



2024/1617

7.6.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1617

of 6 June 2024

making imports of titanium dioxide originating in the People's Republic of China subject to registration

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾ ('the basic Regulation'), and in particular Article 14(5) thereof,

After informing the Member States,

Whereas:

- (1) On 13 November 2023, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* ('the notice of initiation'), the initiation of an anti-dumping proceeding ('the anti-dumping proceeding') with regard to imports into the Union of titanium dioxide ('TiO₂'), originating in the People's Republic of China ('the PRC'), following a complaint lodged on 29 September 2023 by the European Titanium Dioxide Ad Hoc Coalition ('ETDC' or 'the complainant') on behalf of producers representing more than 25 % of the total Union production of TiO₂.

1. PRODUCT SUBJECT TO REGISTRATION

- (2) The product subject to registration ('the product concerned') is titanium dioxide, having the chemical formula TiO₂, in all forms, as titanium oxides or in pigments and preparations based on titanium dioxide, containing a minimum of 80 % by weight of titanium dioxide calculated on the dry matter, having all types of particle sizes, classified under the Chemical Abstracts Service Registry Number (CAS RN) 12065-65-5 and 13463-67-7, originating in the PRC.
- (3) The product concerned is currently classified under CN codes ex 2823 00 00 and 3206 11 00 (TARIC codes 2823 00 00 10 and 2823 00 00 30).

2. REQUEST

- (4) The complainant submitted a registration request pursuant to Article 14(5) of the basic Regulation in the complaint, and reiterated the request with further argumentation in submissions on 8 March 2024, 3 April 2024, and 23 April 2024. The complainant requested that imports of the product concerned be made subject to registration so that measures may subsequently be applied against those imports from the date of such registration. Several interested parties made submissions opposing the registration of imports, which are described and addressed in relevant sections below.

3. GROUNDS FOR REGISTRATION

- (5) According to Article 14(5) of the basic Regulation, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action.
- (6) According to the complainant, registration is warranted as the conditions in Article 10(4) of the basic Regulation are met. In particular, the complainant argued that the product concerned was being dumped into the Union at increasing volumes after the initiation of the proceeding, causing significant injury to the Union industry and undermining the remedial effect of potential definitive duties.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21, ELI: <http://data.europa.eu/eli/reg/2016/1036/oj>.

- (7) The Commission examined the evidence at its disposal in the light of Article 10(4) of the basic Regulation. The Commission verified whether the importers were aware, or should have been aware, of the dumping as regards the extent of the dumping and the injury alleged or found. It also analysed whether there was a further substantial rise in imports which, in the light of its timing and volume and other circumstances, is likely to seriously undermine the remedial effect of the definitive anti-dumping duty to be applied.

3.1. Awareness of the importers of the dumping, the extent thereof and the alleged injury

- (8) Several interested parties claimed that there was no evidence of dumping because the prices of imports of the product concerned from the PRC were rising during the investigation period.
- (9) While prices of imports are indeed one element in the analysis, at this stage, the Commission has at its disposal sufficient evidence that imports of the product concerned from the PRC are being dumped. In particular, the complainant provided evidence on the normal value based on the total cost of production plus a reasonable amount for selling, general and administrative expenses and for profits, based on the choice of Brazil as representative country.
- (10) The evidence of dumping is based on a comparison of the normal value thus established with the export price (at ex-works level) of the product concerned when sold for export to the Union. As a whole, and given the extent of the alleged dumping margins ranging from 42 % to 66 %, this evidence provides sufficient support at this stage that the exporting producers practice dumping. The complaint also provided sufficient evidence of alleged injury. This information was contained in the notice of initiation for this proceeding published on 13 November 2023.
- (11) With the publication of the notice of initiation in the *Official Journal of the European Union*, importers were made aware, or at least should have been aware of the dumping. The notice of initiation is a public document accessible to all interested parties, in particular importers. Furthermore, as interested parties in the investigation, importers have access to the non-confidential version of the complaint. Therefore, the Commission considered that the importers were aware, or should have been aware, of the alleged dumping practices, the extent thereof and the alleged injury at that moment.

3.2. Further substantial rise in imports

- (12) In its request for registration from 8 March 2024, the complainant claimed that there was a substantial rise in imports after the initiation of the investigation on the basis of export data to the EU reported by the General Customs Administration of China ('GCAC'). This data was available until December 2023 only. In subsequent submission made on 3 April 2024, the complainant complemented those figures with export data for January 2024, published also by the GCAC, and February 2024 from IHS and S&P global. Such data indeed showed an increase in imports in the three month period following the initiation of this investigation (December 2023-February 2024) compared to the same period a year before, as well as a gradual increase month-on-month, with a slight drop in February 2024 compared to January 2024.
- (13) Other parties made submissions comparing import data from different periods to show that there is no actual increase in imports. Similarly, some of those parties also claimed that the month-on-month increase in imports observed in the three months after initiation, compared to prior months, was due to usual seasonality of TiO₂ demand and could not be interpreted as a substantial rise in imports to justify registration.
- (14) The Commission conducted its own assessment on the basis of complete and updated data available in Comext (Eurostat) database.

- (15) Based on the data available, the Commission compared the level of imports from the first three full months after the investigation was initiated (December 2023 to February 2024) to the corresponding volumes of imports in the same period in the investigation period.
- (16) Eurostat data provides a full analysis of the evolution of imports of the product concerned into the Union. Imports from the PRC developed as follows:

Imports from the PRC – December to February Year-over-Year

	December 2022- February 2023	December 2023- February 2024	Monthly average December 2022- February 2023	Monthly average December 2023- February 2024	Change
Imports from the PRC to the Union (tonnes)	40 326	49 195	13 442	16 398	+ 22 %

Source: Comext (Eurostat).

- (17) At this stage of the investigation, and based on the available evidence, the Commission noted that there may be some seasonality in Union demand for TiO₂ over the course of the year. Therefore, while the average monthly imports in the first three full months after the investigation was initiated show a 6 % decrease compared to the average monthly imports for the whole investigation period, the Commission considered that the method in the Table, comparing the three-month period after the initiation of the case with the same period in the investigation period, is in any event more appropriate for assessing an increase in imports.
- (18) Finally, the Commission considered the arguments to rely on Chinese exports statistics to determine an increase in imports as moot, since the Commission was able to use Eurostat import data to analyse the evolution of imports of the product concerned into the Union.
- (19) On the basis of the above, the Commission considered that the figures in the Table above show a substantial increase in imports.

3.3. Undermining of the remedial effect of the duty

- (20) The Commission has at its disposal sufficient evidence that additional injury would be caused by a continued rise in imports from the PRC at further decreasing prices.
- (21) As established in recitals (16) to (19), there is sufficient evidence of a substantial rise in imports of the product concerned. Furthermore, the complaint contained sufficient evidence of the injury suffered by the Union industry. Over the period considered taken in the complaint, all the major injury indicators were in decline. The profitability of the Union industry plummeted from a healthy + 10,2 % profitability into – 3,1 % losses, as their sales volumes, capacity utilisations, market share, and cash flow all decreased. Therefore, according to the evidence available to the Commission, any such increase in imports could significantly undermine the remedial effect of potential duties by injuring further the Union industry.
- (22) In addition, there is evidence of a decreasing trend in the import prices of the product concerned after the initiation of the investigation. Comparing the average import price in the three months after the initiation of the case (2,14 EUR/kg) with the average import price in the same period in the investigation period (2,37 EUR/kg) showed that the average price of imports from China into the Union decreased by 10 %.

- (23) One of the parties claimed that Chinese imports could not be undermining the remedial effect of the duty, because Chinese prices were increasing in each month after the initiation of the case. The Eurostat data indeed shows that TiO₂ import prices increased from 2,11 EUR/kg in December 2023 to 2,17 EUR/kg in February 2024, or an increase of just under 3 %. However, as indicated in the above recital, there was a 10 % decrease in the average import price observed in the three months after the initiation of the case compared to the same period in the investigation period. Consequently, the claim was rejected.
- (24) Furthermore, the complaint relied on third party market data analysis which projected that Chinese TiO₂ production capacity in 2023 will be at [4,9-5,1] million tonnes, which is more than double Chinese domestic consumption, and [70-80] % of total global consumption. The Commission thus has sufficient evidence at this stage of excess capacity in the PRC.
- (25) The further rise in imports following the initiation of the case is thus likely, in light of its timing and volume, low price of those imports, and other circumstances (such as the excess capacity in the PRC), to seriously undermine the remedial effect of any definitive duty.

3.4. Conclusion

- (26) Therefore, the Commission concluded it appropriate to make imports of the product concerned subject to registration in accordance with Article 14(5) of the basic Regulation.

4. PROCEDURE

- (27) All interested parties are invited to make their views known in writing and to provide supporting evidence. The Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

5. REGISTRATION

- (28) Under Article 14(5) of the basic Regulation, imports of the product concerned should be made subject to registration for the purpose of ensuring that, should the investigations result in findings leading to the imposition of anti-dumping duties, those duties can, if the necessary conditions are fulfilled, be levied retroactively on the registered imports in accordance with the applicable legal provisions.
- (29) Any future liability would emanate from the findings of the anti-dumping investigation.
- (30) The allegations in the complaint requesting the initiation of an anti-dumping investigation estimate dumping margins from 42 % to 66 % and an average injury elimination level of 31 % for the product concerned. The amount of possible future liability could normally be estimated at the level of the injury elimination level estimated on the basis of the complaint, namely 31 % *ad valorem* of the CIF import value of the product concerned. However, should the Commission find that the conditions of Article 7(2a) and 7(2b) of the basic Regulation are met, namely that the dumping margin could be considered to reflect the injury suffered by the Union industry, the amount of possible future liability could be set at the level of the dumping margin of 66 %, in accordance with Article 9(4) of the basic Regulation.

6. PROCESSING OF PERSONAL DATA

- (31) Any personal data collected in the context of this registration will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁷⁾,

⁽⁷⁾ 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, ELI: <http://data.europa.eu/eli/reg/2018/1725/oj>).

HAS ADOPTED THIS REGULATION:

Article 1

1. The customs authorities are hereby directed, under Article 14(5) of Regulation (EU) 2016/1036, to take the appropriate steps to register imports of titanium dioxide, having the chemical formula TiO_2 , in all forms, as titanium oxides or in pigments and preparations based on titanium dioxide, containing a minimum of 80 % by weight of titanium dioxide calculated on the dry matter, having all types of particle sizes, classified under the Chemical Abstracts Service Registry Number (CAS RN) 12065-65-5 and 13463-67-7, currently falling under CN codes ex 2823 00 00 and 3206 11 00 (TARIC codes 2823 00 00 10 and 2823 00 00 30) and originating in the People's Republic of China.
2. Registration shall expire nine months following the date of entry into force of this Regulation.
3. All interested parties are invited to make their views known in writing, to provide supporting evidence or to request to be heard within 21 days from the date of publication of this Regulation.

Article 2

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

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

Done at Brussels, 6 June 2024.

For the Commission
The President
Ursula VON DER LEYEN