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AD0086

ANTI-DUMPING INVESTIGATION CONCERNING

IMPORTS OF RUTILE TITANIUM DIOXIDE

ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA

Comments on the Statement of Essential Facts

Submitted on behalf of the
China National Coatings Industry Association [CNCIA]

29 October 2026

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1. INTRODUCTION

1. On 3 March 2026, the UK Trade Remedies Authority ("TRA") initiated an anti-dumping investigation concerning imports of rutile titanium dioxide ("TiO2") originating in the People's Republic of China ("China"),[1] on the basis of an application lodged on 6 January 2026 by Tronox Pigment UK Limited ("Tronox UK" or the "Applicant").[2] The period of investigation ("POI") runs from 1 January 2025 to 31 December 2025, and the injury period ("IP") from 1 January 2022 to 31 December 2025.[3]

2. On 6 October 2026, the TRA published its Statement of Essential Facts ("SEF").[4] In the SEF, the TRA concludes that the UK industry has not suffered material injury, but that it is suffering from a threat of material injury caused by imports from China.[5]

3. The present submission is filed on behalf of the China National Coatings Industry Association ("CNCIA"). The CNCIA hereby exercises its right to comment on the SEF under Regulation 62(2) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ("D&S Regulations")[6] and Article 6.2 of the WTO Anti-Dumping Agreement ("ADA").[7]

4. At the outset, the CNCIA welcomes the TRA's conclusion that the UK industry has not suffered material injury. The TRA found that there was no significant increase in imports from China during the IP, whether in absolute terms or relative to UK production or consumption.[8] It further found that the economic factors are "*mixed*".[9] For several of them, the UK industry "*does not have negative economic indicators*".[10] Finally, the TRA found that, "*when considered as a whole*", the economic factors do not demonstrate that the UK industry has suffered material injury, since "*other factors indicate a lack of injury*

[1] SEF (as defined below), para. 27.
[2] SEF, para. 25.
[3] SEF, paras. 12-13.
[4] Trade Remedies Authority, *Statement of Essential Facts*, AD0086 – Rutile titanium dioxide from the People's Republic of China, 6 October 2026 (hereinafter "SEF").
[5] SEF, paras. 19, 591 and 598-602.
[6] The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019, S.I. 2019/450, as amended (hereinafter "D&S Regulations"). See also SEF, para. 6.
[7] The first sentence of Article 6.2 of the ADA provides that "*throughout the anti-dumping investigation all interested parties shall have a full opportunity for the defence of their interests*".
[8] SEF, paras. 466-474 and 580-583.
[9] SEF, para. 588.
[10] SEF, para. 589.

or are inconclusive".[11] These findings are consistent with the CNCIA's views outlined in its comments on the Application and Initiation.[12]

5. Consequently, the TRA's intended affirmative determination rests entirely on its finding of a threat of material injury.[13] The CNCIA has several concerns about the TRA's determination in this regard, as elaborated below.

6. These comments are organized as follows:

- Section 2 sets out the legal standard for determinations of threat of injury;
- Section 3 explains why there is no threat of injury; and
- Section 4 demonstrates that the target profit set by the TRA is not based on positive evidence.

7. The CNCIA reserves the right to submit further comments on the issues raised in this submission and on other issues arising in the course of this proceeding.

2. THE LEGAL STANDARD FOR A THREAT OF MATERIAL INJURY

8. Regulation 28(1) of the D&S Regulations defines a threat of material injury as "*injury which, although it has not yet occurred, is clearly foreseen and imminent*".[14] Regulation 28(2) lists the factors that the TRA may consider, "*among other things*", in determining whether there is such a threat:[15]

> (a) the extent to which any significant rate of increase in the volume of the importation of the dumped goods […] into the United Kingdom indicates a likelihood of substantially increased importation;
>
> (b) whether the overseas exporter has sufficient freely disposable, or an imminent substantial increase in, capacity indicating that there is a likelihood of substantially increased importation of the dumped goods […] into the

[11] SEF, para. 591.
[12] CNCIA, Comments on the Application and Initiation of investigation, 5 June 2026 (hereinafter "CNCIA Initiation Comments"), section 2.
[13] SEF, paras. 598-602 and 745.
[14] D&S Regulations, Regulation 28(1). See also SEF, paras. 458 and 550.
[15] D&S Regulations, Regulation 28(2).

> United Kingdom taking into account the availability of other export markets to absorb the additional exports of those goods;
>
> (c) whether the dumped goods […] are entering the United Kingdom at prices which will have a significant depressing or suppressing effect on prices of the like goods in the United Kingdom and whether such prices are likely to increase the demand for further imports of the goods concerned;
>
> (d) the inventories of the overseas exporters of the goods concerned […]

9. Regulation 28 mirrors Article 3.7 of the ADA, which further provides that a determination of threat "*shall be based on facts and not merely on allegation, conjecture or remote possibility*". It also provides that "*[t]he change in circumstances which would create a situation in which the dumping would cause injury must be clearly foreseen and imminent*".[16] The TRA's own guidance confirms that its "*threat of material injury determination must be based on facts and not merely on allegation, conjecture or remote possibility*".[17]

10. This is a demanding standard, which the WTO Appellate Body has described as a "*high standard*".[18] It explained that although future events "*can never be definitively proven by facts*", a threat determination must be based on events that are "*clearly foreseen and imminent*".[19] Moreover, Article 3.8 of the ADA requires investigating authorities to consider and decide the application of measures in threat of injury cases "*with special care*". This means "*a degree of attention over and above that required of investigating authorities*" in all injury investigations.[20] That obligation applies "*during the process of investigation and determination of threat of material injury, that is, in the establishment of whether the prerequisites for application of a measure exist, and not merely afterward when final decisions whether to apply a measure are taken*".[21]

[16] ADA, Article 3.7, first and second sentences.
[17] TRA, *Determining injury and causation in dumping and subsidy investigations*, section 5 ("Assessing the threat of material injury"), last updated 21 August 2026, available at <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/determining-injury-and-causation-in-dumping-and-subsidy-investigations >.
[18] Appellate Body Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), para. 100.
[19] Appellate Body Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), paras. 85 and 100.
[20] Panel Report, *US – Softwood Lumber VI* (DS277), para. 7.33.
[21] Panel Report, *US – Softwood Lumber VI* (DS277), para. 7.33.

11. The courts of the European Union ("EU") apply the same standard.[22] In *Hubei Xinyegang Steel*, the General Court annulled anti-dumping duties that were based solely on a threat of material injury, because the institutions' findings on the situation of the domestic industry, on post-investigation import volumes and prices, and on spare capacity and redirection of exports were not supported by the facts.[23] The General Court stressed that the threat must be clearly apparent from the circumstances of the case and that the injury threatened must be **impending**.[24]

12. A threat determination is not a stand-alone exercise. The Appellate Body has explained that the paragraphs of Article 3 of the ADA "*contemplate a logical progression*" of inquiry leading to the ultimate injury and causation determination.[25] The investigating authority first considers the volume of the dumped imports and their effect on prices. It then examines their impact on the domestic industry. Finally, it links these elements through the analysis of causation and non-attribution.[26] The D&S Regulations follow the same reasoning. Regulation 30 requires the TRA to examine the volume of the dumped goods, their effect on prices and their consequent impact on the UK industry, and Regulation 35 requires it to establish causation without attributing to the dumped goods the injury caused by other known factors.[27]

13. Similar reasoning applies to a threat of material injury analysis. The EU Court of Justice has held that "*the existence of a threat of injury, like that of an injury, must be established as at the date of the adoption of the anti-dumping measure, having regard to the situation of the EU industry at that time*".[28] It further held that the conclusion on the situation of the industry "*established in the context of the analysis of material injury […] remains, in*

[22] The case law of the EU courts is relevant because Regulation 28 of the D&S Regulations, like Article 3(9) of the EU Basic Anti-Dumping Regulation (Regulation (EU) 2016/1036, and its predecessors applied in the judgments cited below), implements Article 3.7 of the ADA. Both provisions require that the threatened injury be "*clearly foreseen and imminent*" and list substantially the same factors. While the judgments of the EU courts do not bind the TRA, their interpretation of an equivalent provision is persuasive guidance on the interpretation of Regulation 28.

[23] *Hubei Xinyegang Steel Co. Ltd* v. *Council*, Case T-528/09, Judgment of the General Court of 29 January 2014, EU:T:2014:35, paras. 50, 54 and 59-92 (hereinafter "General Court, *Hubei* v. *Council*"). The judgment was upheld on appeal in Joined Cases C-186/14 P and C-193/14 P, *ArcelorMittal Tubular Products Ostrava and Others* v. *Hubei Xinyegang Steel*, Judgment of the Court of 7 April 2016, EU:C:2016:209 (hereinafter "Court of Justice, *ArcelorMittal* v. *Hubei*").

[24] General Court, *Hubei* v. *Council*, paras. 50 and 54.

[25] Appellate Body Reports, *China – HP-SSST (Japan)* (DS454), para. 5.140.

[26] Appellate Body Reports, *China – HP-SSST (Japan)* (DS454), paras. 5.138-5.141.

[27] D&S Regulations, Regulations 30 and 35. See also SEF, paras. 459-462.

[28] Judgment of 4 February 2021, *Eurocylinder systems*, C-324/19, EU:C:2021:94, para. 40, referring to Court of Justice, *ArcelorMittal* v. *Hubei*, paras. 31 and 71.

principle, relevant in the context of the analysis of threat of material injury".[29] WTO panels have clarified that an assessment of volumes of dumped imports, price effects and the impact on the domestic industry in a threat of injury case is prospective.[30] To this end, the TRA may take post-POI data into account, but only "*to confirm or invalidate*" its forecasts.[31]

14. Therefore, while the same pillars underlying a material injury determination are relevant to a threat determination, the focus and assessment must demonstrate that injury is "*clearly foreseen and imminent*" in the absence of anti-dumping measures. In addition to the elements set out in Articles 3.2, 3.4 and 3.5 of the ADA, an investigating authority is also required to consider the factors set out in Article 3.7 (and regulation 28(2)).

3. NO THREAT OF MATERIAL INJURY ON ACCOUNT OF IMPORTS FROM CHINA

3.1 Introduction

15. The TRA concludes that the UK industry is suffering from a threat of material injury which "*has not yet occurred, but it is clearly foreseen and imminent due to changes in circumstance[s]*".[32] The TRA identifies three changes in circumstances: (i) limited access of Chinese producers to third-country markets; (ii) increasing excess capacity in China; and (iii) Chinese export controls on sulphuric acid.[33] Additionally, the TRA considers that negative effects in a number of economic indicators "*into the final year of the IP*" are "*indicative of a threat of injury beginning to materialise*".[34] Under Regulation 28(1) of the D&S Regulations, the TRA must establish, on the basis of facts, that material injury, although it has not yet occurred, is "*clearly foreseen and imminent*".

16. The CNCIA submits that: (i) an assessment of the factors in Regulation 28(2)(a) to (d), and the export controls on sulphuric acid, do not support the conclusion that material injury is clearly foreseen and imminent; (ii) the situation of the UK industry does not

[29] Judgment of 4 February 2021, *Eurocylinder systems*, C-324/19, EU:C:2021:94, para. 42, referring to Court of Justice, *ArcelorMittal* v. *Hubei*, para. 31.
[30] See e.g., Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.274.
[31] Judgment of 4 February 2021, *Eurocylinder systems*, C-324/19, EU:C:2021:94, para. 41; Court of Justice, *ArcelorMittal* v. *Hubei*, paras. 71-72.
[32] SEF, para. 602.
[33] SEF, para. 600.
[34] SEF, para. 592. See also SEF, paras. 601, 616-617, 624 and 630.

show that it is on the verge of material injury; and (iii) the TRA has not established that any future injury would be caused by imports from China.

17. At the outset, the CNCIA notes that several of the "circumstances" relied on by the TRA had already occurred during the POI; and cannot therefore be considered to be a "change in circumstances". The EU's definitive duties have applied since January 2025. India's duties applied from May to September 2025.[35] Yet there was no material injury, and no significant increase in imports, during the POI. The CNCIA considers that circumstances that already existed at that time cannot, by themselves, constitute a *change* in circumstances that makes injury clearly foreseen and imminent.

18. This reasoning is confirmed by the panel in *US – Softwood Lumber VI.* The panel explained that "*[w]hat is critical, however, is that it be clear from the determination that the investigation authority has evaluated how the future will be different from the immediate past, such that the situation of no present material injury will change in the imminent future to a situation of material injury, in the absence of measures*".[36]

3.2 Factors allegedly indicating threat of injury

3.2.1 No significant rate of increase indicating a likelihood of substantially increased importation (Regulation 28(2)(a))

19. The TRA accepts that "*there has not been a significant rate of increase in the volume of the importation of the dumped goods over the POI or IP*".[37] Throughout the IP, imports from China remained below 10% of UK production.[38] The TRA nevertheless finds a "*likelihood of substantially increased importation*" on the basis of the following comparison:[39]

Average monthly imports from China (MT)	Same months in POI (2025)	Since the POI (2026)	Change
January – July	1,454.67	2,223.36	+52.84%
January – February (before initiation)	1,385.93	1,632.87	+17.81%

[35] SEF, paras. 566-567, and Figures 35, 37 and 38.
[36] Panel report, *US – Softwood Lumber VI* (DS277), para. 7.58. (Emphasis added)
[37] SEF, paras. 551 and 594.
[38] SEF, para. 469.
[39] SEF, paras. 552-556.

20. The CNCIA submits that these data do not establish a "*significant rate of increase*" indicating a "*likelihood of substantially increased importation*" within the meaning of Regulation 28(2)(a).

21. At the outset, the CNCIA submits that the TRA's finding of a likelihood of substantially increased imports rests on HMRC trade statistics which are recorded at the 8-digit level for commodity codes 2823 0000 and 3206 1100. As the TRA itself acknowledges, they include goods that are not the goods concerned, "*for example, anatase goods or goods with a titanium dioxide content of below 80%*" and explains that this "*is the best available data with which to conduct these assessments, as it is the only disclosable data that details the price of imports of the goods concerned over the whole of the IP*".[40]

22. For the IP, the TRA sought to address this problem by estimating that 86.9% to 93% of the imports under these codes were the goods concerned.[41] That estimate is based on data for the POI, namely Chinese production of rutile TiO2 as a share of total Chinese TiO2 production in the POI, and the share of imports under code 3206 1100 during the POI.[42] However, the SEF contains no equivalent analysis for the imports since the POI. It follows that the TRA does not know what share of the increase in 2026 consists of rutile TiO2, and what share consists of anatase or other out-of-scope goods. By failing to exclude out-of-scope goods, the TRA failed to base its threat determination on positive evidence concerning the goods concerned.[43]

23. In addition, the CNCIA notes that Article 3.7(i) of the ADA and Regulation 28(2)(a) both require a consideration of "*a significant rate of increase of dumped imports into the domestic market* ***indicating the likelihood of substantially increased importation***". This means that "*the rate of increase of imports must not be considered simply as a matter of fact*" rather it must indicate the likelihood of substantially increased importation. An analysis that merely describes import trends as a matter of fact cannot therefore support the finding that imports would increase substantially.[44] To the contrary, the investigating authority must put the import trends into context.[45] Moreover, a historical increase in

[40] SEF, paras. 461 and 465.
[41] SEF, paras. 99-104 and 465.
[42] SEF, paras. 99 and 102-104.
[43] ADA, Article 3.1; TRA, *Determining injury and causation in dumping and subsidy investigations*, sections 3 and 5. See also Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.243.
[44] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.257.
[45] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, footnote 388.

imports cannot support a conclusion of a threat of injury, without an assessment of why that increase is indicative of a prospective substantial increase in imports.[46] With this context, the CNCIA makes five observations.

24. First, neither Regulation 28 nor the TRA's guidance sets a minimum period over which a rate of increase must be measured. However, Regulation 28(2)(a) requires that the rate of increase *indicates* a likelihood of *substantially* increased imports. A comparison of seven months, or of a single month,[47] with the same months of the previous year can only indicate such a likelihood if it is assessed against the trend over the whole IP, and in light of circumstances surrounding the investigation. In the context of safeguards, the Appellate Body in *US - Lamb* held that, while data relating to the most recent past are essential, investigating authorities cannot rely exclusively on such data.[48] They must assess them in the context of the data for the entire period of investigation.[49] That reasoning applies equally here. Over the four years of the IP, the TRA found no significant increase in imports from China. Imports fluctuated and generally tracked UK consumption.[50] Even though imports in the final year did not perfectly track consumption, the TRA did not consider there to be a significant increase. Against this background, seven months of data cannot establish a trend towards substantially increased imports, particularly because most of these months post-date the initiation of this investigation, and all seven months coincide with the absence of production at Greatham, during which UK consumers relied on only one UK producer and complemented their supply with imports. In comparison, in 2025, the Greatham site was in operation until October 2025, hence the 2025 data included Venator's production for the most part.

25. Second, the TRA's own practice shows how post-POI monthly data should be assessed. In AD0049, the TRA examined whether imports had surged after the POI. Imports in one post-POI month were approximately 25% higher than in the same month of the previous year. However, they were "*still lower than the average monthly imports*" of the previous

[46] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.286.
[47] The TRA also relies on the fact that imports in May 2026 were "*over 299%*" of imports in May 2025. SEF, para. 553.
[48] Appellate Body Report, *US – Lamb* (DS177,178), paras. 137-138. The Appellate Body has itself relied on *US – Lamb* when interpreting the threat standard of Article 3.7 of the ADA: Appellate Body Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), para. 85 and footnote 63 (citing *US – Lamb* (DS177,178), para. 136).
[49] Appellate Body Report, *US – Lamb* (DS177,178), paras. 137-138.
[50] SEF, para 473.

year. The TRA therefore concluded that no surge had occurred.[51] Accordingly, a more appropriate comparison is with the average monthly level of imports, not only with the same month of the previous year; as this gives a more holistic view of trends in imports and the likelihood of substantial increase.

26. In the present case, imports from China during the POI amounted to 18,543 MT,[52] i.e. an average of 1,545 MT per month. In January and February 2026, i.e. before the initiation of this investigation, imports from China averaged 1,632.87 MT per month.[53] This is only 5.7% above the POI monthly average.[54] This is also below the level of the final months of the POI. Based on the TRA's own figures, imports from China in August to December 2025 averaged approximately 1,672 MT per month. No figures for those months are on the record, but they can be derived from the TRA's own data, since the TRA's comparison covers only January to July of each year.[55] They are informative, because they include the months from October 2025 onwards, during which Venator had idled the Greatham plant.[56] In other words, even when UK production had fallen to a single producer, imports from China before initiation did not rise above their level in the final months of the POI. The table below sets out these figures.

[51] TRA, *Final Determination*, AD0049 – Suspension PVC from the United States of America, 9 January 2025, paras. 261-263.
[52] SEF, para. 100. The SEF refers to "*18,542,968 MT*".
[53] SEF, para. 555.
[54] CNCIA's calculation: 1,632.87 MT / (18,542.968 MT / 12) = 1.057.
[55] CNCIA's calculation based on SEF, paras. 100 and 554: total imports from China in the POI (18,542.968 MT) minus seven times the TRA's monthly average for January to July 2025 (1,454.67 MT), divided by five: (18,542.968 MT – 10,182.69 MT) / 5 = 1,672 MT.
[56] SEF, para. 79.

Period	Average monthly imports from China (MT)	Difference with the POI monthly average	What it shows
POI (January to December 2025)	1,545	–	Benchmark: the average monthly level of imports in 2025[57]
January to February 2026 (after the POI, before initiation)	1,633	+5.7%	Before initiation, imports were only slightly above the POI average
August to December 2025 (final months of the POI; Greatham idle from October 2025)	1,672	+8.2%	Imports before initiation remained below the final months of the POI, even with a single UK producer
January to July 2026 (mostly after initiation on 3 March 2026; Greatham idle)	2,223	+43.9%	Imports rose above the POI level only after initiation, and while Greatham was not in operation

Source: SEF, paras. 100, 554 and 555 (Greatham: SEF, paras. 79 and 86).[58]

27. Applying the TRA's own approach in AD0049, imports before initiation therefore remained in line with their normal level during the POI. Thus, imports rose above that level only after the initiation of the investigation, and while the Greatham plant was not in operation. As set out above, those months do not indicate a lasting change in trade flows.

28. Put differently, the increase relied on by the TRA occurred only *after* the initiation of the investigation. This matters because imports after initiation do not reflect normal market conditions. They say nothing about the level of imports in the imminent future. This is precisely why the TRA itself repeated its comparison for the months before initiation, "*[t]o limit the potential that our comparison is affected by the initiation of this investigation*"[59].

29. Third, the increase after initiation is explained by two circumstances that say nothing about the future trends in imports. On the one hand, the TRA itself recognises that the data since initiation may be affected by the investigation,[60] as purchasers may anticipate

[57] TRA, *Final Determination*, AD0049 – Suspension PVC from the United States of America, 9 January 2025, paras. 261-263. In that case, the TRA compared post-POI monthly imports with the average monthly imports of the previous year, and not only with imports in the same month of that year.
[58] The POI and August to December 2025 averages are the CNCIA's calculation from the TRA's figures, using the TRA's average of 1,454.67 MT for January to July 2025: 18,542.968 MT / 12 = 1,545 MT; (18,542.968 MT – 7 × 1,454.67 MT) / 5 = 1,672 MT. Figures are rounded to the nearest MT.
[59] SEF, para. 555.
[60] SEF, para. 555.

the imposition of measures. On the other hand, the increase coincides with the period during which the Greatham plant did not produce any rutile TiO2, namely from the shutdown of Venator in October 2025 until 18 August 2026.[61] Venator's plant accounted for 150,000 MT of the 315,000 MT of UK capacity, i.e., almost half.[62] All seven months of 2026 relied on by the TRA fall within that period. The removal of half of the capacity of the UK necessarily led UK customers to source elsewhere.

30. Fourth, the TRA did not take into account the most important development since the POI. Venator's UK production facility at Greatham has resumed operation on 18 August 2026. The site is undergoing a phased ramp-up, with the aim of "*achiev[ing] full operational capacity by early 2027*".[63] The Greatham plant has a nameplate capacity of 150,000 MT.[64]

31. Thus, the restart brings back a second UK producer of the like goods, with a capacity well above total UK consumption (which amounts to 72,000 to 90,000 MT per year).[65] The TRA counted this plant's capacity as UK manufacturing capacity for the like goods throughout the IP.[66] This change can only *reduce* the need for imports from China in the imminent future, as UK customers will again be able to source the like goods from the two UK producers. Nevertheless, the TRA does not consider the Greatham restart at all in its analysis of the threat of injury.[67] In the economic interest test, it even sets Tioxide aside "*[d]ue to uncertainty in levels of current and future production*".[68] Yet, there is no evidence that the projected production at the Greatham plant may not be met.

32. In this regard, the CNCIA recalls that an investigating authority that relies on post-POI data to find a likelihood of increased imports cannot disregard post-POI facts that point in the opposite direction. In *Mexico – Corn Syrup*, the panel found that the investigating authority's conclusion that there was a likelihood of substantially increased importation was inconsistent with Article 3.7(i) of the ADA. The investigating authority had not adequately considered an alleged restraint agreement, concluded after the period of investigation, which suggested that further increases in imports would at least slow down.

[61] SEF, paras. 77, 79 and 86.
[62] SEF, para. 514. Venator's capacity of 150,000 MT represented 48% of the total UK capacity of 315,000 MT.
[63] SEF, paras. 78, 86 and 516.
[64] SEF, para. 514.
[65] CNCIA's calculation based on SEF, para. 570 (6,000 to 7,500 MT per month).
[66] SEF, paras. 514 and 516.
[67] SEF, paras. 550-602.
[68] SEF, para. 682.

The panel stressed that "*the question for purposes of analysis of threat of material injury is not the level of imports already reached, but the likelihood of increased imports*", and that "*not ruling out the possibility that imports would continue does not support the conclusion that there is a 'likelihood of substantially increased importation'*".[69] The same applies here. Thus, the TRA is required to consider the restart of the Greatham plant, a development after the POI that will likely reduce, rather than increase, imports from China.

33. Fifth, the TRA also refers to an increase in imports "*in the final two years of the IP from 2023 onwards*" and to a "*longer-term trend over a 10-year period of increasing imports*".[70] Neither supports a likelihood of substantially increased importation. The increase from 2023 onwards was a recovery from a low point in 2023 to levels that did not exceed those of 2022. This is why the TRA concluded that there was no significant increase in imports over the IP as a whole.[71] As to the ten-year trend, the TRA itself states that "*it is not possible to determine whether the longer-term trend of increasing imports over a ten-year period includes dumped goods or not*".[72] A trend that the TRA cannot attribute to dumped goods cannot be positive evidence that imports of dumped goods are likely to increase substantially.

3.2.2 No sufficient freely disposable capacity or imminent substantial increase in capacity (Regulation 28(2)(b))

34. The TRA finds that the Chinese exporters "*have both a sufficiently freely disposable, and an imminent substantial increase in, capacity*".[73] Furthermore, it finds that "*[t]aking into account the limited availability of other export markets to absorb additional exports […] this indicates that there is a likelihood of substantially increased importation of the dumped goods into the UK*".[74]

[69] Panel Report, *Mexico – Corn Syrup* (DS132), paras. 7.175-7.178. (Emphasis omitted). Similarly, the EU Court of Justice has confirmed that, where post-investigation data are taken into account in a threat analysis, they may confirm as well as rebut the investigating authority's forecasts. (Court of Justice, *ArcelorMittal* v. *Hubei*, paras. 71-73. See also General Court, *Hubei* v. *Council*, paras. 72-78, where the threat finding was annulled because the post-investigation data did not confirm the forecast of a substantial increase in imports.)
[70] SEF, paras. 580 and 601, first bullet.
[71] SEF, paras. 466-467, 580 and 583; CNCIA Initiation Comments, section 2.ii.
[72] SEF, para. 594.
[73] SEF, para. 572.
[74] SEF, para. 572.

35. This finding rests on the following three elements: (i) spare capacity in China, where the effective capacity utilisation of Chinese producers was 82.8% in 2025;[75] (ii) "*confirmed plans*" to increase Chinese capacity to over 7 million MT, which the TRA regards as "*an imminent substantial increase*" in capacity;[76] and (iii) trade remedy duties in five jurisdictions, including the EU, Brazil and India, which in the TRA's view limit the ability of other export markets to absorb the capacity.[77]

36. Regulation 28(2)(b) requires the TRA to examine whether the exporter has "*sufficient freely disposable, or an imminent substantial increase in, capacity*" indicating a likelihood of substantially increased imports into the UK. It must do so "*taking into account the availability of other export markets to absorb the additional exports of those goods*". The CNCIA submits that the TRA's analysis meets neither part of that test, for the following reasons.

37. First, the TRA's own evidence shows that both total and unused capacity in China *decreased* during the POI. According to the Chinese industry data relied on by the TRA, in 2025 there was a decline in Chinese TiO2 capacity:[78]

China	**2024**	**2025 (POI)**
Production capacity (million MT)	5.9	5.7
Output (million MT)	4.67	4.72
Unused capacity (million MT)	1.23	0.98

Source: SEF, para. 558; unused capacity calculated by the CNCIA as capacity minus output

38. Total capacity in China thus fell by 0.2 million MT, and unused capacity by approximately 20% during the POI (which reduced freely disposable capacity significantly). Imports into the UK did not increase significantly during that POI. The TRA does not explain how a decrease in unused capacity can, in these circumstances, be a *change* in circumstances making injury clearly foreseen and imminent.

39. Second, the TRA's finding of an "*imminent substantial increase*" in capacity rests on press releases of investment plans.[79] These sources concern two projects. The first is an 80,000 MT per year chloride-process line of Bengbu Guotai Nano Materials. According

[75] SEF, para. 558.
[76] SEF, paras. 560-561.
[77] SEF, para. 562.
[78] SEF, para. 558.
[79] SEF, paras. 560-561 and 644. See also SEF footnotes 242-246.

to the source, that line "*has successfully entered stable mass production*", on 10 October 2025, i.e., during the POI.[80] It was therefore already in operation when Chinese capacity declined in 2025. The second is a project of Tianeng Chemical for 400,000 MT of TiO2 per year in Guizhou. The company's board approved it only on 11 August 2026, after the POI. Construction has not started, and the company expects construction to take up to 36 months from its start.[81] A project which will be completed at least 44 months after the end of the POI is hardly "*imminent*" so as to justify a finding of threat of injury. The TRA also relies on a forecast of capacity additions up to 2029,[82] which cannot be regarded as "*imminent*", either. While the D&S Regulations do not define "*imminent*", the Appellate Body has explained that it "*relates to the moment in time when the 'threat' is likely to materialize*".[83] It implies that the anticipated injury "*must be on the verge of occurring*".[84]

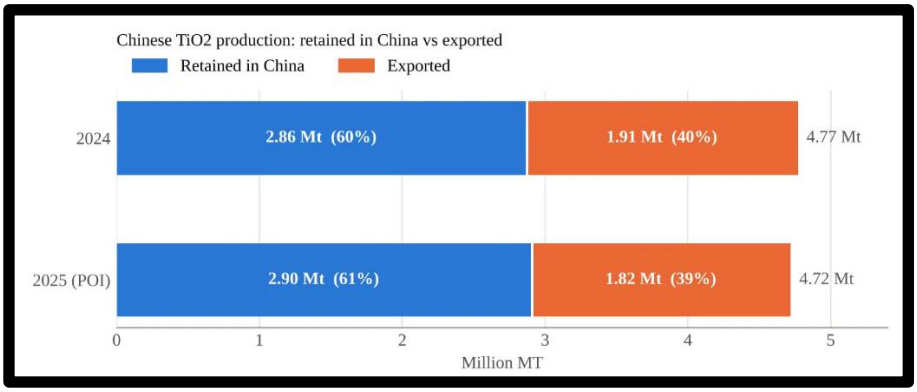
40. Third, the TRA's finding that Chinese exports will be diverted into the UK is not based on facts. According to the TRA, Chinese producers have "*limited access to third country markets*", because exports of TiO2 from China face anti-dumping duties in the EU, Brazil, India, Saudi Arabia and the Eurasian Economic Union ("EEU").[85] Those exports also face general US tariffs on goods from China and an ongoing investigation in Australia.[86] The TRA maintains that this "*is increasing the attractiveness of export markets without protection and redirecting trade flows to these countries*", including the UK.[87] On the basis of 6-digit trade data, the TRA found that imports from China into the five markets with duties fell by a combined 21,170.4 MT per month after the duties were introduced.[88] It concluded that this volume "*has the potential to significantly impact the UK market*", and that the third-country anti-dumping duties represent "*a clearly foreseen and imminent change in circumstances*".[89]

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[80] Blooming, "China Boosts Titanium Dioxide Output with 80,000 Tonnes Annual Production Capacity", 14 October 2025, < https://www.bloominglobal.com/media/detail/china-boosts-titanium-dioxide-output-with-80000-tonnes-annual-production-capacity >, cited in SEF, footnote 242.
[81] Tianeng Chemical, Announcement on the capital increase of a controlled subsidiary and the investment in the construction of a project with an annual output of 400,000 tonnes of titanium dioxide and 1.4 million tonnes of ferrous sulphate heptahydrate, 12 August 2026, cited in SEF, footnote 243, available at < https://pdf.dfcfw.com/pdf/H2_AN202608111827866432_1.pdf >. See also ChemEx World, "China Titanium Approves RMB 11B Expansion", 12 August 2026, cited in SEF, footnote 244, which reports on the same project.
[82] SEF, para. 560.
[83] Appellate Body Report, *US – Lamb* (DS177,178), para. 125.
[84] Appellate Body Report, *US – Lamb* (DS177,178), para. 125. (Emphasis added)
[85] SEF, paras. 563-565, 595 and 600.
[86] SEF, para. 595.
[87] SEF, para. 600.
[88] SEF, para. 569.
[89] SEF, paras. 570-571.

41. The CNCIA submits that the TRA has not taken into account "*the availability of other export markets to absorb the additional exports*" in the context surrounding the available markets for Chinese TiO2.

42. *Firstly*, the TRA examined only the five markets that have imposed measures on TiO2 from China.[90] It did not examine Chinese domestic demand, which is essential since the Chinese market alone absorbs the majority of the Chinese production. According to the Secretary-General of the Chinese TiO2 industry alliance, Chinese demand amounted to 2.96 million MT in 2024. That is about 60% of Chinese production of 4.77 million MT. Chinese exports accounted for about 40%.[91] In 2025, Chinese production amounted to 4.72 million MT.[92] Chinese exports decreased by 4.5% to 1.82 million MT, and imports amounted to 0.07 million MT.[93] The Chinese domestic market thus absorbed approximately 2.98 million MT, or more than 60% of Chinese production.[94] By comparison, UK consumption amounts to 72,000 to 90,000 MT per year.[95] The size of the Chinese market thus mitigates any risk arising from Chinese capacity.



43. The TRA should therefore have evaluated the capacity of the Chinese market to absorb any additional production. It did not do so. In this regard, the CNCIA notes that in *Hubei*, the EU General Court annulled the threat of material injury finding precisely because the

[90] SEF, paras. 563-569.
[91] Bi Sheng (Secretary-General of the Titanium Dioxide Industry Technology Innovation Strategic Alliance), "Status and development of titanium dioxide industry of China in 2024", *Iron Steel Vanadium Titanium*, Vol. 46, No. 3, June 2025, available at <https://files.sciengine.com/pdfs/1004-7638/A1E842C7578944B595519DF896692157.pdf >. The TRA relies on this article as well. (SEF, para. 558 and footnote 236).
[92] SEF, para. 558.
[93] 100ppi, as reported by Sina Finance, 28 February 2026, < https://finance.sina.com.cn/money/future/nyzx/2026-02-28/doc-inhpkaqk2909183.shtml >; China Baogao, 18 May 2026, < https://www.chinabaogao.com/tuozi/202605/794795.html >.
[94] CNCIA's calculation: 4.72 + 0.0745 – 1.8169 = 2.98 million MT; 2.98 / 4.72 = 63%.
[95] CNCIA's calculation based on SEF, para. 570 (6,000 to 7,500 MT per month).

institutions had failed to analyse the capacity of other export markets, and of the exporting country's domestic market, to absorb Chinese production.[96] The General Court stressed that the institutions "*did not at any time consider the Chinese internal market and the possible effect of that market on the potential absorption of additional production capacity*".[97]

44. *Secondly*, India, one of the largest export markets for Chinese TiO2,[98] did not have anti-dumping duties in place from September 2025 until 24 October 2026, following the quashing of the final findings by the courts.[99] The TRA acknowledges the removal of the duties, then states that "*[i]n the case of India, duties have been reintroduced since the POI*".[100] The second statement was not supported by the record. Paragraph 571 does not refer to any source for the alleged reintroduction. To the CNCIA's knowledge, the Indian investigating authority issued new final findings on 3 August 2026 recommending duties.[101] However, the duties were only imposed on 24 October 2026, after the SEF, and apply only from that date, i.e. not retroactively.[102] Moreover, the SEF treats the EEU as one of the five markets with measures in force.[103] However, on 21 September 2026, the Board of the Eurasian Economic Commission suspended the application of the anti-dumping duties on titanium dioxide pigments from China until 10 August 2027. The suspension took effect on 3 October 2026, i.e. before the SEF was published.[104]

45. Therefore, the developments in the Indian and EEU markets do not support the TRA's determination, as they indicate that in fact, "*other export markets*" are available "*to absorb the additional exports*" of Chinese TiO2. India's new duties do not change this, as they apply only from 24 October 2026. Now that India has reimposed duties, the TRA

[96] General Court, *Hubei* v. *Council*, paras. 79-85.
[97] General Court, *Hubei* v. *Council*, para. 84.
[98] SEF, para. 564.
[99] SEF, para. 567, fourth bullet.
[100] SEF, para. 571.
[101] Directorate General of Trade Remedies (India), Final Findings, Remand Proceedings in the anti-dumping investigation concerning imports of "Titanium Dioxide" originating in or exported from China PR, Case No. AD (OI)-03/2024, F. No. 6/03/2024-DGTR, 3 August 2026, available at <https://dgtr.gov.in/sites/default/files/2026-08/Titanium%20eng%20ncv_signed%20%281%29.pdf >.
[102] Ministry of Finance (India), Notification No. 26/2026-Customs (ADD), 24 October 2026, G.S.R. 916(E), para. 2 (duty levied for five years from the date of publication); Notification No. 25/2026-Customs (ADD), 24 October 2026, G.S.R. 915(E), rescinding Notification No. 12/2025-Customs (ADD); Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), No. 844, 24 October 2026.
[103] SEF, paras. 563-569.
[104] Decision of the Board of the Eurasian Economic Commission No. 124 of 21 September 2026, which entered into force on 3 October 2026. See < https://ppt.ru/obzory/vstupaet-v-silu/reshenie-kollegii-yeek-21-09-2026-124 >; Echemi, "September China Titanium Dioxide Market Prices Rise", 30 September 2026, < https://www.echemi.com/cms/3255398.html >.

would need to assess their effect on the basis of evidence, after observing the trade flows from China to India, rather than presume that they will divert Chinese exports to the UK.

46. Moreover, the EEU suspended its anti-dumping measures on 3 October 2026. The suspension took effect on 3 October 2026, i.e. before the SEF was published.[105] The EEU market is therefore open to Chinese exports at least until 10 August 2027.

47. *Thirdly*, the trade diversion theory is contradicted by UK data. The EU's definitive duties have applied since January 2025, and India's duties applied from May to September 2025.[106] Anti-dumping duties in Brazil, the EEU and Saudi Arabia also covered part of the IP.[107] If these measures were going to divert Chinese exports to the UK, this would have been visible in 2025. It was not, as the TRA found no significant increase in imports from China during the POI.[108]

48. The EU deserves particular attention as it is the UK's closest comparable market. On the TRA's own figures, it also accounts for the largest reduction in imports from China, at 8,325.2 MT per month.[109] The EU's definitive duties entered into force on 10 January 2025, i.e., at the very beginning of the POI.[110] If EU duties were going to divert Chinese exports to the UK, 2025 was therefore the ideal year to observe it. Moreover, in the same year, Venator entered into administration and ceased production at Greatham.[111] Venator accounted for 150,000 MT of the 315,000 MT of UK capacity.[112] A UK producer leaving the market in the very year the EU duties applied should have made the UK even more attractive for any diverted Chinese exports. Yet imports from China into the UK did not increase significantly in 2025. Over the IP, they started and finished at similar volumes, with a dip in 2023 and 2024.[113] The limited increase in 2025 is therefore a return to the level of 2022. It is also readily explained by Venator's administration and the end of its production in the same year, which left its customers looking for other sources of supply. If trade diversion did not occur in 2025, when the conditions for it were most favourable, the TRA has no basis to find that it is now clearly foreseen and imminent.

[105] Ibid.
[106] SEF, para. 563 and Figure 35; on the dates of the Indian duties, see above.
[107] See also SEF, para. 571.
[108] SEF, paras. 551 and 583.
[109] SEF, paras. 567 and 569.
[110] SEF, paras. 567 and 569.
[111] SEF, paras. 77 and 79.
[112] SEF, para. 514.
[113] SEF, para. 469. See also SEF, paras. 551 and 583.

49. The CNCIA notes that the panel in *EU – Steel Safeguards* found that a similar trade diversion theory had not been substantiated. In that case, the European Commission had found that the US Section 232 measures would divert steel exports to the EU. It relied on a US estimate of the volume that would be deflected from the US market, and on six months of data showing negative correlations between imports into the US and into the EU. The panel found that establishing such a connection "*require[s] a much more detailed analysis*" than "*bringing two sets of facts together*".[114] It also found that the Commission had not referred to evidence supporting its assertion that exporters would redirect their exports to the EU.[115] In its analysis of the threat of material injury, the panel further agreed that "*[e]ven if imports were set to increase […], this does not automatically lead to the conclusion that there is a significant overall impairment in the position of the domestic industry which is clearly imminent*".[116] It found that the Commission's determination was not "*based on facts*".[117]

50. The same is true of the TRA's finding that the reduction in Chinese exports to the five markets with additional duties (which are actually not five as elaborated above) will be redirected to the UK. Like the Commission in that case, the TRA simply brings two sets of facts together: the existence of duties in five markets, and a decline in imports from China into those markets. It does not establish any link between that decline and imports into the UK. For example, it does not show that Chinese exporters have redirected volumes from those markets to the UK. The only data on the record that connect the two sets of facts point the other way. While the anti-dumping duties in the other markets applied during the POI, imports from China into the UK did not increase significantly. Imports from China into India increased again once the Indian duties were quashed. Nor does the TRA have even an estimate of the volume that would be redirected to the UK. Its figure of 21,170.4 MT per month is the reduction in imports into the five markets with duties, not an estimate of allegedly diverted volumes.

51. *Finally*, even if some of those volumes were redirected to the UK, the TRA has not examined whether this would cause material injury to the UK industry. As the panel in *EU – Steel Safeguards* noted, an increase in imports "*does not automatically lead to the*

[114] Panel Report, *EU – Steel Safeguard Measures* (DS595), para. 7.143.
[115] Panel Report, *EU – Steel Safeguard Measures* (DS595), para. 7.147.
[116] Panel Report, *EU – Steel Safeguard Measures* (DS595), para. 7.239.
[117] Panel Report, *EU – Steel Safeguard Measures* (DS595), para. 7.240.

conclusion" that the position of the domestic industry will be significantly impaired.[118] The TRA links the alleged diversion to the trends in imports only. It does not assess those future imports against the situation of the UK industry, which has not suffered material injury (see below).

52. In sum, the TRA's assessment does not establish that there is sufficient freely disposable capacity in China which threatens to cause injury to the UK industry.

3.2.3 Import prices will not have a significant depressing or suppressing effect (Regulation 28(2)(c))

53. The TRA relies on its findings that imports from China undercut, depressed and suppressed the prices of the like goods in the UK during the IP. It concludes that those prices "*are likely to increase the demand for further imports*".[119] Its reasoning is that the goods concerned are interchangeable with the like goods, so that their "*comparatively cheaper price [...] is therefore likely to increase the demand for further imports*".[120] However, Regulation 28(2)(c) requires the TRA to establish, on the basis of facts, two elements: (i) that the imports are entering the UK at prices that will significantly depress or suppress the prices of the like goods in the UK; and (ii) that those prices are "*likely to increase the demand for further imports*". The CNCIA submits that the TRA has established neither, for the following reasons.

54. First, Regulation 28(2)(c) is forward-looking. It refers to prices "*which will have*" a significant depressing or suppressing effect. The TRA did not carry out this prospective analysis, contrary to the requirements of UK legislation and the ADA. In *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, the panel stated that "*in contrast to the analysis required by Article 3.2, the consideration required by Article 3.7 (iii) is essentially prospective*."[121] Therefore, by failing to undertake such prospective assessment the TRA cannot rely on this factor to support its determination of threat of injury.

55. Moreover, the post-POI evidence relied on by the TRA itself shows that Chinese producers have repeatedly *raised* their prices in the first half of 2026. The sources relied

[118] Panel Report, *EU – Steel Safeguard Measures* (DS595), para. 7.239.
[119] SEF, paras. 573-574, 587 and 596.
[120] SEF, paras. 573-574.
[121] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.274.

on by the TRA indicate that: "*2026 Titanium Dioxide Multiple Round Price Hikes, Collective Increase Again in June*", and "*25 Companies Raise Prices Three Times Within a Month*", as the Chinese TiO2 industry "*Shifts from 'Price Wars' to a 'Pricing Alliance'*".[122] Another industry source, reporting on the same price increases, explains that they were driven by costs, in particular the cost of sulphuric acid. It describes them as "*a cost-push increase under low inventory conditions*". It adds that producers are "*passively repairing costs*".[123] The same source reports that, by 25 March 2026, 25 companies "*had intensively released price pressure letters*", with the market "*generally seeing a rise of RMB 1,000 per ton*". It describes the increases as "*a systemic move upward jointly driven by cost pressure, low inventories, and stronger exports*", and notes that "*each increase was stronger than the last*".[124] It also identifies other factors affecting costs. In particular, "*[a]s shipping uncertainty in the Strait of Hormuz increased, the global sulfur trade tightened significantly*", and "*port sulfur prices in late March had already climbed to around RMB 5,500 per ton*". It concludes that "*titanium dioxide costs are unlikely to fall significantly in the short term*". It adds that "*[s]ulfur prices remain elevated, recovery in Hormuz traffic is still uncertain, and the sulfuric acid market has not genuinely loosened*".[125]

56. The price increases have continued since. In September 2026, Chinese producers again raised their prices. Domestic prices "*generally increased by 700 CNY per ton*", and "*the export price was increased by 100 US dollars per ton*".[126] The Applicant itself publicly stated, in January 2026, that "*TiO2 prices are improving as a result of price increase announcements that went into effect in the first quarter*".[127] The Applicant itself reported improving prices in the first quarter of 2026. All this evidence indicates that prices of Chinese goods and UK goods increased following the post-POI, which undercuts the TRA's findings. In this regard, the CNCIA recalls that in *Hubei*, the General Court held that the alleged threat of price depression was not established where the prices of the

[122] SEF, footnotes 258 and 259.
[123] Echemi, "Behind the Three Consecutive Titanium Dioxide Price Hikes, Sulfur and Sulfuric Acid Costs Are Rewriting the Pricing Floor", 30 March 2026, <https://www.echemi.com/cms/2929842.html >.
[124] Echemi, "Behind the Three Consecutive Titanium Dioxide Price Hikes, Sulfur and Sulfuric Acid Costs Are Rewriting the Pricing Floor", 30 March 2026, < https://www.echemi.com/cms/2929842.html >.
[125] Echemi, "Behind the Three Consecutive Titanium Dioxide Price Hikes, Sulfur and Sulfuric Acid Costs Are Rewriting the Pricing Floor", 30 March 2026, < https://www.echemi.com/cms/2929842.html >.
[126] Echemi, "September China Titanium Dioxide Market Prices Rise", 30 September 2026, < https://www.echemi.com/cms/3255398.html >.
[127] SEF, para. 631, quoting PR Newswire, *Tronox Announces Closure of its Pigment Plant in China and Releases Selected Preliminary Fourth Quarter 2025 Financial Results*.

imports had in fact increased after the investigation period.[128] Thus, the upward trend in prices of imports (and the domestic industry) undermines the TRA's findings in this regard.[129]

57. Second, the TRA's findings of price depression and price suppression, on which it relies for Regulation 28(2)(c), compare the average price of *all* imports from China under commodity codes 2823 0000 and 3206 1100 with the average sales prices and costs of the UK industry.[130] As the TRA itself acknowledges, those import data include goods that are not the goods concerned, such as anatase TiO2 and goods with a TiO2 content below 80%[131] (which are cheaper than rutile TiO2). The TRA made no adjustment for the differences in product mix between that basket of imports and the like goods. Nor did it adjust for the fact that the UK industry uses only the chloride process,[132] whereas most Chinese TiO2 is made by the sulphate process.[133] The same applies to its comparison with the prices of imports from third countries.[134] In this regard, the Appellate Body has held that price comparability is necessary for the price effects analysis to have any explanatory force.[135] It has also held that, while a price differential "*may be a useful starting point*", it "*does not provide a sufficient basis*" for that analysis, which requires "*a dynamic assessment of price developments and trends*".[136] A comparison of average prices of a basket of goods that includes out-of-scope products cannot establish that imports of the goods concerned "*will have*" a significant depressing or suppressing effect on the prices of like goods in the UK.

58. Third, in assessing price undercutting and calculating the injury margin, the TRA compared the landed price to the UK industry's ex-factory sales price[137] and target price respectively.[138] In describing the landed price, the TRA noted that the LB Group sold its goods into the UK both directly to independent parties and also through its related importer, Billions Europe Limited ("BEL"). For both types of sales channels, the TRA adjusted the CIF value by adding post-importation costs (i.e. customs duties, ports

[128] General Court, *Hubei* v. *Council*, paras. 86-90.
[129] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.294.
[130] SEF, paras. 482-489 and Figures 18 and 19. See also SEF, paras. 573 and 596.
[131] SEF, paras. 461 and 465.
[132] SEF, para. 81.
[133] SEF, para. 244.
[134] SEF, paras. 485 and 489.
[135] Appellate Body Report, *China – GOES* (DS414), para. 200.
[136] Appellate Body Reports, *China – HP-SSST (Japan)* (DS454), paras. 5.159 and 5.163.
[137] SEF, para. 478.
[138] SEF, para. 655

charges and storage fees) to arrive at the landed price.[139] Therefore, the TRA did not use the prices at BEL sold their goods to independent consumers, but rather stopped at the purchase price incurred by BEL (adjusted only for post importation costs), with no mention of any adjustments to include BEL's selling, general and administrative costs or profits.

59. As a result, the two sides of the comparison are not at the same level of trade. The TRA itself has determined that UK producers typically sell directly to industrial customers, while imported goods may be supplied through importer-distributors.[140] This is precisely the case with the LB Group to the extent that goods are supplied through BEL. The UK industry's price is therefore the price paid by the industrial customer, whereas for goods sold through BEL, the landed price is the cost to the importer, one stage earlier in the supply chain. Any price effect of the imports on the UK industry can only arise where the imported goods and the like goods compete for the same customers. For goods sold through BEL, that is the price at which BEL *resells* them to independent customers. A difference between prices measured at different stages of the supply chain is therefore not evidence of undercutting and does not allow the TRA to accurately establish the injury margin.[141] The CNCIA therefore requests the TRA to assess the margin using the resale price to the first independent customer, using the same delivery terms as the UK industry's prices.

3.2.4 Export controls on sulphuric acid

60. Finally, the TRA finds that export controls on sulphuric acid introduced by China in the first half of 2026 are "*likely to increase the production of, and decrease the sales prices of*" Chinese TiO2.[142] This is not one of the factors listed in Regulation 28(2). The TRA may consider it "*among other things*". However, it may only do so if it shows, on the basis of facts, that the export controls make material injury clearly foreseen and imminent. The CNCIA submits that the TRA has not done so, for the following reasons.

61. First, China was already fully self-sufficient in sulphuric acid before the export controls. According to the TRA, China imported only 127 MT of sulphuric acid in 2025, against

[139] SEF, para. 657.
[140] SEF, para. 82.
[141] Panel Report, *China – Broiler Products* (DS427), paras. 7.481 and 7.483.
[142] SEF, paras. 577-579, 597 and 600.

production capacity exceeding 177 million MT.[143] Halting exports may increase the volume of sulphuric acid available in China. However, the TRA does not quantify that volume or compare it with Chinese production capacity of more than 177 million MT. Nor does it show that any additional domestic supply has lowered the cost of sulphuric acid for Chinese TiO2 producers. As shown below, the evidence on the record points the other way.

62. Second, the TRA has already found that Chinese sulphuric acid prices were allegedly distorted by 8.2% compared with global benchmark prices during the POI.[144] The alleged cost advantage of Chinese producers is therefore not new. It already existed during the POI in which there was no material injury. The TRA does not identify any evidence that the export controls have further reduced the cost of sulphuric acid for Chinese TiO2 producers compared with the POI. On the contrary, industry sources report that sulphuric acid prices in China *increased* in 2026. According to one, "*the continued rise in sulfuric acid prices has become the single most important factor driving titanium dioxide price increases*".[145] According to another, "*sharp increases in core raw materials – sulfur and sulfuric acid – have led to widespread losses among producers*".[146] The only sulphuric acid price evidence in the SEF concerns the POI.[147] The sources that the TRA cites on the export controls concern the controls themselves and the fall of 99% in Chinese exports of sulphuric acid in June 2026. They do not concern the price of sulphuric acid in China or the costs of Chinese TiO2 producers.[148]

63. Third, the TRA has not quantified any effect on costs or prices. Moreover, the price increases reported in its own sources (and remained high even after the export restrictions were introduced[149]) contradict the predicted price decrease. Thus, the alleged price decrease is conjecture, rather than fact.

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[143] SEF, para. 246.
[144] SEF, paras. 320-322. See also paras. 244-246.
[145] Echemi, "Behind the Three Consecutive Titanium Dioxide Price Hikes, Sulfur and Sulfuric Acid Costs Are Rewriting the Pricing Floor", 30 March 2026, < https://www.echemi.com/cms/2929842.html >.
[146] Blooming, "China Titanium Dioxide Prices Surge Amid Second Round of Hikes", 20 March 2026, quoting the Secretary-General of the Titanium Dioxide Sub-center, < https://www.bloominglobal.com/media/detail/china-titanium-dioxide-prices-surge-amid-second-round-of-hikes >.
[147] SEF, paras. 320-322.
[148] SEF, para. 577 and footnotes 264 and 266.
[149] Tencent News, "Up 65%, 2,426 More Expensive! The 'Mother of Industry' in China's Hands Snapped Up Worldwide Overnight", 12 September 2026, quoting National Bureau of Statistics data for late August 2026, < https://news.qq.com/rain/a/20260912A05HGY00 >.

3.3 Likely impact of allegedly dumped imports on the UK industry

64. The TRA considers that negative effects in several economic indicators "*into the final year of the IP*" are "*indicative of a threat of injury beginning to materialise*".[150] The CNCIA disagrees.

65. In a threat of material injury case, the TRA must examine the consequent likely impact of continued dumped imports on the UK industry. The question is whether, absent measures, those imports would cause material injury in the imminent future. For that purpose, investigating authorities must "*consider, among other relevant factors, all the factors set out in Article 3.4*" of the ADA, as the panel in *Mexico – Corn Syrup* explained.[151] The CNCIA does not dispute that the TRA may take into account the situation of the UK industry at the end of the POI when assessing a threat. However, the TRA has found that those same indicators do not demonstrate material injury.[152] It must therefore explain, on the basis of facts, why the UK industry will suffer material injury in the imminent future. In *Mexico – Corn Syrup*, the Appellate Body upheld the finding that the threat determination was inconsistent with Articles 3.1, 3.4 and 3.7 of the ADA because the investigating authority had not explained why the performance of a domestic industry that had improved during the investigation period would decline in the imminent future.[153] Similarly, in *Hubei*, the General Court found a manifest error of assessment where the institutions considered a domestic industry whose indicators were largely positive to be in a vulnerable situation.[154] The TRA has not provided such an explanation as elaborated below.

66. With this background, the CNCIA makes four observations.

67. First, the deterioration of the indicators listed by the TRA in 2025 is largely explained by the administration of Venator. Venator stopped production in the final months of the POI.[155] The TRA itself notes that just over half of Venator's workforce was made redundant. By contrast, the Applicant's employment *increased* in 2025.[156] The same

[150] SEF, para. 592.
[151] Panel Report, *Mexico – Corn Syrup* (DS132), paras. 7.118-7.131; Panel Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), para. 6.24, as recalled in Appellate Body Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), para. 112. See also D&S Regulations, Regulation 30.
[152] SEF, paras. 588-591.
[153] Appellate Body Report, *Mexico – Corn Syrup (Article 21.5 – US)* (DS132), paras. 96-100.
[154] General Court, *Hubei* v. *Council*, paras. 59-66.
[155] SEF, paras. 77 and 79.
[156] SEF, paras. 507 and 534.

event explains the decline in UK output, capacity utilisation, sales and market share in the final year of the IP, as these indicators were assessed for the UK industry including Venator.[157] Yet the TRA acknowledges that it "*does not have any further detail regarding the causes of Venator's administration*".[158] A one-off insolvency, whose causes the TRA does not know, cannot evidence a trend towards imminent injury. This is all the more so as its effects on UK production are being reversed by the restart of Greatham. The table below shows which of the indicators listed by the TRA were assessed for the UK industry, including Venator, and were therefore directly affected by its shutdown. Their decline cannot be presumed to continue.

Indicators listed by the TRA as showing negative effects into the final year of the IP

Indicator (SEF, para. 592)	Assessed by the TRA for	Final year of the IP	Affected by Venator's shutdown
Sales volume and value	UK industry, including Venator (para. 494)	Lowest level of the IP (para. 495)	Yes: Venator stopped producing in October 2025
Output	UK industry, including Venator (para. 500)	Largest decrease of the IP, 2024 to 2025 (para. 501)	Yes: Venator stopped producing in October 2025
Market share	UK industry, including Venator (para. 503)	Fell by 11% (para. 504)	Yes: Venator stopped producing in October 2025
Capacity utilisation	UK industry, including Venator; capacity of 315,000 MT includes Venator's 150,000 MT (paras. 513-514)	Decreased (para. 515)	Yes: Venator's idle plant still counted as UK capacity (para. 516)
Employment	UK industry, including Venator (para. 533)	Decreased overall; the Applicant's employment increased (para. 534)	Yes: due to Venator's redundancies (para. 534)

Source: SEF, paras. 494-534

68. Second, the TRA's own assessment in the economic interest test is that the Applicant has a "*low to medium vulnerability to negative economic shocks*".[159] The Applicant's net cash flow moved from negative to positive over the IP. It was higher in the last year of the IP

[157] SEF, paras. 494, 500, 503 and 513.
[158] SEF, para. 638.
[159] SEF, para. 683.

than in the first. Its losses on investment were lower at the end of the IP than at its start. Its costs to make and sell decreased over the first three years of the IP.[160] In its own public statements, the Applicant reported that its "***fourth quarter volumes were stronger than anticipated***" and that TiO2 prices were improving in the first quarter of 2026.[161] That is simply not the picture of an industry on the verge of material injury.

69. Third, several of the indicators that the TRA lists as showing "*negative effects into the final year of the IP*"[162] include the factors that the TRA itself assessed as mixed in its injury analysis. For some of them, the TRA's own findings do not show a negative effect in the final year at all. For example, the TRA found that the stocks of the UK industry "*reduced into the final year of the IP*";[163] which is a sign of a well performing industry. The TRA also does not explain how indicators that it considered mixed or inconclusive when assessing material injury become evidence of a threat that is "*beginning to materialise*"; particularly because a threat determination requires special care and circumspection.

70. Fourth, the TRA treats the downgrade of the credit rating of the Tronox Group as "*an early indication that a threat of injury is materialising*". At the same time, it accepts that the downgrade has not caused injury in itself.[164] The downgrade concerns Tronox Holdings plc, the parent of the Applicant. It refers to group-level and market-wide factors unrelated to TiO2, including zircon pricing,[165] such as weaker demand, oversupply, weak TiO2 and zircon pricing, leverage and interest costs.[166] The TRA does not identify anything in the downgrade that relates to imports of rutile TiO2 from China into the UK. A credit rating that reflects the global position of a group is not evidence that injury to the UK industry is clearly foreseen and imminent. Moreover, the fact that the Applicant's pricing of TiO2 improved starting in Q1 of 2026 undermines the argument that the credit downgrade indicates that a threat of injury is materializing.

[160] SEF, paras. 484, 498, 511 and 524.
[161] SEF, para. 631. (Emphasis added)
[162] SEF, para. 592.
[163] SEF, para. 590.
[164] SEF, para. 624.
[165] S&P Global Ratings, "Tronox Holdings PLC Rating Lowered To 'CCC+' From 'B' On Elevated Leverage; Outlook Negative", 18 December 2025, < https://www.spglobal.com/ratings/en/regulatory/article/-/view/type/HTML/id/3496445 >.
[166] SEF, paras. 622 and 633, summarising CNCIA Initiation Comments, page 20.

3.4 No causal link between any threatened injury and the imports from China

71. The TRA concludes that there is a causal link between the imports from China and the threat of material injury. It examined rising costs of production, the timing of the injury factors, the liquidation of Venator's inventory, the availability of credit to the Tronox Group, export performance, force majeure events and downtime, vertical integration, the administration of Venator, trade diversion and global manufacturing capacities. It found that none of these factors was "*sufficient to break causation, either individually or considered as a collective*".[167] It adds that there are "*no other factors, known by the TRA, that affect the causation of the threat of material injury*".[168]

72. Regulation 35 of the D&S Regulations and Article 3.5 of the ADA require the TRA to examine whether known factors other than the dumped imports are causing or will cause injury to the UK industry. The TRA must not attribute that injury to the dumped imports. Additionally, Article 3.7 of the ADA refers to a change in circumstances "*which would create a situation in which the dumping would cause injury*".[169]

73. As confirmed by the Appellate Body in *US – Hot-Rolled Steel*, where the effects of the dumped imports and of other known factors remain indistinguishable, there is no rational basis for concluding that the injury attributed to the dumped imports was in fact caused by those imports.[170] In a threat of material injury case, this analysis must be forward-looking. The TRA must establish that further dumped imports would cause material injury.[171]

74. The causation analysis thus has two elements: (i) a demonstration that the dumped imports will cause injury the UK industry; and (ii) a non-attribution analysis ensuring that injury caused by other factors is not attributed to those imports. Both depend on a sound analysis of volume, price effects and impact. The Appellate Body has determined that an investigating authority which relies, in its causation determination, on flawed price effects and impact analyses also acts inconsistently with Article 3.5 of the ADA.[172]

[167] SEF, para. 646.
[168] SEF, para. 646.
[169] ADA, Article 3.7, second sentence.
[170] Appellate Body Report, *US – Hot Rolled Steel* (DS184), paras. 223, 226 and 228.
[171] Appellate Body Report, *US — Softwood Lumber VI (Article 21.5 — Canada)*, para. 132.
[172] Appellate Body Reports, *China – HP-SSST (Japan)* (DS454), para. 5.213.

As shown above, the TRA's analyses of volume, prices and impact do not support its threat finding. It follows that its causation analysis cannot support it either.

3.4.1 The TRA concedes that there is no coincidence in time

75. In order to demonstrate causation in the context of a threat of injury, an investigating authority must find that further dumped imports would cause material injury.[173] The TRA accepts that "*a timely coincidence between imports of the goods concerned and injury to the UK industry may not be clearly established at this stage*".[174] It also accepts that the trends in imports "*do not directly coro[l]ate*" with the trends in the economic injury factors.[175] It seeks to overcome this by assuming that the effect of imports may be "*delayed*".[176] That assumption is not supported by any evidence on the record.

76. Moreover, the TRA then reaches the opposite conclusion. It finds that there is "*a timely coincidence*" between "*an increase in import volumes of the goods concerned into the final year of the IP*" and early indications of a threat of injury.[177] However, the TRA has found that there was no significant increase in imports from China during the IP, including in the POI.[178] An increase that the TRA itself found not to be significant cannot establish the coincidence in time that the TRA accepts is otherwise missing. Where, as in this case, the imports did not coincide with the situation of the UK industry, the TRA had to provide a reasoned and adequate explanation of how future imports would nevertheless cause material injury in the imminent future.[179] As the panel in *Argentina – Footwear (EC)* explained, the absence of coincidence "*would create serious doubts as to the existence of a causal link, and would require a very compelling analysis of why causation still is present*".[180] The TRA has provided no such analysis.

3.4.2 Venator's administration

77. The CNCIA maintains that Venator's administration significantly contributed to the negative trends observed in the final year of the IP (including reduced overall employment, sales volume and value, output, market share and capacity utilization). In

[173] Panel Report, *Dominican Republic - AD on Steel Bars (Costa Rica) (DS605)*, para. 7.315.
[174] SEF, para. 612
[175] SEF, para. 615.
[176] SEF, para. 614.
[177] SEF, paras. 616-617.
[178] SEF, paras. 551 and 583.
[179] Appellate Body Report, *US – Lamb* (DS177,178), para. 103.
[180] Panel Report, *Argentina – Footwear (EC)* (DS121), para. 8.238.

response to the CNCIA's argument, the TRA attributes Venator's administration to "*a global overcapacity to produce titanium dioxide driven by increased capacities in the PRC*".[181] The TRA therefore does not address the crux of the CNCIA's argument, which is that Venator's poor performance drove the sector-wide negative performance in 2025. When the Applicant's data are considered on their own, several of the factors trended positively, including stocks (which reduced, even though its purchases increased), employment and wages.

3.4.3 Events at the end of the IP that the TRA has dismissed

78. The TRA relies on negative trends "*into the final year of the IP*" as evidence that a threat of injury is "*beginning to materialise*".[182] At the same time, it dismisses each of the other factors that affected the UK industry in that same final year, on the ground that they are too short-lived compared with the four-year IP.

79. First, the downtime at the Applicant's Stallingborough plant at the end of 2025, which the Applicant itself identified as one of the reasons why its results fell short of expectations, was dismissed because "*[o]ne incident in a four-year period is not sufficient to impact the trends over the whole of those four years*".[183] Yet that downtime reduced the Applicant's output in the final quarter of the POI. Together with the shutdown of Venator, it explains the decline in UK output and capacity utilisation in 2025.[184] A decline in production with such specific and temporary causes is not indicative of a threat of injury.

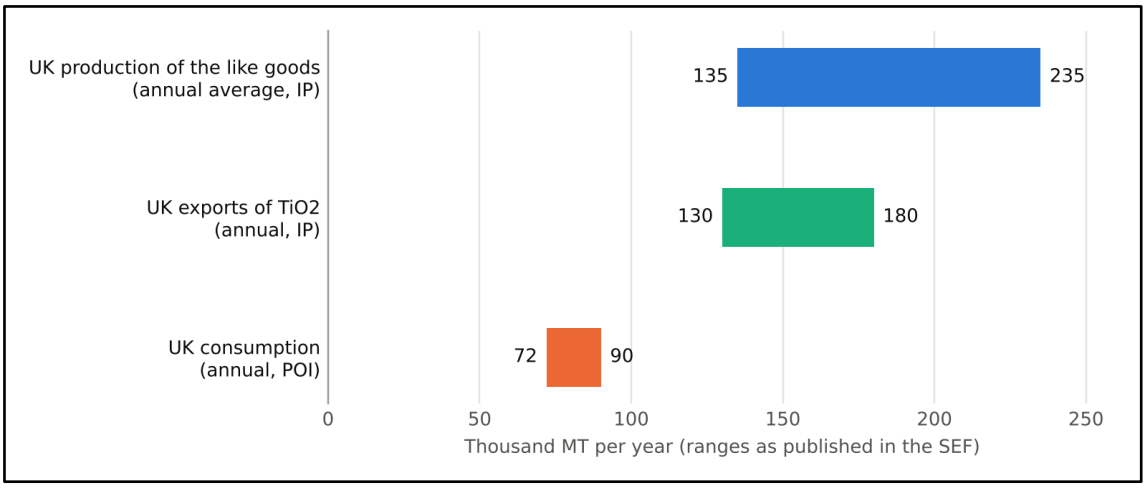
80. Second, the export performance of the UK industry was dismissed because the threat of injury "*exists independently of exports from the UK*".[185] However, the TRA lists output and capacity utilisation among the indicators of a threat beginning to materialise.[186] Both indicators necessarily reflect production for export as well as for the UK market.

81. Moreover, the export performance of the UK industry is clearly important for its financial health. According to the TRA, annual exports of TiO2 from the UK over the IP were

[181] SEF, para. 640.
[182] SEF, paras. 592, 616-617 and 630.
[183] SEF, paras. 629-632.
[184] SEF, paras. 501, 515, 629 and 631.
[185] SEF, paras. 625-628.
[186] SEF, para. 592.

between 130,000 and 180,000 MT.[187] Over the same period, UK production of the like goods averaged between 135,000 and 235,000 MT per year.[188] UK consumption, by contrast, amounted to only 72,000 to 90,000 MT per year.[189] The graph below sets out these figures. It shows that most of the UK production is exported. On the least favourable combination of the ranges, exports still account for more than half of the UK production.[190] Even if the UK producers supplied the whole UK market, they would still have to sell a large part of their production abroad. The TRA itself recognises that these exports "*have assisted UK industry in maintaining production volumes*".[191]

UK production of the like goods, UK exports of TiO2 and UK consumption (thousand MT per year)



Source: SEF, paras. 76 (production), 470 (exports, 8-digit trade data) and 570 (consumption)

82. It follows that the export performance of the UK industry has a direct effect on its output, capacity utilisation, employment and overall financial situation. Article 3.5 of the ADA expressly lists "*the export performance and productivity of the domestic industry*" among the known factors other than the dumped imports whose injurious effects must not be attributed to the dumped imports.[192] The TRA could therefore not set that factor aside. Given the weight of exports for the UK industry, it had to examine how export performance will affect the UK industry in the imminent future, and separate those effects from the effects of the imports from China into the UK. It has not done so.

[187] SEF, para. 470.
[188] SEF, para. 76.
[189] SEF, para. 570 (6,000 to 7,500 MT per month).
[190] CNCIA's calculation based on SEF, paras. 76 and 470: 130,000 MT / 235,000 MT = 55%.
[191] SEF, para. 470.
[192] ADA, Article 3.5.

83. Put differently, the TRA cannot have it both ways. If the final year of the IP is decisive for the finding that a threat of injury is beginning to materialise (despite the other years not being indicative of the existence of material injury), the TRA must examine the effects of the events that occurred that final year. These are the administration of Venator and the liquidation of its inventory, and the downtime at Stallingborough. The TRA must separate their effects from the effects of the imports.[193] It has not done so.

84. Likewise, the TRA rejects the UK energy costs as a cause of the injury because "*UK energy costs being comparatively high are not a new or changed circumstance*".[194] The same is true for the cost difference between the UK producers and Chinese producers on which the TRA relies.[195] The TRA has found that Chinese costs were distorted throughout the POI.[196] Yet there was no material injury during that POI. That difference is therefore not a new or changed circumstance either.

3.4.4 Restart of UK production at Greatham

85. Finally, the TRA records that second UK producer, Tioxide, restarted production of the like goods at the former Venator plant in Greatham on 18 August 2026.[197] The plant has a capacity of 150,000 MT and is in a phased ramp-up, with the aim of reaching full capacity by early 2027.[198] Tioxide is a UK producer of the like goods. It manufactures rutile TiO2 at Greatham using the chloride process, like the Applicant.[199] Nevertheless, the TRA concludes that there are "*no other factors, known by the TRA, that affect the causation*" of the threat of material injury.[200] The CNCIA submits that the return of a second UK producer is such a factor.

86. The presence of a second UK producer with significant production capacity is set to alleviate the sector-wide situation of the UK industry. In other words, it is bound to reverse some, if not all, of the negative trends observed in the final year of the IP. It is

[193] D&S Regulations, Regulation 35; ADA, Article 3.5; Appellate Body Report, *US – Hot Rolled Steel*, paras. 223, 226 and 228.
[194] SEF, para. 607.
[195] SEF, para. 609.
[196] SEF, paras. 346 and 609.
[197] SEF, paras. 78, 86 and 682.
[198] SEF, paras. 86 and 514.
[199] SEF, paras. 81 and 86.
[200] SEF, para. 646.

therefore an important aspect which the TRA ought to consider in assessing whether the UK industry will likely suffer injury in the imminent future.

87. In addition, to the extent that the Applicant's sales volumes and prices come under pressure in the coming months, part of that pressure may result from competition with Tioxide. Competition between UK producers is a normal feature of the UK market, as it was for most of the IP. Any such effect must not be attributed to imports from China. Yet, the SEF contains no analysis of this factor.

3.5 Interim conclusion

88. In view of the above, the CNCIA submits that the TRA has not established, on the basis of facts, that material injury to the UK is clearly foreseen and imminent.

89. First, none of the factors in Regulation 28(2) indicates a likelihood of substantially increased imports. Imports from China did not increase significantly during the IP. The post-POI increase occurred while the Greatham plant was not producing, and Greatham has since restarted production. Chinese capacity declined during the POI. The TRA ignored the Chinese domestic market and the reopening of the Indian and EEU markets. Nor has it shown that the prices of the imports will depress or suppress the prices of the like goods in the imminent future. Second, the UK industry is not on the verge of material injury. The TRA found no material injury, and the negative trends in the final year of the IP are largely explained by Venator's shutdown and the downtime at Stallingborough. Third, the TRA has not shown that any future injury would be caused by imports from China rather than by other factors.

90. It follows that the TRA's finding of a threat of material injury is not consistent with Regulation 28 of the D&S Regulations or with Articles 3.1, 3.5, 3.7 and 3.8 of the ADA. The CNCIA therefore requests the TRA to reconsider its findings in this regard.

4. THE TARGET PROFIT OF 17.76% IS NOT SUPPORTED BY POSITIVE EVIDENCE

91. The TRA calculated the injury margin by comparing the landed price of the goods concerned with a target price. That target price includes a normal rate of profit of 17.76%,

which the TRA based on the rate of profit achieved by UK manufacturers of chemicals and chemical products in 2024.[201]

92. The TRA's guidance defines the normal profit as "*the actual level of profit that UK industry could achieve going forwards in the absence of dumped or subsidised imports*".[202] The first sources it lists for that rate are the profits actually achieved by the UK industry at the start of the injury period, or in an earlier period. The TRA did not use either source. In this regard, the CNCIA notes that the Applicant "*was unable to make a profit on sales of the like goods and recorded negative profit figures throughout the whole of the IP*".[203] Yet imports from China did not increase significantly during the IP and remained below 10% of UK production.[204] The Applicant's losses therefore arose in a market in which imports from China were not significant. Its claim that its profit margins before the IP were in line with 20% is unsupported, as the TRA has not seen those data.[205] Nor does an average rate of profit for the whole UK chemicals sector show the profit that a UK producer of rutile TiO2 could achieve.[206]

93. Moreover, the TRA relied on division-wide (chemicals and chemical products)[207] figures to arrive at the target profit of 17.76%. This division includes completely unrelated products such as fertilizers, pesticides, soaps and detergents, and cosmetics. Those products exist in competitive conditions which significantly differ from TiO2. The CNCIA notes that within the same dataset, there was more specific data relating to dyes and pigments (SIC 20.12). This more specific segment data would be more appropriate to an assessment of the target profit that could be achieved by the Applicant than that relating to the entire chemicals and chemical products division.

94. The EU investigation concerning TiO2 from China also confirms that a rate of 17.76% is unrealistic for this industry. In that case, the Commission established a target profit of

[201] SEF, paras. 647 and 650-654.
[202] TRA, Trade Remedies Investigations Directorate (TRID) dumping and subsidisation investigations guidance, "Injury margins", last updated 26 April 2024, available at < https://www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-and-subsidisation-investigations-guidance/injury-margins >.
[203] SEF, para. 498.
[204] SEF, paras. 469, 551 and 583.
[205] SEF, paras. 652-653.
[206] SEF, para. 654.
[207] SEF, para. 654.

6.09%, taking into account evidence of the level of investments, research and development and innovation under normal conditions of competition.[208]

95. The CNCIA therefore maintains that the target profit arrived at by the TRA is not "*the actual level of profit that UK industry could achieve going forwards*". It inflates the target price and, consequently, the injury margin of 99.89%.[209] The CNCIA therefore requests the TRA to base the normal rate of profit on the profit that could actually be achieved by the UK industry in normal competitive conditions. If the TRA decides to rely on ONS data, the CNCIA requests the TRA to narrow down its assessment to data relating to dyes and pigments, as opposed to the entire chemicals and chemical products sector.

5. CONCLUSION

96. In conclusion, the CNCIA would be grateful if the TRA could consider the observations set out above in its injury analysis. The CNCIA remains at the TRA's disposal should any additional information or clarifications be useful.

[208] Commission Implementing Regulation (EU) 2024/1923 of 10 July 2024 imposing a provisional anti-dumping duty on imports of titanium dioxide originating in the People's Republic of China, OJ L, 2024/1923, 11.7.2024, recitals (408)-(410). The CNCIA also notes that the Union TiO2 industry achieved a profitability of 7.9% in 2020 and 9.8% in 2021. Its profitability then fell to 5.1% in 2022 and to a loss of 11.7% in the investigation period. Thus, even the best year of the Union industry is little more than half of the rate used by the TRA. (Ibid., Table 11).
[209] SEF, para. 659.