



2024/1513

3.6.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1513

of 31 May 2024

correcting Implementing Regulation (EU) 2022/191 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Articles 9(4) and 14(1) thereof,

Whereas:

- (1) By Commission Implementing Regulation (EU) 2022/191 ⁽²⁾, the Commission imposed a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China.
- (2) The annex to Implementing Regulation (EU) 2022/191, which lists the cooperating exporting producers not sampled subject to the sample average duty, included the name of a company Haining Hisener Trade Co., Ltd. ('Hisener'). This company is not a manufacturer of fasteners, but a trader and was erroneously inserted in the annex instead of the name of its related manufacturer of fasteners Jiaxing Daiwei Hardware Technology Co., Ltd.
- (3) The Commission duly disclosed its findings, including the annex listing the cooperating exporting producers not sampled before the adoption of Implementing Regulation (EU) 2022/191. The Commission did not receive comments pointing to this error from any interested party, indicating that Hisener was erroneously mentioned as manufacturer of fasteners. As a result, the annex to Implementing Regulation (EU) 2022/191 must be corrected as it does not reflect the correct name of the cooperating exporting producer not sampled Jiaxing Daiwei Hardware Technology Co., Ltd. Therefore, the Commission has decided to replace the name Haining Hisener Trade Co., Ltd. with Jiaxing Daiwei Hardware Technology Co., Ltd. in the annex to Implementing Regulation (EU) 2022/191 accordingly from the entry into force of Implementing Regulation (EU) 2022/191, namely 18 February 2022.
- (4) Given that only imports manufactured by Jiaxing Daiwei Hardware Technology Co., Ltd. should benefit from the duty rate applicable to TARIC additional code C776, the Commission considered it necessary to instruct national customs authorities to verify whether imports made under TARIC additional code C776 since the entry into force of Implementing Regulation (EU) 2022/191 were indeed manufactured by Jiaxing Daiwei Hardware Technology Co., Ltd. In accordance with Article 1(3) of Implementing Regulation (EU) 2022/191, the application of the individual duty rates specified for Jiaxing Daiwei Hardware Technology Co., Ltd., shall be conditional upon presentation to the Member States' customs authorities of a valid commercial invoice, on which shall appear a declaration dated and signed by an official of the entity issuing such invoice, identified by his/her name and function, drafted as follows: 'I, the undersigned, certify that the (volume) of (product concerned) sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in [country concerned]. I declare that the information provided in this invoice is complete and correct.' If no such invoice is presented for imports made under TARIC additional code C776, the duty applicable to all other companies should apply and should be collected as from 18 February 2022.
- (5) The Commission disclosed the essential facts and considerations leading to this correction on 27 November 2023.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2022/191 of 16 February 2022 imposing a definitive anti-dumping duty on imports of certain iron or steel fasteners originating in the People's Republic of China (OJ L 36, 17.2.2022, p. 1.)

- (6) The Commission received comments from the European Fastener Distributor Association (EFDA), which opposed the retroactive effect of the correction of the error.
- (7) First, EFDA referred to the principle of legal certainty precluding any EU measure from taking effect from a point in time before its publication except when two conditions are fulfilled: (i) the purpose to be achieved by the measure demands that it is applied retroactively; and (ii) the legitimate expectations of those concerned are duly respected. EFDA claims that the Commission did not provide any analysis or explanations as whether the above conditions are fulfilled in the present case.
- (8) Second, EFDA emphasised that it would be unreasonable for Union importers to be subjected to higher duties or criminal penalties under national customs laws because of a mistake made by the Commission.
- (9) The Commission disagreed with EFDA’s arguments. The party referring to the principle of legitimate expectations should have a certain degree of knowledge concerning the situation in which, in their views, the legitimate expectation arises. Hisener, should have been aware of the error in the annex to Implementing Regulation (EU) 2022/191 at the time of the disclosure. As Hisener did not produce fasteners, it should not have been listed in the Annex to the above Regulation. However, Hisener did not comment on this error. Nor they came up after Implementing Regulation (EU) 2022/191 was published. The protection of the principle of legitimate expectation does not prevent the Commission to correct the error and mention Daiwei instead of Hisener to benefit from the duty rate applicable to TARIC additional code C776 as of the date of entering into force of Implementing Regulation (EU) 2022/191. In any event, the collection of the proper duty rate should be made in accordance with the applicable customs legislation.
- (10) EFDA’s claims were therefore dismissed.
- (11) The measures provided for in this Regulation are in accordance with the opinion of the Committee, established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

The annex to Implementing Regulation (EU) 2022/191 is amended as follows:

‘People’s Republic of China	Haining Hisener Trade Co., Ltd	C776’
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is replaced by

‘People’s Republic of China	Jiaxing Daiwei Hardware Technology Co., Ltd.	C776’
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Article 2

Member States’ customs authorities are hereby instructed to verify whether imports made under TARIC additional code C776 since the entry into force of Implementing Regulation (EU) 2022/191 were indeed manufactured by Jiaxing Daiwei Hardware Technology Co., Ltd. Imports made under TARIC additional code C776 which were not manufactured by Jiaxing Daiwei Hardware Technology Co., Ltd. shall be subject to the duty applicable to all other companies and the difference in duty shall be collected as from 18 February 2022 in accordance with the applicable customs legislation.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union* and have effect as from 18 February 2022.

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

Done at Brussels, 31 May 2024.

For the Commission
The President
Ursula VON DER LEYEN