

DECISIONS

COMMISSION IMPLEMENTING DECISION (EU) 2022/1397

of 11 August 2022

not to suspend the definitive anti-dumping duties on imports of certain Polyvinyl Alcohol originating in the People's Republic of China imposed by Implementing Regulation (EU) 2020/1336

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 the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union ⁽¹⁾, and in particular Article 14(4) thereof,

After consulting the Committee established by Article 15(2) of Regulation (EU) 2016/1036,

Whereas,

1. PROCEDURE

- (1) On 29 September 2020, the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports into the Union of certain Polyvinyl Alcohol (PVA) originating in the People's Republic of China ('the product concerned') by Commission Implementing Regulation (EU) 2020/1336 ⁽²⁾ ('the original Regulation').
- (2) Following the imposition of the measures, ten parties ⁽³⁾ alleged that a temporary change of market conditions had occurred after the investigation period ('IP') (1 July 2018 to 30 June 2019) and claimed that the definitive measures should be suspended pursuant to Article 14(4) of Regulation (EU) 2016/1036 ('the basic Regulation'), in light of those changes.
- (3) On 3 September 2021, the Commission decided to further examine the claims for suspension and requested interested parties in the Union to provide information pertaining to the so-called 'suspension IP' (i.e. the period after the IP from July 2020 to June 2021) to examine and assess the impact, if any, of the alleged changed circumstances on the Union market.
- (4) Following the final disclosure four interested parties, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem, contested the choice of the suspension IP made by the Commission.
- (5) In their view, the suspension IP should have started from October 2020 and should have covered also the months of July and August 2021 since the Commission requested such data in the questionnaire.
- (6) The Commission received the first claim for suspension on 17 June 2021 and initiated the suspension investigation on 3 September 2021, selecting the 12 months period preceding the lodging of the claim, when the alleged changes of market condition allegedly occurred.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ Commission Implementing Regulation (EU) 2020/1336 of 25 September 2020 imposing definitive anti-dumping duties on imports of certain polyvinyl alcohols originating in the People's Republic of China (OJ L 315, 29.9.2020, p. 1).

⁽³⁾ Carbochem Srl, Cordial Adhesives B.V., EOC Belgium NV, FAR Polymers Srl, Gamma Chimica SpA, Grünig KG, Jeniuschem SpA, Solutia Europe SPRL, Wacker Chemie AG, Wegochem Europe B.V..

- (7) As regards the months of July and August 2021 the Commission requested data pertaining to these months in order to gather information on the market evolution also after the suspension IP. However, not all the cooperating parties had such data available. Nevertheless, when available the Commission took data for July and August 2021 into consideration, as mentioned in recital (53).
- (8) The claim was therefore rejected.
- (9) Information on the alleged temporary change in circumstances on the market was received from 2 Union producers and 10 interested parties including users, importers and associations. The Union producers also provided the requested information relating to certain injury indicators.
- (10) On 20 May 2022, the Commission disclosed its intention not to suspend the measures under Article 14(4) of the basic Regulation. All parties were granted a period within which they could make comments.

2. EXAMINATION OF CHANGED MARKET CONDITIONS

- (11) Article 14(4) of the basic Regulation provides that, in the Union interest, anti-dumping measures may be suspended where market conditions have temporarily changed to an extent that injury would be unlikely to resume as a result of such suspension. It follows that anti-dumping measures can only be suspended in a situation where the circumstances have changed to such an extent that the Union industry is no longer materially injured, and that such injury is unlikely to recur.

2.1. Findings of the original anti-dumping investigation

- (12) The investigation leading to the definitive Regulation showed that, during the period considered (2016 – June 2019) Chinese imports increased by 53 %, reaching a market share of [30 % – 35 %] in the IP (July 2018 – June 2019), up from 22 % in 2016. In parallel, the Union industry's economic situation worsened presenting a negative trend in all major indicators: Production (-12 %), EU sales (-27 %), market share (from [35 % – 40 %] to [25 % – 30 %]) and Profitability (from [-0,5 % to -5 %] to [-10 % to -15 %] in the IP). On this basis, the Commission concluded that the Union industry suffered material injury caused by dumped imports from China.

2.2. Analysis of changes of market conditions during the suspension IP

- (13) The alleged temporary changes of the market conditions post-IP consisted of disruptions in the supply chain of the principal raw material vinyl acetate monomer (VAM), coupled with a significant increase in shipping costs, which led to a global scarcity of the product concerned and to significant price increases.
- (14) Based on the analysis of the comments received by the various parties following the Commission's request for further information, cross-checked with the data collected during the investigation, the Commission concluded that there have indeed been temporary disruptions in the global supply chain concerning VAM. These disruptions were mainly caused by the winter storms in February 2021 in Texas. This event forced every major US producer of VAM to temporarily stop production and to invoke force majeure for its deliveries, creating a global shortage of VAM and hence of PVA in the first half of 2021. The analysis revealed that the main issue for the supply of PVA was indeed the disappearance of alternative sources of supply (mainly the USA and Japan), as explained in section 2.3.2. However, the situation has normalized in the meantime and a return to normal production volumes is expected in the course of 2022.
- (15) Following the final disclosure, Ahlstrom-Munksjö, Carbochem, Cepi, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusion as regards the return to normal production volumes of VAM.
- (16) The parties argued that the VAM shortage persists to date since, according to some publications, US producers continue to invoke force majeure on VAM deliveries and therefore it cannot be concluded that there will be a return to normal production volumes.

- (17) This argument had to be dismissed. First, the Commission analysed the impact of the winter storms in Texas as one of the main reasons of the changed market conditions cited in the claims for suspension. The investigation showed that the effect of winter storms in 2021 is now almost completely gone. Data provided by one of the major US VAM producers showed that its production returned to a normal level in the 2nd quarter of 2021 and surpassed the pre-storm level in the 3rd quarter of 2021. Second, the force majeure declaration mentioned by the parties refers to events that happened after the suspension IP and affected single producers for specific events and do not constitute an overall change in market conditions.
- (18) Users also claimed that following the imposition of measures China reduced its PVA production. This reduction was allegedly because VAM was in short supply in China due to policy changes of the Chinese Government, including dual energy control policies and pollution minimization and energy savings policies for the 2022 Winter Olympic Games. VAM is not only used for the production of PVA, but is a standard chemical product that is used in many applications. Users claimed that because of the shortage, VAM prices increased to the point that it was more profitable for the Chinese producers to focus on the production and sales of VAM rather than to convert VAM to PVA.
- (19) However, the data collected in the investigation did not confirm this allegation. The Chinese export prices to the EU did not change significantly during the suspension IP as compared with the IP of the original investigation, as explained in section 2.3.2. In addition, when analysing the global export volumes of PVA from China, the Commission noted that the exported quantities remained the same during the suspension IP as compared to the IP of the original investigation (see Table 1). Only the exports to the Union declined, but this decrease was compensated by an equal increase of exports to Korea, Malaysia, Singapore and Vietnam. Therefore, the alleged VAM shortage did not affect the Chinese producers' production capacity of PVA and the reduced export volumes to the Union were mainly the consequence of the anti-dumping duties on the imports of PVA from China.

Table 1

Exports of PVA from China (tonnes)

<i>Destination country</i>	<i>IP</i>	<i>Suspension IP</i>
EU 27	53 602	31 300
Brazil	6 075	6 097
Canada	2 626	2 903
India	16 421	19 651
Indonesia	8 412	7 472
Korea, South	5 957	13 788
Malaysia	5 304	12 950
Pakistan	9 106	11 095
Singapore	3 828	5 120
Thailand	3 557	3 071
Turkey	8 111	7 984
United States	3 973	3 589
Vietnam	4 416	6 293
TOTAL	131 388	131 313

Source: Global Trade Atlas.

- (20) The users mentioned supply chain issues linked to the COVID-19 pandemic. Indeed, the lack of shipping containers led to increased rates for shipping, in particular from China and across the Atlantic Ocean, which partially disrupted the global transport chains.
- (21) Finally, importers and users argued that the Union industry is still not in a position to meet the full Union demand for PVA. The Commission noted that while the Union industry started increasing its production after the imposition of the measures, it has indeed not been in a position to meet the full Union demand over the suspension IP, partially because of its previous downsizing of capacity and because of the global shortage of VAM. This is in any event not a new circumstance, as during the IP of the original investigation the Union industry was already not in a position to supply the entire PVA consumption in the Union. However, the capacity of supply of the Union is not a market condition for the suspension of the measures.
- (22) Following the definitive disclosure, Ahlstrom-Munksjö, Carbochem, Cepi, Far Polymers, Gamma Chimica and Jeniuschem, argued that the Commission refused to take into account the inability of the Union industry to supply European demand as a changed circumstance, even though the Commission explicitly accepted that this inability to supply was a direct consequence of the VAM shortage.
- (23) As explained in recital (21), the Union industry was not in the capacity of supplying the full Union demand even before the VAM shortage and it did not significantly reduce its production levels during the suspension IP, as explained in recitals (36) and (37). On the contrary, table 2 clearly shows that the reduced supply on the Union market was in fact due to a substantial decrease in imports, not due to a lack of production by the Union industry. It cannot be therefore considered as a change in market circumstances justifying a suspension of the existing measures. This claim was therefore rejected.

2.3. Situation of the Union industry during the suspension IP

- (24) The assessment of the economic situation of the Union industry during the suspension IP included an evaluation of the main economic indicators having an impact on the state of the Union industry during the period considered.
- (25) In its comments to the final disclosure Ahlstrom-Munksjö argued that the Commission compared the situation during the suspension IP with the situation in 2016, while it should have compared it with the IP of the original investigation.
- (26) This claim had to be dismissed. The Commission clearly compared the situation during the suspension IP with the situation in the IP of the original investigation. In addition, it also compared some indicators with the situation of the Union industry in 2016, before the increase of injurious dumped imports from China.

2.3.1. Union consumption

- (27) Consumption on the free market was 52 % lower during the suspension IP as compared to the IP of the original investigation. This reduction can be ascribed to the reduction of imports since, as explained in section 2.3.4, Union industry sales remained stable. Consumption for captive use was not affected by these developments and remained stable.

2.3.2. Imports from the country concerned and from third countries

Table 2

Imports from China and third countries

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Imports from China (tonnes)	53 930	6 668	650	6 250	6 994	7 318	13 244	20 562

Index IP original investigation = 100 (*)	100	49	5	46	52	27	49	38
Imports from other third countries (tonnes)	60 623	2 186	1 217	6 292	3 956	3 403	10 248	13 651
Index IP = 100	100	14	8	42	26	11	34	23

Source: Comext database.

- (28) Imports from the main exporting countries, namely China, Taiwan, Japan and the USA, decreased significantly during the suspension IP compared to the IP of the original investigation. In terms of volumes, the decrease of imports from the USA was the most significant one.
- (29) The analysis of the situation revealed that this major decrease in imports was due to a combination of factors. On a global level, the decrease in imports coincided with the global supply chain issues linked to the COVID-19 pandemic. However, for China, the drop in imports coincided with the imposition of measures on imports of PVA from China, as the total volume of Chinese exports to all other destinations remained stable, as explained in section 2.2. As regards the USA, the drop of imports was exacerbated by the shortage of VAM due to the winter storms.
- (30) All of these factors resulted in limited PVA production available for export, with the major decrease occurring in the second half of 2020. The initial recovery of the first half of 2021 was then impacted again by the winter storms in USA. However, since the damage suffered during the winter storm in the USA in 2021 was of a very limited duration, the resulting VAM shortage is already disappearing. According to information provided by Union producers, VAM production in the US, after the winter storm, is recovering as from the first half of 2022.
- (31) Despite the significant drop (by 62 %), the import quantities from China remained significant post IP. Moreover, Chinese average import prices were just 2 % higher as compared with the IP of the original investigation. They are on average still 4 % lower than the Union Industry's non-injurious price (°), as established in the original investigation. Moreover, the average import prices of the Chinese imports without the anti-dumping duties are on average 38 % lower than the non-injurious price.

Table 3

Chinese import prices

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Chinese import price (EUR/tonne)	1 498	1 370	1 346	1 393	1 835	1 368	1 627	1 535
Index IP original investigation = 100	100	91	90	93	122	91	109	102

Source: Comext database.

- (32) After disclosure Ahlstrom-Munksjö argued that imports from China almost completely stopped after the imposition of the measures, and only when issues in the VAM supply caused a PVA shortage, were Union PVA users forced to buy product originating in the PRC again. Therefore, in its view, the Union industry could not be in a precarious state as a result of PVA imports from China.

(*) For a meaningful comparison the quarterly index is calculated on ¼ of the yearly volume in the IP, and the half-year indexes are calculated on ½ of the same volume.

(°) After adjustments for customs duties, anti-dumping duties and post-importation costs.

- (33) First, the Commission clarified that establishing whether there is causation between the injurious situation found and the imports at issue is not a relevant factor as such in the current proceeding. If the Union industry is not in a state to face the resumption of low price imports, it is unlikely that the current measures would be suspended since such suspension could only aggravate the situation of the Union industry. Accordingly, the Commission did not conclude that the Union industry is in a precarious situation due to the current imports from China.
- (34) Second, the decrease of imports from China was an expected consequence of the anti-dumping duties. However, Chinese production capacity is still available and there is still demand in the Union for Chinese imports. Union users of PVA are still buying PVA from China in significant quantities, as highlighted in recital (31), but at fair prices. Furthermore, despite the anti-dumping duties, users are still profitable, as explained in recital (66). This suggests the anti-dumping duties are having their intended effect. This claim was therefore rejected.

2.3.3. Production and production capacity

- (35) The total Union production, production capacity and capacity utilisation developed during the suspension IP as follows:

Table 4

Production, production capacity and capacity utilisation

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Production volume (tonnes)	[80 000 – 90 000]	[15 000 – 20 000]	[15 000 – 20 000]	[20 000 – 25 000]	[20 000 – 25 000]	[30 000 – 40 000]	[40 000 – 50 000]	[80 000 – 90 000]
Index IP original investigation = 100	100	75	90	102	113	83	108	95
Production capacity (tonnes)	[100 000 – 120 000]	[20 000 – 30 000]	[20 000 – 30 000]	[20 000 – 30 000]	[20 000 – 30 000]	[50 000 – 60 000]	[50 000 – 60 000]	[100 000 – 120 000]
Index IP = 100	100	100	100	100	100	100	100	100

Source: Questionnaire replies.

- (36) Production volume of the union industry overall decreased by 5 % in the suspension IP as compared to the IP of the original investigation, while capacity did not change. However, a quarterly analysis reveals a more nuanced picture.
- (37) The production volume of the Union industry was still decreasing in the first quarter of the suspension IP as it coincided with the last quarter before the imposition of the measures, therefore the Union industry was still suffering the pressure of the dumped imports from China. As of October 2020, after the imposition of the anti-dumping duties, the production volumes started to increase again reaching, in the second half of the suspension IP, a level that was 8 % higher than the volume during the IP of the original investigation.

2.3.4. Sales volume

- (38) The Union industry's sales volume developed as follows during the suspension IP period.

Table 5

Sales volume and sales prices

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Total sales volume on the Union market (tonnes)	[40 000–50 000]	[5 000–10 000]	[5 000–10 000]	[10 000–15 000]	[10 000–15 000]	[15 000–20 000]	[25 000–30 000]	[40 000–50 000]
Index IP original investigation = 100	100	77	80	119	118	79	118	99
Sales prices of Union producers (EUR/tonne)	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5
Index IP original investigation = 100	100	98	100	100	105	99	103	101
Unit cost of production (EUR/tonne)	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5	1,5 – 2,5
Index IP original investigation = 100	100	76	74	85	92	75	88	83

Source: Questionnaire replies.

- (39) The sales volume in the EU remained relatively stable at the level of the original IP. The same is true for sales prices. The average PVA price of the Union industry during the suspension IP was 1 % higher than it was in the IP of the original investigation. However, as noted for the production volume, both quantities and prices started to trend significantly lower than in the IP of the original investigation in the first half of the suspension IP. Then again, when the anti-dumping duties came into effect, both started to increase and reached, in the last quarter, a level that was 18 % and 5 % respectively higher than in the IP of the original investigation.
- (40) The cost of production for PVA decreased during the first two quarters of the suspension IP, following the global decreasing trend of VAM prices. However, as of the third quarter, which coincided with the VAM supply issues in the US mentioned in section 2.3.2, the cost of production started to increase again by 14 % as compared with the second quarter of the suspension IP, following the upward trend of VAM prices.
- (41) Following the final disclosure Ahlstrom-Munksjö, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusions as regards the sales prices of the Union industry.
- (42) Ahlstrom-Munksjö argued that the export prices from China have increased more than the Union industry's prices while, at the same time, the Union industry's unit cost of production has dropped significantly. This drop, in Ahlstrom-Munksjö's view, translated in an increase in the Union industry's profitability of 18 %.
- (43) This analysis is manifestly incorrect. First, the Chinese import prices in the suspension IP increased by just one percentage point more than the union industry prices and, despite this, they still undercut the Union industry's non-injurious price even with the anti-dumping duties included. Second, the analysis by quarter of the unit cost of production revealed that after an initial drop in the first two quarters of the suspension IP, it started increasing again (following the upward trend of VAM prices). Cost of production, in the last quarter of the suspension IP, was 21 % higher than in the first quarter while, in the same period, the Union industry's prices increased by just 7 %. This allowed the Union industry to return to profitability but confirms also that this upward trend was very recent (it only concerned the last quarter) and not strong enough to reach the target profit, as explained in recital (49).

- (44) The claim was therefore dismissed.
- (45) Carbochem, Far Polymers, Gamma Chimica and Jeniuschem, claimed that the Commission based its evaluation on the data provided by the Union producers in their questionnaire replies on one hand, but did not take into account the information provided by the cooperating users as regards the price applied by the Union industry on the other hand.
- (46) The average sales price of the Union industry as established by the Commission is calculated on the total sales of the Union industry during the suspension IP. The cooperating users provided information on price offers only for specific PVA grades to specific clients. These offers cannot be considered representative of the whole market and cannot therefore be used as benchmarks for the average sales price of the Union industry or the average import price from China.
- (47) Therefore this claim was rejected.

2.3.5. Profitability

- (48) Profitability of the Union producers developed as follows over the suspension-IP period:

Table 6

Profitability

	IP	Q3 2020	Q4 2020	Q1 2021	Q2 2021	H2 2020	H1 2021	Suspension IP
Profitability of sales in the Union to unrelated customers (% of sales turnover)	- 10 % to - 15 %	- 10 % to - 15 %	0% to 5 %	5 % to 10 %	0% to 5 %	- 5 % to 0 %	2% to 7 %	- 2 % to 3 %

Source: Questionnaire replies.

- (49) The Union industry became profitable during the suspension IP period. While this is a clear improvement compared to the IP of the original investigation, where the Union industry suffered a [-10 % to -15 %] loss on turnover, the profitability of the Union is still far below the target profit (6 %). The increase in sales prices was offset, to a certain extent, by the rising production costs due to the increased price of raw materials and a delayed price adjustment, as a consequence of the contractual agreements with customers.
- (50) After disclosure Ahlstrom-Munksjö and Cepi contested the Commission's conclusions as regards the profitability of the Union industry.
- (51) Ahlstrom-Munksjö argued that, despite the allegedly significant import volumes from China, the Union industry was able to significantly improve its profitability.
- (52) The Commission did not contest the fact that the Union industry increased its profitability, as a consequence of the anti-dumping duties. However, as explained in recital (49), the profit achieved by the Union industry is still far below the target profit as established in the original investigation.

2.3.6. Conclusion on the situation of the Union industry

- (53) The quarterly analysis of the suspension IP and developments thereafter do not point to a lasting improvement of the situation of the Union industry. It is true that during the second semester of the suspension IP the production volume increased by 8 % and sales volume by 18 %, as compared to the IP of the original investigation. However, this was only short-lived as the profitability of the Union industry started decreasing again as from the fourth quarter. This can be explained by the significant price increase of VAM and the resulting increase of the cost of production for PVA while PVA prices did not follow immediately the increase in production cost. From data beyond the suspension IP collected during the investigation, it is noted that in the period from April 2021 to September 2021, VAM prices increased by 57 % and the cost of production for PVA increased by 28 %, but PVA prices only increased by 26 %.

3. LIKELIHOOD OF RESUMPTION OF INJURY

- (54) During the suspension IP, Union producers' sales in the Union to unrelated parties slightly decreased by 1 % when compared to the IP, while sales prices increased by 1 %. However, when compared to the reference year of the period considered (namely, 2016), sales volumes in the EU were still 28 % lower. Capacity utilization decreased by 5 %, while capacity did not change. Yet, when compared to 2016, production volumes and capacity utilisation during the suspension IP decreased by 20 %.
- (55) At the same time, import quantities from China remained significant during the suspension IP. Moreover, despite the allegation, both the production capacity of the Chinese exporting producers and their price behaviour did not change significantly as compared with the findings of the original investigation.
- (56) As explained in sections 2.2 and 2.3, Chinese production volume remained the same during the suspension IP as compared to the IP of the original investigation, and Chinese import prices are still below the Union industry's non-injurious prices.
- (57) On the basis of the above, the Commission concluded that the Union industry benefitted from the imposition of measures on imports of PVA from China that, to some extent, allowed the Union industry to increase its selling prices on the Union market during the suspension-IP, as shown by the positive trend of certain indicators such as selling volume, selling prices and profitability. However, these signs of recovery were not strong enough and occurred, so far, only in a short period of time. The Commission also took into account the Chinese exporting producers' pricing behaviour during the suspension IP, as well as the possibility of a sudden resumption of an increase in PVA imports from China since, as explained in section 2.3, the alleged VAM shortage did not affect the Chinese production capacity and its export levels.
- (58) Therefore, it cannot be concluded that injury is unlikely to resume in the absence of measures, should the measures be suspended. Therefore, the Commission concluded that the evidence did not demonstrate that the market conditions had temporarily changed to an extent that injury would be unlikely to resume as a result of a suspension.
- (59) Following the final disclosure, Ahlstrom-Munksjö argued that the sales volume of the Union industry during the suspension IP decreased by a mere 1 % compared to the original IP, while it increased by 18 % in the first half of 2021 compared to the original IP. In its view this contradicts the Commission's conclusion that injury is likely to resume in the absence of the duties.
- (60) The Commission disagreed with this view. The first half of the suspension IP was affected by the COVID-19 pandemic and the VAM shortage. In the second half, the Union industry, while benefitting from the measures, was able to increase its production to fulfil Union demand. While this is a clear sign of recovery, the investigation demonstrated that: (i) Chinese exporting producers have significant spare capacity still available and are already exporting to the EU in significant quantities even with the duties in place, (ii) their prices still undercut the Union prices even with anti-dumping duties included, (iii) the Union market is attractive for the Chinese producers for its price levels and the significant demand, and (iv) the increase in VAM prices is negatively affecting the Union industry cost of production and its profitability. Taking into consideration all of these elements, the Commission concluded that injury, even if it were not to be present, would most likely resume as a result of the suspension.
- (61) The claim was therefore dismissed.
- (62) Cepi argued that a temporary duty suspension would not reverse the clearly positive profitability trend of the Union industry, also in view of price increases after the suspension IP. The company noted that also in the case of aluminium flat-rolled products the Union industry had not yet reached the target level of profitability but, nevertheless, the Commission proceeded with the temporary duty suspension having recognised that such a suspension would be unlikely to reverse the positive trends of the Union industry ⁽⁶⁾.

⁽⁶⁾ Commission Implementing Decision (EU) 2021/1788 of 8 October 2021 suspending the definitive anti-dumping duties imposed by Implementing Regulation (EU) 2021/1784 on imports of aluminium flat-rolled products originating in the People's Republic of China (OJ L 359, 11.10.2021, p. 105).

- (63) The Commission disagreed with this analysis. In the aluminium flat-rolled products investigation, the situation of the Union industry improved significantly after the IP so that the same material injury found during the original investigation period was no longer present in the post-IP period. Indeed, in that case, in the first semester of 2021, Union producers' sales in the Union to unrelated parties increased by over 55 % in comparison with the investigation period and a further increase was expected for 2022. In contrast, in the current proceeding the Union PVA industry is not struggling from a drop in sales quantity but from a significant price depression caused by the dumped imports from China. Any further increase of profitability could originate only from a reduction of the cost of production (which is unlikely given the upward trend of the raw materials prices) or from a return of the sales prices to non-injurious levels.
- (64) Moreover, the suspension of the anti-dumping duties would allow Chinese PVA to enter the Union market at dumped prices significantly undercutting the Union industry prices, as explained in recital (31). This price pressure would depress further the Union industry's prices and would thus have an immediate negative effect on its profitability. This claim was thus rejected.

4. CONCLUSION

- (65) The imposition of the measures on imports of PVA from China has clearly benefited the Union PVA industry selling on the free market. It has allowed the Union industry to recover, at least partially, from the injurious dumping. However, the situation of the Union industry remains fragile and, as explained above, injury is likely to resume without the measures during a potential period of suspension of the current measures.
- (66) The Commission also noted that, despite the allegations of negative impacts suffered by the users of PVA, the data collected during the suspension analysis shows that all the nine users and importers that cooperated and provided a reply to the suspension questionnaire, except one, remained profitable following the imposition of the anti-dumping measures on imports of PVA from China.
- (67) In their comments to the final disclosure, Ahlstrom-Munksjö, Carbochem, Far Polymers, Gamma Chimica and Jeniuschem contested the Commission's conclusions on the impact of the anti-dumping duties on the users of PVA.
- (68) Carbochem, Far Polymers, Gamma Chimica and Jeniuschem argued that the margins earned by the importers and users of PVA comes from the sales of stock of PVA purchased before the entry into force of the anti-dumping duties.
- (69) However, the information collected in the investigation does not support this conclusion. In the last quarter before the imposition of the measures, import quantities from China did not increase. On the contrary they dropped by 51 % (see table 2). Moreover, in their own submission, the parties confirmed that they were able to pass the increase of PVA prices through to their customers, as already established in the original investigation and confirmed in the current proceeding. Therefore the claim was rejected.
- (70) Ahlstrom-Munksjö argued that the Commission did not conduct a proper analysis of the Union interest.
- (71) This claim had to be dismissed. On one hand, the Commission concluded that the injury of the Union industry would be likely to resume if measures were suspended. On the other hand, the investigation concluded that the production of VAM (and PVA) is returning to normal levels, that the Chinese exporting producers are still exporting at competitive prices, despite the anti-dumping duties and that Union users of PVA were able to pass the price increase to their customers and remained profitable. Therefore, the Commission found that there were no reasons to conclude that it was in the Union interest to suspend the anti-dumping duties.
- (72) Therefore, the Commission concluded that the conditions listed in Article 14(4) of the basic Regulation for the suspension of the anti-dumping measures were currently not met. This decision is without prejudice to the Commission's right to take a decision pursuant to Article 14(4) of the basic Regulation in the future.

HAS ADOPTED THIS DECISION:

Article 1

The conditions to suspend the definitive anti-dumping duty imposed by Article 1 of Commission Implementing Regulation (EU) 2020/1336 on imports of certain Polyvinyl Alcohol originating in People's Republic of China in accordance with Article 14(4) of Regulation (EU) 2016/1036 are not met.

Article 2

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

Done at Brussels, 11 August 2022.

For the Commission
The President
Ursula VON DER LEYEN
