

V

*(Announcements)*PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice concerning the implementation of the ruling of the Dispute Settlement Body of the World
Trade Organization regarding the safeguard measure applicable to imports into the Union of certain
steel products**

(2022/C 320/21)

On 31 May 2022, the Dispute Settlement Body of the WTO ('DSB') adopted the panel report in the dispute brought by Turkey, DS595 European Union-Safeguard Measures on Certain Steel Products ⁽¹⁾. In the report, the panel considered that the explanations and reasoning provided by the EU with respect to some aspects of its original measure did not meet the requirements of the Agreement Establishing the World Trade Organization ('WTO Agreement').

The purpose of this notice is to inform interested parties that the Commission will implement the DSB recommendation and ruling. To that effect, the Commission invites interested parties to provide comments. The EU will implement the measure by bringing the safeguard measure on certain steel products into conformity with the WTO Agreement on Safeguards and the GATT 1994, with respect to the instances where the WTO panel had concluded that the EU's safeguard measure is inconsistent with those covered agreements. The panel's findings of inconsistencies concerned two legal points under Article XIX:1(a) of the GATT 1994, and two elements of one legal point under Article 4.1(b) of the WTO Agreement on Safeguards.

Regarding Article XIX:1(a) of the GATT 1994, the original safeguard measure had not sufficiently explained how the increase in imports took place as a result of the unforeseen developments that had been identified. Also, the measure had not identified the GATT obligations whose effect resulted in the increase in imports.

Regarding Article 4.1(b) of the WTO Agreement on Safeguards, the panel found that two central elements of the determination of a threat of serious injury were not 'based on facts': first, the finding that the domestic industry was 'in a fragile and vulnerable position', despite its improved performance and, second, the finding that a further increase in import volumes in the future would bring about serious injury to the domestic industry.

For the purpose of implementation, the Commission intends to supplement Implementing Regulation (EU) 2019/159 ⁽²⁾ on the above points. Interested parties are thus invited to submit comments exclusively on those points.

The panel's findings in the above respects can be found in section 7.3.2.3 of the panel report as regards the link between the increase in imports and unforeseen developments; in section 7.4 of the panel report as regards the effects of obligations, and in section 7.6.2 of the panel report as regards the threat of serious injury.

⁽¹⁾ Panel report available at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/595R.pdf&Open=True>

⁽²⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

1. Procedure

In light of the above, the Commission hereby reopens the original safeguard investigation at the point in time where further clarifications are necessary in light of the findings of the panel. The relevant point is just prior to the adoption of the definitive safeguard measure.

1.1. Written submissions

Interested parties who wish to participate in the proceeding are hereby invited to make their views known, submit information and provide supporting evidence to the Commission. This information and supporting evidence must reach the Commission within 21 days from the day of the publication of this Notice in the Official Journal ⁽¹⁾.

1.2. Submission of information and extension to time limits specified in this Notice

As a rule, interested parties may only submit information within the timeframes specified in this Notice. Any extension to the time limits provided for in this Notice can only be requested in exceptional circumstances and will only be granted if duly justified. Duly justified exceptional extensions to the deadline to make submission will normally be limited to three additional days.

Interested parties are requested not to provide further information outside the periods set out in this Notice or in any further communication sent by the Commission. In order to properly conclude the investigation on time, any submission, rebuttal or any other written document which does not respect the deadlines specified by the Commission may be disregarded.

1.3. Instructions for making written submissions and correspondence

Information submitted to the Commission for the purpose of trade defence proceeding must be free from copyrights. Interested parties, before submitting to the Commission information and/or data which is subject to third party copyrights, must request specific permission from the copyright holder explicitly allowing the Commission a) to use the information and data for the purpose of this trade defence proceeding and b) to provide the information and/or data to interested parties to this investigation in a form that allows them to exercise their rights of defence.

All written submissions provided by interested parties for which confidential treatment is requested shall be labelled 'Sensitive' ⁽²⁾. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 8 of EU Regulation 2015/478 ⁽³⁾ and Article 5 of EU Regulation 2015/755 ⁽⁴⁾, which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence and must reach the Commission at the same time of the 'Sensitive' version.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information.

Interested parties are strongly encouraged to make all written submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>), including scanned powers of attorney where appropriate.

⁽¹⁾ Regulation (EEC, EURATOM) No. 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

⁽²⁾ A 'Sensitive' document is a document which is considered confidential pursuant to Article 8 of Regulation (EU) 2015/478, Article 5 of Regulation (EU) 2015/755 and Article 3.2 of the WTO Agreement on Safeguards. It is also a document protected pursuant to Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council (OJ L 145, 31.5.2001, p. 43).

⁽³⁾ OJ L 83, 27.3.2015, p. 16.

⁽⁴⁾ OJ L 123, 19.5.2015, p. 33.

By using TRON.tdi or e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf

The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business email that is checked on a daily basis. Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G, unit G5
Office: CHAR 03/66
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>

Email address: TRADE-SAFE009-REVIEW@ec.europa.eu

2. Possibility to be heard by the Commission investigation services

Interested parties may be heard by the Commission investigation services provided that they are actually likely to be affected by the outcome of the reopening of the original safeguard investigation and that there are special reasons for them to be heard orally. Any request to be heard should be made in writing and should specify the reasons for the request. For hearings on issues pertaining to the initiation of the present investigation, the request must be submitted within 21 days of the date of publication of this Notice in the *Official Journal of the European Union*.

3. Hearing Officer

The Hearing Officer acts as an interface between the interested parties and the Commission investigation services. The Hearing Officer reviews requests for access to the file, disputes regarding the confidentiality of documents, requests for extension of time limits and any other request concerning the rights of defence of interested parties and third parties as may arise during the proceeding.

Interested parties may request an intervention of the Hearing Officer. In principle, these interventions shall be limited to the issues that have arisen during the current review proceeding.

A request for an intervention of the Hearing Officer should be made in writing and should specify the reasons for the request. Interested parties are invited to follow the timeframes set out in Section 1.1 of this Notice to requests for intervention to the Hearing Officer. Where such requests are submitted outside the relevant timeframes, the Hearing Officer may also examine the reasons for such late requests, having due regard to the interests of good administration and the timely completion of the investigation.

For further information and contact details interested parties may consult the Hearing Officer's web pages on DG Trade's website: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>.

4. Processing of personal data

Any personal data collected in this investigation will be treated in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council ⁽⁷⁾.

A data protection notice that informs all individuals of the processing of personal data in the framework of Commission's trade defence activities is available on DG Trade's website: <http://trade.ec.europa.eu/doclib/html/157639.htm>

⁽⁷⁾ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).