycine grades are to be considered as one product, this claim cannot be accepted.
- (24) In the absence of any new information, the provisional findings, as described in recitals (35) to (45) of the provisional Regulation, are confirmed.

#### **E. CAUSATION**

- (25) In line with their claim to consider regular, feed/food, and pharmaceutical glycine grades separately, certain Chinese companies argued that the impact of imports on the situation of the Community industry should be assessed separately for all grades of glycine. However, as explained above, all grades are to be considered as one product, and this also applies in the assessment of their impact on the material injury suffered by Community industry.
- (26) In the absence of any new information, the provisional findings, as described in recitals (46) to (61) of the provisional Regulation, are confirmed.

#### **F. COMMUNITY INTEREST**

- (27) One supplier to the Community industry of the major raw material for glycine, monochloroacetic acid (MCCA) made the point that the Community industry was a very important customer. If this industry was obliged to cease glycine production, this supplier would have to reduce its sales and production of MCCA and therefore would see its unit cost significantly increase. As a result, its competitiveness would be reduced and this would threaten its position in the MCCA business.
- (28) One user, producing chemicals for the photographic industry, made the point that its business would be severely endangered if definitive duties were imposed on glycine originating in the PRC. This user required high purity glycine and therefore bought a grade labelled "medical" from a Chinese company. This user claimed that it could not afford to buy the expensive pharmaceutical glycine produced by the Community industry as this would be the equivalent product of Community origin. It stated, however, that the product it manufactures with glycine had no connection with human or animal health. Therefore, it was concluded that this claim was not justified. Furthermore, since the activity concerned represented only a marginal share of its business, the impact of measures on this user would be limited.

- (29) In the absence of any other new information on Community interest, the provisional findings, as described in recitals (62) to (93) of the provisional Regulation, are confirmed.

## **G. DEFINITIVE MEASURES**

### **1. Level of duty**

- (30) In application of the lesser duty rule, it was examined whether the duty could be less than the equivalent of the dumping margin because such lesser duty would be adequate to remove the injury to the Community industry. For this purpose, it is confirmed that the prices of the dumped imports, (CIF Community border before custom duties), were compared with the non-injurious price of the Community industry. This price was determined on the basis of the ex-work cost of production of the Community industry plus a reasonable level of profit. This comparison took into account pharmaceutical and regular grades of glycine with an appropriate weighting system.
- (31) The methodology used for establishing the duty, as described in recitals (95) to (97) of the provisional Regulation, and also its level of 39,7% are thus confirmed.

### **2. Definitive measures**

- (32) The conclusions reached above as to dumping, injury, causation and Community interest, therefore, call for definitive measures.
- (33) In accordance with Article 9(4) of the basic Regulation, the level of duty is based on the injury elimination level, which is lower than the dumping margin. Given the clearly continuously decreasing trend of prices of glycine originating in China, there is a risk of absorption of an *ad valorem* duty and, therefore, a specific amount duty of 910 EUR/tonne is considered the most appropriate measure.

### **3. Collection of provisional duties**

- (34) Taking into account the above findings on dumping, injury, causation and Community interest, it is considered necessary that the amounts secured by way of the provisional anti-dumping duty under the provisional Regulation be definitively collected at the duty rate definitively imposed,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of glycine falling within CN code 2922 49 10 originating in the People's Republic of China.
2. The amount of duty applicable is EUR 910 per tonne.
3. In cases where goods have been damaged before entry into free circulation and, therefore, the price actually paid or payable is apportioned for the determination of the customs



value pursuant to Article 145 of Commission Regulation (EEC) No 2454/93<sup>4</sup>, the amount of anti-dumping duty, calculated on the basis of the fixed amounts set out above, shall be reduced by a percentage which corresponds to the apportioning of the price actually paid or payable.

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

#### *Article 2*

The amounts secured by way of the provisional anti-dumping duty on imports of glycine originating in the People's Republic of China under the provisional anti-dumping duty Regulation shall be definitively collected at the duty rate definitively imposed by this Regulation.

#### *Article 3*

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

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

Done at Brussels,

*For the Council*  
*The President*

---

<sup>4</sup> OJ L 253, 11.10.1993, p. 1. Regulation as last amended by Regulation (EC) No 502/1999 (OJ L 65, 12.3.1999, p. 1).