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COMMISSION IMPLEMENTING REGULATION (EU) 2024/1608

of 5 June 2024

making imports of erythritol 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 21 November 2023, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union* [2] ('the notice of initiation'), the initiation of an anti-dumping proceeding with regard to imports into the Union of erythritol originating in the People's Republic of China ('China') following a complaint lodged on 9 October 2023 by Jungbunzlauer S.A. ('the complainant'), the sole Union producer of erythritol.

1. PRODUCT SUBJECT TO REGISTRATION

(2) The product subject to registration is erythritol, a four-carbon sugar alcohol (polyol) sweetener made from sugar or glucose, in its pure form or contained in blends containing less than 10 % of other products by weight, currently classified under CN code ex 2905 49 00 for erythritol in its pure form and CN codes ex 2106 90 92 and ex 2106 90 98 for blended products (TARIC codes 2905 49 00 15, 2106 90 92 65, and 2106 90 98 15), ('the product concerned') originating in China.

2. REQUEST

(3) On 10 April 2024, the complainant submitted a registration request pursuant to Article 14(5) of the basic Regulation. The complainant requested that imports of the product concerned be made subject to registration, so that measures may subsequently be applied from the date of the registration.

3. GROUNDS FOR REGISTRATION

(4) 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, provided all conditions set out in the basic Regulation are met. Imports may be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action.

(5) The complainant alleged that on the basis of the most recent data mentioned in footnote 3 there had been a substantial rise in imports of the product concerned since the initiation of the investigation which was likely to seriously undermine 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.
[2] OJ C, C/2023/1020, 21.11.2023, ELI: http://data.europa.eu/eli/C/2023/1020/oj.

(6) The source of the data concerning the Chinese exports to the EU could not be disclosed at the request of the data provider. However, the Commission cross-checked the data provided by the complainant with other available statistical sources (Eurostat and Surveillance) and with the sampling and questionnaire replies of the co-operating Chinese exporting producers.

(7) The Commission examined the evidence at its disposal in 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, was 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) At this stage, the Commission has at its disposal sufficient evidence that imports of the product concerned from China are being dumped. In particular, the complainant provided sufficient evidence of dumping based on a comparison of a normal value established in accordance with Article 2(6a)(a) of the basic Regulation, 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 concerned when sold for export to the Union. As a whole, and given the extent of the alleged dumping margins ranging from 151 % to 189 %, this evidence provided sufficient support at this stage that the exporting producers practice dumping.

(9) The complainant also provided sufficient evidence of alleged injury to the Union industry, including a negative development of key performance indicators of the Union industry.

(10) That information was contained both in the non-confidential version of the complaint and in the notice of initiation for this proceeding published on 21 November 2023. As of its publication in the *Official Journal of the European Union*, the notice of initiation is a public document accessible to all interested parties, including 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.

(11) The Commission thus concluded that the criterion for registration set in Article 10(4)(c) of the basic Regulation was met.

3.2. **Further substantial rise in imports**

(12) Eurostat data does not allow a full analysis of the evolution of imports of product concerned from China into the Union for the period preceding the initiation of this investigation. The Commission, therefore analysed the criterion in Article 10(4)(d) of the basic Regulation based on the specialised market intelligence from a data provider, provided by the complainant, together with information obtained from Eurostat and Surveillance 3 databases.

(13) For assessing whether a further substantial increase had taken place since the initiation of the investigation, the Commission first compared the level of imports from the first full month after the investigation was initiated (December 2023) until the most recent full month available (March 2024) to the corresponding volumes of imports in the same period of the previous year (December 2022–March 2023).

Imports from China December-March year-over-year

	December 2022–March 2023	December 2023–March 2024	Change
Exports from China to the Union in kg	5 519 958	6 968 666	+ 26,2 %

Source: Data provider of Chinese export statistics (As erythritol currently falls under 'basket' CN code 2905 49 00 for erythritol in its pure form and CN codes 2106 90 92 and 2106 90 98 for blended products, it was not possible to assess import statistics from Eurostat in the periods prior to the initiation of the proceeding. Instead, import statistics were based on data of a specialised market intelligence provider of Chinese trade statistics to which the complainant has a subscription. The analysis of imports for the purposes of the investigation as a whole is based on data from this provider).

(14) On this basis, the Commission found that the average monthly volume of imports of the product concerned from China in the period from December 2023–March 2024, i.e. after initiation of the anti-dumping investigation, was 26,2 % higher than during the same period of the preceding year during the IP.

(15) Next, the Commission also compared the average monthly imports during the investigation period ([3]) (1 October 2022 to 30 September 2023) with the average monthly imports in the three full months after initiation (December 2023 to March 2024). The comparison, as detailed in the table below, showed an increase of 58,8 %.

Imports from China in the investigation period and after the initiation of the investigation

	Investigation period	Investigation period monthly average	December 2023–March 2024	December 2023–March 2024 monthly average	Change
Exports from China to the Union in kg	13 168 288	1 097 357	6 968 666	1 742 167	+ 58,8 %

Source: Data provider of Chinese export statistics.

(16) On this basis the Commission found that imports of the product concerned substantially increased after the initiation of the investigation.

(17) Therefore, the Commission concluded that the second criterion for registration was also met.

3.3. **Undermining of the remedial effect of the duty**

(18) The Commission has at its disposal sufficient evidence that additional injury would be caused by a continued rise in imports from China at further decreasing prices.

(19) As established in recitals 13 to 15, there is sufficient evidence of a substantial rise in imports of the product concerned from China, in the period following the initiation of the anti-dumping investigation. The substantial magnitude of this increase already points to a likely undermining of the remedial effect of a definitive duty if the legal conditions are met.

([3]) The investigation period covered the period from 1 October 2022 to 30 September 2023.

(20) In addition, there is evidence of a decreasing trend in the import prices of the product concerned.

	Investigation period	December 2023–March 2024	Change
Prices in EUR/kg	1,57	1,54	– 2,0 %

Source: Data provider of Chinese export statistics.

(21) In this regard while import prices from China into the Union in the period December 2023–March 2024 have on average, not shown change when compared to the same period a year earlier, i.e. December 2022–March 2023, when compared to the monthly average in the investigation period they show a decrease of 2 %. This is likely to seriously undermine the remedial effect of duties to be applied.

(22) Such further rise in imports following the initiation of the case is thus likely, in light of its timing, volume and other circumstances (such as the excess capacity in China and pricing behaviour of exporting producers) to seriously undermine the remedial effect of any definitive duty, unless such duty would be applied retroactively.

(23) The Commission therefore concluded that the third criterion for registration was also met.

3.4. **Conclusion**

(24) On the basis of the above, the Commission concluded that there is sufficient evidence to justify making imports of the product concerned subject to registration in accordance with Article 14(5) of the basic Regulation.

4. **PROCEDURE**

(25) 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**

(26) Pursuant to Article 14(5) of the basic Regulation imports of the product concerned from China 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.

(27) Any future liability would emanate from the findings of the investigation.

(28) The allegations in the complaint requesting the initiation of an anti-dumping investigation estimate an average dumping margin of 170 % and an average injury elimination level of 156,5 % for the product concerned. The amount of possible future liability would normally be set at the lower of those two levels according to Article 7(2) of the basic Regulation.

(29) The amount of possible future liability can be estimated at the injury elimination level alleged in the complaint, namely up to 156,5 % *ad valorem* on the CIF import value of the product concerned.

6. **PROCESSING OF PERSONAL DATA**

(30) 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 ([4]),

HAS ADOPTED THIS REGULATION:

Article 1

1. The customs authorities are hereby directed, pursuant to Article 14(5) of Regulation (EU) 2016/1036, to take the appropriate steps to register imports of erythritol, a four-carbon sugar alcohol (polyol) sweetener made from sugar or glucose, in its pure form or contained in blends containing less than 10 % of other products by weight, currently classified under CN code ex 2905 49 00 for erythritol in its pure form and CN codes ex 2106 90 92 and ex 2106 90 98 for blended products (TARIC codes 2905 49 00 15, 2106 90 92 65, and 2106 90 98 15), 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, 5 June 2024.

For the Commission
The President
Ursula VON DER LEYEN

([4]) 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).