TRONOX

PUBLIC RECORD

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The Director - Investigations
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Cc by email: The Commissioner (David.Latina@adcommission.gov.au)

Investigation No. 699 - Titanium dioxide exported from the People's Republic of China

Request for reconsideration of a preliminary affirmative determination

Dear Director,

This submission is made on behalf of Tronox Limited ("Tronox"), the sole Australian manufacturer of titanium dioxide (TiO_2) and the applicant in Investigation No. 699 concerning TiO_2 exported from the People's Republic of China ("China"). It asks the Commissioner to urgently reconsider whether to make a preliminary affirmative determination ("PAD") under section 269TD of the *Customs Act 1901* ("the Act"), and to require and take securities on those PADs under paragraph 269TD(4)(b).

In its submission of 30 April 2026 (the "April PAD Submission"), Tronox asked that a PAD be made at day 60. On 29 June 2026 the Commissioner published a status report in place of a PAD.[1] The reason given was that the Commission was still assessing the cost and sales data verified at Tronox's premises two weeks earlier, and that the Commissioner was "not yet satisfied that any injury to the Australian industry has been caused by dumping that may have occurred". That assessment is now complete. The Commission's Australian industry verification report concludes that Tronox has experienced injury in five of the six forms claimed, and that the injury is present in the investigation period.[2] The gap in the evidence identified at day 60 no longer exists and the requirements of subsection 269TD(1) have been satisfied. Hence, a PAD should be made expeditiously without waiting for the statement of essential facts ("SEF"), which is not now due until 6 April 2027.[3]

1. Summary

The reasons for making a PAD expeditiously are even stronger now than when the Commission issued it status report in June.

First, the injury data that the Commissioner described at day 60 as "critical to the assessment of injury" has been verified and found complete, relevant and accurate. On that verified data

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[1] Anti-Dumping Notice No. 2026/090, *Day 60 Status Report*, Investigation 699, 29 June 2026, EPR 699 item 9.
[2] Anti-Dumping Commission, *Australian industry verification report*, Investigation 699, chapter 8.8.
[3] Anti-Dumping Notice No. 2026/101, *Extension of time granted to issue the Statement of Essential Facts and Final Report*, Investigation 699, 10 August 2026, EPR 699 item 21, p 1.

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the verification team concludes that Tronox has suffered loss of sales volume, price suppression, loss of profit and reduced profitability, loss of revenue and increased finished goods inventory.

Second, the verification team has itself connected the lost volume to Chinese imports sold at prices below Tronox's. It found that Tronox "has lost sales volumes to certain customers that appear to source (or have sourced) titanium dioxide from China at prices that have undercut Tronox's prices". It confirmed that Tronox has ceased selling to the two customers identified in the submission of 30 April 2026. The one finding adverse to Tronox, that the 2023 decline in profit cannot be principally attributed to dumped imports, concerns a year outside the investigation period. It does not touch the findings for 2025.

Third, the timetable has moved. The SEF, due on 18 August 2026 when the status report was published, is now due on or before 6 April 2027, and the final report on or before 3 June 2027. Unless a PAD is made, the Australian industry must wait 7 months before any relief can be obtained. That's more than a year after initiation and roughly eighteen months after the end of the investigation period. Section 7 of the *Customs (Preliminary Affirmative Determinations) Direction 2015* requires the Commissioner to consider "the desirability of providing relief to an injured Australian industry, where warranted, as quickly as possible".[4] The extension has made that consideration weightier, not lighter.

Fourth, on 25 August 2026 the European Commission reopened its anti-dumping investigation into TiO_2 from China to examine whether Chinese exporters have absorbed the definitive duties in force there since January 2025.[5] It did so on the basis of evidence that during the period from 1 July 2025 to 30 June 2026 Chinese export prices decreased despite the implementation of definitive duties in January 2025. According to the Notice of Initiation published by the Commission, the decrease in TiO2 prices "has seemingly impeded the intended remedial effects of the measures in force". Tronox's April 2026 submission to the Commissioner identified the Chinese producers subject to the European Union measures as the producers that supply the Australian market. Those producers have cut export prices into a market that already has measures against them. Australia has no measure at all.

Finally, the most recent import data since Investigation No. 699 was announced buttresses the reasons the Commissioners should impose PADs. In the three full months since the investigation was initiated, imports of the goods from China averaged 1,706.76 tonnes a month. That is the highest three-month average at any point since the investigation period began, and it is 12.3 per cent above the heaviest three months before initiation. The volume of dumped goods entering Australia has not moderated while the investigation has run. Section 4.6 sets the figures out.

2. The statutory framework

Subsection 269TD(1) provides that "[a]t any time not earlier than 60 days after the date of initiation of an investigation as to whether there are sufficient grounds for the publication of a dumping duty notice ... the Commissioner may, if he or she is satisfied: (a) that there

[4] *Customs (Preliminary Affirmative Determinations) Direction 2015* (F2015L01738), s 7.
[5] European Commission, *Notice of reopening the anti-dumping investigation concerning imports of titanium dioxide originating in the People's Republic of China*

appears to be sufficient grounds for the publication of such a notice; or (b) that it appears that there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods; make a determination (a preliminary affirmative determination) to that effect".

The test is one of appearance, not of final satisfaction. Its words are "appears to be sufficient grounds". The Commission's *Dumping and Subsidy Manual* states that "[a] PAD may be made based on the information available, including unverified information provided by exporters and importers".[6] The provision gives effect to Article 7.1 of the WTO Anti-Dumping Agreement, under which provisional measures may be applied where "a preliminary affirmative determination has been made of dumping and consequent injury to a domestic industry" and "the authorities concerned judge such measures necessary to prevent injury being caused during the investigation".

In deciding whether to make a PAD the Commissioner "must have regard to" the application and any submissions received within 37 days of initiation, and "may have regard to any other matters that the Commissioner considers relevant". The *Customs (Preliminary Affirmative Determinations) Direction 2015* ("the PAD Direction"), made under subsection 269TA(1), directs that the Commissioner "must consider as a relevant matter, for the purposes of paragraph 269TD(2)(b), the desirability of providing relief to an injured Australian industry, where warranted, as quickly as possible".

Where a status report has been published, section 9 of the PAD Direction provides that "the Commissioner must reconsider whether or not to make a preliminary affirmative determination at least once prior to the publication of the Statement of Essential Facts required under section 269TDAA of the Act". That obligation is a minimum, and the Commissioner confirmed as much in the status report itself in stating that "I will continue to assess the need for a PAD and may make one as soon as I am satisfied there appears to be sufficient grounds to do so based on the evidence before me."

On a PAD being made, paragraph 269TD(4)(b) provides that "the Commonwealth may, at the time that determination is made or at any later time during the investigation, require and take securities under section 42 in respect of interim duty that may become payable if the Commissioner is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues".

4. What has changed since day 60

4.1 The injury data has been verified

The verification report records that the verification team "verified whether the data Tronox submitted is complete, relevant and accurate for use in the investigation". Each revision made at the visit is described in the report with the resolution reached. The team finds that the sales data is "complete and relevant, including the revisions outlined", that it is "accurate, including the revisions outlined", that the cost to make and sell data "including the revisions to that data outlined above, is complete and relevant", and that it "is accurate and reasonably

[6] Anti-Dumping Commission, *Dumping and Subsidy Manual*, December 2021, Section 26.2, p 115.

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reflects the costs associated with the manufacture and sale of the goods, including the revision outlined above".

The concern recorded at day 60, that revised cost and sales data was still under assessment, is now resolved. The data on which the injury analysis rests has been through the Commission's own verification process and has passed it.

4.2 Injury occurred during the investigation period

The report's injury analysis "is based on Tronox's verified information and data over the period from 1 January 2022 to 31 December 2025". The team focused on Tronox's sales of its Australian-produced TiO_2 and separately identified Tronox's imports and exports "to ensure injury caused by the applicant's own import and export behaviour is not attributed to dumping". The findings that follow are findings about the like goods produced in Australia, with Tronox's own trading activity already excluded.

On volume, the team found that in the investigation period Tronox's sales of its Australian-produced goods "decreased by about 3% relative to the volumes in the previous year (2024), and decreased by about 9.7% relative to the average annual volume over the period 2022 to 2024". Sales to customers outside Tronox's five largest fell faster than sales to those five, so that the share of Tronox's sales going to the other group fell "from about a fifth in 2022 to about 13% in 2025". The team concludes "that Tronox has experienced injury in the form of loss of sales volumes over the injury period and in the investigation period".

On price, the report records that Tronox's prices "have remained flat over the period, consistent with its claims in the application", and that "Tronox experienced price suppression in 2023 and in 2025". It adds that "Tronox has reduced its prices in the December 2025 quarter for some of its largest customers", which the team regards as "further indicative of price suppression in the investigation period". The conclusion is that "Tronox has experienced injury in the form of price suppression in the investigation period".

On profit, the team finds that "[p]rofit and profitability decreased in 2025 because costs increased at a greater rate than prices", compounded by lower sales and production volumes. It concludes that Tronox "has experienced injury in the form of loss of profit and reduced profitability over the injury period and in the investigation period". The report's own corrected estimate of revenue forgone through loss of sales volume and market share is 11 per cent of total sales revenue from Australian production on Tronox's 2022 market share, and 6 per cent on its average market share across the injury period, in each case at 2025 prices.

The report's table of other economic factors, indexed to 2022, records revenue on domestic sales of Australian-produced like goods at 89 in 2025, return on investment at 36, productivity at 86 and finished goods inventory at 109. The team's overall conclusion is that Tronox "has experienced injury in the form of: loss of sales volume; price suppression; loss of profit and reduced profitability; loss of revenue, and increased finished goods inventory".

One point of difference should be noted. The report does not list reduced market share among the forms of injury found. That follows from the team's decision not to estimate market share from Australian Border Force data for the purposes of the report and to rely instead on Tronox's estimate. Consideration Report No. 699 found reasonable grounds that

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Tronox had suffered reduced market share, and nothing in the verification report displaces that finding. Tronox will address market share once the Commission's own estimate is available.

4.3 Lost volume linked to undercutting Chinese imports

The verification report goes further than recording injury. On the volume findings the team states: "Based on the information contained in Tronox's sales listing and other information (such as records of customer call reports) provided by Tronox at the verification visit, the verification team found that Tronox has lost sales volumes to certain customers that appear to source (or have sourced) titanium dioxide from China at prices that have undercut Tronox's prices."

The team also tested the two lost-sale examples in Tronox's submission of 30 April 2026 and "confirmed that Tronox has ceased selling titanium dioxide to these two customers following the investigation period". Those examples were put forward as evidence of injury continuing after the investigation period and during the investigation itself. They have now been verified.

Evidence of the same kind has continued to accumulate since the ADC's verification visit. Commercial Call Reports dated [redacted], two months after the status report and after the verification visit, is at **Confidential Attachment B**.

It records a meeting with [redacted].

Price is what separates the two suppliers. [redacted].

[redacted].

The second records a meeting with [redacted].
This confirms that price is the critical factor in purchasing decisions, and the degree of undercutting is contributing directly to lost sales.

[CONFIDENTIAL CALL REPORTS]

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On the import side, the Commissioner's sampling notice records that exports of the goods from China "represented approximately 71% of the total volume of titanium dioxide exported to Australia in the investigation period". Consideration Report No. 699 found "reasonable grounds to support Tronox's claims that dumping has occurred, and the dumping margin is not negligible", on an estimated margin of 48 per cent, or 31 per cent without the feedstock adjustment Tronox proposes. Tronox's submissions of 3 August, 4 August and 28 August 2026 address normal value and the exporters' questionnaire responses and are not repeated here.

For the purposes of subsection 269TD(1), the Manual accepts that at the PAD stage "exporter information is generally not verified before day 60", and that a PAD may nonetheless be made on the information available. The status report did not identify dumping as the reason a PAD was withheld. The reason was injury and its cause.

4.4 Extended investigation timetable

When the status report was published the SEF was due on 18 August 2026 and the final report on 2 October 2026. On 10 August 2026 those dates were extended to 6 April 2027 and 3 June 2027, "to allow time for the commission to gather and analyse further information and because of the commission's changing operational requirements". Tronox does not question the extension. However, the consequences from the delay for the Australian industry's ability to remain financially viable could be severe. Without a PAD, no security can be taken and no interim duty can become payable until the Minister's decision, which on the extended timetable cannot come before June 2027.

The PAD Direction requires the Commissioner to treat "the desirability of providing relief to an injured Australian industry, where warranted, as quickly as possible" as a relevant matter. The Commissioner recorded at day 60 that he had considered that matter but found relief "not yet warranted" because of the state of the injury evidence. With the injury findings now made on verified data, and the period before final relief lengthened by eight months, the SEF itself by seven and a half, the balance struck at day 60 no longer holds.

The extension also bears on the retrospective relief Tronox sought on 30 April 2026. Subsection 269TN(2) permits a dumping duty notice to reach goods already entered for home consumption only where "security has been taken under section 42 in respect of any interim duty that might become payable" on those goods, or the Commonwealth "had the right to require and take such security". Subsection 269TN(3) reaches back a further period, but only where "within 90 days after the entry of the goods for home consumption, security has been taken under section 42 ... or, within that period, the Commonwealth had the right to require and take such security". Each provision depends on securities. Until a PAD is made, every entry of dumped goods falls outside the reach of any final measure, whatever the Minister later concludes about the matters in subsection 269TN(4).

4.5 The European Union has reopened its investigation for absorption

On 25 August 2026 the European Commission published a notice reopening its anti-dumping investigation into TiO_2 originating in China under Article 12 of Regulation (EU) 2016/1036, the provision that deals with absorption of duties. The request was lodged on 13 July 2026 by the European Titanium Dioxide Ad Hoc Coalition on behalf of the Union industry. The measures concerned are the definitive duties imposed by Commission Implementing Regulation (EU) 2025/4 of 17 December 2024.

The grounds are stated in section 4 of the notice. The applicant "has submitted sufficient evidence showing that after the review investigation period and following the imposition of measures by means of Commission Implementing Regulation (EU) 2025/4, Chinese export prices have decreased", together with evidence "showing that the decrease in Chinese export prices has seemingly impeded the intended remedial effects of the measures in force". It records that "the decrease in export prices cannot be explained by an evolution of cost of raw materials in the country concerned, a decrease of the price of the freight costs, or a change in product mix from the country concerned". Having determined "that there is sufficient evidence of absorption", the Commission reopened the investigation (section 5). The absorption investigation period is 1 July 2025 to 30 June 2026 (section 5.1).

If the EU validates the alleged absorption described in the request filed by the European Titanium Dioxide Ad Hoc Coalition EU's industry on 13 July 2026, the duties on Chinese TiO2 would be increased significantly and could be as high as described below:

Company/Producer	EU Today (€/T)	EU Future (with anti-absorption) (€/T)	Brazil (USD/T)	Saudi Arabia (% or USD/T)	India (USD/T)
LB Group	€740 (~US$858)	€1,009 (~US$1,170)	$1,159	31% (minimum $773/MT)	$460
Anhui Gold Star Group	€250 (~US$290)	€500 (~US$580)	$1,149	29% (minimum $667/MT)	$609
Shandong Group	€640 (~US$742)	€999 (~US$1,158)	$1,224	19% (minimum $427/MT)	$563
Pangang	€640 (~US$742)	€999 (~US$1,158)	$1,224	37% (minimum $827/MT)	$510
Yibin	€640 (~US$742)	€999 (~US$1,158)	$1,224	32% (minimum $827/MT)	$510
Non-sampled cooperative companies/producers	€640 (~US$742)	€999 (~US$1,158)	$1,224	45% (minimum $1,173/MT)	$510
Residual	€740 (~US$858)	€1,009 (~US$1,170)	$1,268	45% (minimum $1,173/MT)	$681

Tronox does not put the notice forward as a finding. Its relevance to case 699 lies in the timing, in the conduct it evidences and in the timetable it sets.

The period over which Chinese export prices to the European Union are said to have fallen covers the second half of the current investigation period and the six months after it. That is the period in which the verification team found, in chapters 8.3 and 8.4 of the verification report, that Tronox reduced its prices to some of its largest customers in the December 2025 quarter and ceased selling to two customers after the investigation period.

In initiating the anti-absorption investigation, the European Commission found sufficient evidence that Chinese exporters responded to the EU's anti-dumping duties *by lowering export prices*, not raising them. Tronox's submission of 30 April 2026 described the surge in exports between initiation and provisional measures in each jurisdiction that has investigated Chinese TiO_2. The absorption reinvestigation reveals that once measures are in place, the price response is downward. In Australia there is as yet no measure to absorb, and the interval before one can apply has been extended to June 2027.

Finally, section 6 of the notice states that the reinvestigation "shall normally be concluded within 6 months and in any event no later than 9 months from the date of the publication of this Notice", that is, by about 25 February 2027 in the normal course and no later than 25 May 2027. If its conclusions are affirmative, "the amount of the anti-dumping duty imposed following this reinvestigation shall not exceed twice the amount of the duty imposed" by the 2025 regulation (section 5). As described above, based on the evidence relied on by the European Union to initiate the anti-absorption investigation, the EU may well raise duties substantially on Chinese TiO_2. That investigation is expected to conclude <u>at the latest</u> in May 2027, immediately before the Australian SEF is due. Tronox submits that the effect of such a step would be to increase the volume of Chinese TiO_2 seeking markets in which no measure applies, and that Australia is such a market for as long as no PAD is made.

<u>4.6 Imports from China have risen since the investigation was initiated</u>

In its submission of 30 April 2026 Tronox undertook to provide the Commission with import data as it became available. We submit Chinese TiO_2 import data up to the most recent completed month (July 2026). The monthly series from January 2025 is at **Confidential Attachment A**.

The three complete months since initiation are May, June and July 2026. Imports of the goods from China in those months were [redacted], [redacted] and [redacted] tonnes, a total of [redacted] tonnes and an average of [redacted] tonnes a month.[7] That is the highest three-month average anywhere in the series, which runs from the first month of the investigation period to the most recent completed month.

Period	Months	Average monthly volume, tonnes
Investigation period, CY 2025	12	[redacted]

[7] Monthly import volumes of titanium dioxide exported from China, January 2025 to July 2026, compiled by Tronox from import data. **Confidential Attachment A**.

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Period	Months	Average monthly volume, tonnes
May to July 2025, the same three months a year earlier	3	[redacted]
February to April 2026, the three months before initiation	3	[redacted]
January to March 2026, the heaviest three months before initiation	3	[redacted]
May to July 2026, the three months since initiation	3	[redacted]

Before initiation the heaviest three months of importation were January to March 2026, at [redacted] tonnes a month. The three months since initiation exceed that by 12.3 per cent. Measured against the investigation period itself the increase is 29.2 per cent, and against the same three months a year earlier it is 21.7 per cent.

The increasing import volumes is directly relevant given that s.269TD(4)(b) is concerned with material injury "occurring while the investigation continues". The verified findings establish injury to Tronox within the investigation period in the form of lost sales volume and price suppression, and the verification team confirmed that two customers were lost after that period closed. The import figures cover the months in which those losses occurred and every month since. They show the volume of the goods entering Australia at its highest sustained level of the whole period, while the investigation has been on foot and after the Commissioner declined to make a PAD.

On the question of volumes, the Consideration Report found reasonable grounds that Tronox had suffered reduced market share, and the verification team did not reach that question because it did not estimate market share from Border Force data. Rising imports on the figures above support the Consideration Report's finding.

5. The requirements of subsection 269TD(1) are met

The grounds for a dumping duty notice are those in section 269TG. Under subsection 269TG(2) the Minister must be satisfied "that: (a) the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened". The question under paragraph 269TD(1)(a) is whether "there appears to be sufficient grounds" for such a notice.

On dumping, the Commissioner found at initiation that there appear to be reasonable grounds that the goods have been exported at dumped prices, at a margin that is not negligible, in volumes that are not negligible. Nothing on the record since displaces that finding. The exporters' questionnaire responses are before the Commission and are addressed in Tronox's submission of 28 August 2026.

On injury, the verification report's conclusion is set out above. It rests on verified data and it is a conclusion about the investigation period.

On causation, the verification team's finding that Tronox lost volume to customers sourcing Chinese TiO_2 at prices that undercut Tronox's prices, and its confirmation of the two post-period customer losses, supply the link that the status report found wanting. The Consideration Report had already found reasonable grounds "to support the claims that the Australian industry has suffered injury caused by dumping, and that the injury is material". That finding was made on the application data. Verified data now confirms it.

The statutory standard is that grounds "appear" to be sufficient. It is not final satisfaction under section 269TG, which is the Minister's task after the SEF and the final report. Tronox submits that the evidentiary standard is met on the record as it now stands.

In the alternative, paragraph 269TD(1)(b) is engaged. The Consideration Report found "reasonable grounds that the Australian industry faces threat of material injury". The verified loss of two customers after the investigation period, and the price reductions to major customers in the December 2025 quarter, are evidence that "there will be sufficient grounds for the publication of such a notice subsequent to the importation into Australia of such goods". Section 4.5 above, on the reopening of the European Union investigation for absorption, points the same way. It is evidence of the pricing conduct of the exporters whose future exports paragraph 269TD(1)(b) concerns.

6. Securities are necessary to prevent material injury while the investigation continues

Paragraph 269TD(4)(b) permits securities where the Commissioner "is satisfied that it is necessary to do so to prevent material injury to an Australian industry occurring while the investigation continues". The verification report supplies the evidence for the Commissioner to satisfy itself that the legal standard has been met. Tronox has ceased selling to two customers since the investigation period ended. It reduced prices to some of its largest customers in the December 2025 quarter. Both findings describe injury occurring after the investigation period, that is, during the Commission's investigation. On the extended timetable the investigation has ten months to run. Over the three complete months since initiation the import volumes to Australia have been heavier than in any three-month period since the investigation period opened, as section 4.6 sets out. Securities are the only measure available to the Commonwealth that acts on that volume before the Minister decides.

Tronox's submission of 30 April 2026 set out the pattern of accelerated shipments from China between the initiation of TiO_2 investigations and the imposition of provisional measures in the European Union, Brazil, India and Saudi Arabia, and after the United Kingdom's initiation in March 2026. The longer the interval between initiation and provisional measures in Australia, the greater the scope for the same conduct here. The absorption reinvestigation in the European Union shows a second form of conduct, where a measure is in place, exporters will lower export prices to offset it. Neither form of conduct is prevented by an investigation alone. Both are addressed by securities, which is the purpose of s.269TD(4)(b).

As to amount, the Manual states that "[t]he amount of security is worked out using the same methods used to calculate interim dumping and countervailing duty". Tronox asks that securities be set by reference to the dumping margins as best estimated on the information available, and reserves its position on the application of the lesser duty rule pending the Commission's findings on the particular market situation claimed in its submission of 3 August 2026.

7. Conclusion and requests

For the reasons set out above, Tronox respectfully requests that the Commissioner:

- reconsider now, under section 9 of the PAD Direction, whether to make a preliminary affirmative determination, rather than defer that reconsideration to the SEF.
- make a preliminary affirmative determination under paragraph 269TD(1)(a), or in the alternative paragraph 269TD(1)(b), in respect of titanium dioxide exported to Australia from China.
- be satisfied under paragraph 269TD(4)(b) that it is necessary to require and take securities to prevent material injury to the Australian industry occurring while the investigation continues, and require and take securities from the date of the determination.
- give public notice of the determination and of the decision to take securities under paragraph 269TD(4)(a) and subsection 269TD(5).
- note that Tronox maintains its request of 30 April 2026 for a retrospective notice under section 269TN, on which it will make further submissions once securities are in place.