



EUROPEAN COMMISSION

Directorate-General for Trade

Directorate G - Trade Defence

Investigations IV & Relations with third countries for trade defence matters

Brussels, 4 March 2024

Trade G5/EA

OPEN FOR CONSULTATION TO INTERESTED PARTIES

FOR THE ATTENTION OF INTERESTED PARTIES

Subject: SAFE009R7 - Review investigation concerning the safeguard measure on certain steel products – Initiation of the rebuttals phase

The Commission hereby informs all interested parties that on 4 March 2024 it has uploaded in TRON the **submissions** received within the framework of the ongoing review. As stated in the Notice of Initiation of 9 February 2024, by means of this Note to the file, the rebuttals phase of the proceeding is formally started.

Interested parties wishing to comment on the submissions are invited to do it, **via TRON¹ exclusively**, no later than **14 March 2024 (23h59, Brussels time)**.

To allow for a structured assessment of the rebuttals, the Commission invite interested parties to respect the following instructions:

- i) Refer in each of the rebutting comments to the specific submission/questionnaire reply and interested party they are addressing;
- ii) Refrain from raising new issues unrelated to the rebuttal of a previous submission.

(e-signed)

Jon NYMAN

Head of Unit

¹ Access to TRON tdi: <https://tron.trade.ec.europa.eu/tron/TDI>. User guide available in the link: <https://tron.trade.ec.europa.eu/tron/resources/documents/usersGuide.pdf>

WRITTEN SUBMISSION

Made by the Government of India ("GOI"),

Safe009R7

Review investigation concerning the safeguard measures on certain steel products

28 February 2024

Introduction

These comments are made by the Government of India (“GOI”). In terms of Section 4.2 of the Initiation Notice C/2024/1460 dated February 9, 2024, GOI makes the following submissions regarding.

Section I - whether the measures continue to be necessary to prevent and remedy serious injury, and why:

1. The measures are no longer necessary to prevent injury and facilitate adjustment.
2. Insufficient evidence that the EU industry is suffering from injury.
3. Changes in the US Section 232 Measures do not warrant the prolongation of the measures.
4. The EU is required to compensate India for the loss in trade.

Section II – Potential adjustments to the functioning of the measures

On the following issues listed in Section 2(A-E) of the Initiation Notice C/2024/1460 dated February 9, 2024:

C. Update of the list of developing WTO Member countries excluded from the scope of the measures based on their most recent level of imports.

- Product categories 12 and 16

D. Level of Liberalisation

Rate of liberalisation of TRQ shall be increased to 6% annually from the current level of 4%

SECTION I - WHETHER THE MEASURES CONTINUE TO BE NECESSARY TO PREVENT AND REMEDY SERIOUS INJURY, AND WHY:

1 The Measures are no Longer Necessary to Prevent Serious Injury and Facilitate Adjustment

As per Article XIX of the GATT, safeguard measures are defined as “emergency actions” concerning increased imports of particular products, where such imports have caused or threaten to cause serious injury to the importing Member’s domestic industry. As such, a WTO Member can apply a safeguard measure only for such period as may be necessary to prevent or remedy serious injury and to facilitate the adjustment.

Since safeguard measures, unlike anti-dumping and countervailing measures, do not require a finding of an unfair practice, the conditions for imposing them are more stringent. The guiding principles of the SG Agreement concerning safeguard measures are that such measures must be temporary; that they may be imposed only when imports are found to cause or threaten serious injury to a competing domestic industry; that they should be progressively liberalised while in effect; and that the Member imposing them generally must pay compensation to the Members whose trade is affected.

In other words, safeguard measures are intended for situations in which the EU industry is affected by an *unforeseen, sharp and sudden increase in imports*. The objective is to give the industry a temporary breathing space to make necessary adjustments – safeguards always come with an obligation to restructure.

According to Article 7.2 of the Agreement on Safeguards, any extension of safeguard measures requires sufficient evidence that the industry is adjusting. This evidence must show that the measures facilitate industry adjustments to either import surges or significant injury. However, the request to extend the measures lacks adequate proof of industry adjustment. The examples provided in the request primarily focus on the EU steel industry's efforts towards decarbonization, which are unrelated to the safeguard measures and do not address how the industry would adapt to factors causing the alleged increase in imports, such as capacity expansions in China and the Section 232 measures. Therefore, extending the safeguard measures based on this information would not meet the criteria outlined in Article 7.2 of the Agreement on Safeguards.

Secondly, the examples of adjustments outlined in the application solely relate to the industry's future plans. It's important to note that Article 7.2 of the Agreement on Safeguards requires evidence of actual industry adjustment, not just intentions to adjust. The provision emphasizes the need to demonstrate concrete efforts and initiatives that enable the industry to adapt to the purported rise in imports. However, the petition fails to provide instances where such efforts have been undertaken; instead, it merely asserts that efforts will be made in the future.

Additionally, it is worth mentioning that nearly six years have elapsed since the initial implementation of the measure, and there are still no indications that the industry is making efforts to adapt. The GOI emphasizes that the objective of any safeguard measure is not solely to address or mitigate serious injury but also to facilitate adjustment. With no apparent endeavours by the EU industry to adapt to the circumstances, the petition fails to meet the criteria outlined in Article 7.2 of the Agreement on Safeguards. Consequently, the measure should be terminated.

Further, despite the quarterly liberalization of tariff rate quotas, there has been a decrease in import volume. Import volumes have declined from 2021 to 2023, despite the progressive liberalization of quotas during this period. Moreover, the petition itself acknowledges the fact that quotas are underutilized across various product categories. These factors suggest that the EU market is not attractive, leading steel producers to prefer exporting their goods to other markets.

2 Insufficient evidence that the EU industry is suffering from injury

It is submitted that the Petition lacks adequate information concerning evidence of injury across all product categories. The Petition presents data only on the production, capacity utilization, and sales of a limited number of product categories. Additionally, details regarding sales volume, profits, etc., are provided for only two product categories. No justification exists for extending the safeguard measures to all product categories based on limited data in the petition.

The GOI recalls that in DS595, the Panel emphasized that while it is acceptable for a single investigation to encompass various products, the investigating authority must examine all parameters related to the increase in imports and injury to the domestic industry with respect to all products covered within the scope of the investigation. While the EU may not necessarily need to show serious injury across all product categories, it is still obliged to assess injury parameters for all the categories. It is not permissible for the EU to exclude any product categories from its analysis.

Notwithstanding what is stated above, it is submitted that any alleged threat to serious injury to the EU industry is on account of factors that are not related to the circumstances identified in the Petition. The GOI submits that the cause for any alleged injury to the domestic industry is:

- a. The increase in transportation costs associated with the Russia-Ukraine conflict. The GOI submits that this factor is not unique to European industries since it has affected all industries throughout the globe. Therefore, any injury as a result of the increase in freight rates is not attributable to the surge in imports.
- b. The European Industries are suffering from an increase in costs due to a transition to renewable forms of energy as well as the embargo placed on imports of coal and oil from Russia. This has added to the costs of the European Industry, resulting in a decline in profitability and production of the Steel Industry.

The GOI submits that the above factors identified are not attributable to the increase in imports (or potential increase in imports), but rather global conditions, which are faced by all

steel producers in the world. There can be no causal link between the increase in imports (or potential increase in imports) and the injury suffered by the European industry. The information presented in the Petition does not meet the requirements of Article 4.2 of the Agreement on Safeguards. Therefore, the measure must be terminated.

3 Changes in the US Section 232 Measures do not warrant the prolongation of the measures.

Starting January 1, 2022, the US ceased imposing Section 232 tariffs on 3.3 million tonnes of steel exports from the EU. Additionally, as of June 1, 2022, the US discontinued the application of Section 232 tariffs on 0.5 million tonnes of steel exports from the UK.

Since the initial enforcement of Section 232 measures, the US has permitted duty-free steel imports from Argentina, Australia, Brazil, Canada, Japan, Mexico, South Korea, member nations of the EU, and the UK. The US has expanded its allowance to include steel imports from countries that comprised 83.5% of total US imports in 2023, as illustrated in the table below.:

Countries	CY-2023	%-Share
Canada	6.2	22.2%
Mexico	3.8	17.2%
EU	3.6	14.3%
South Korea	2.4	9.0%
Brazil	3.6	8.3%
Japan	1.1	4.1%
United Kingdom	0.2	1.0%
Australia	0.3	1.0%
Argentina	0.2	0.3%
Exempt Country Total	21.4	83.5%
Others	4.2	16.5%
Grand Total	25.6	100.0%

Source: US Steel Import Monitoring System

Essentially, substantial alterations in the implementation of Section 232 measures by the US suggest a need for the EU to reassess the need for further continuation of the extended safeguard measure. The Commission is urged to acknowledge this development and promptly contemplate terminating the safeguard measure in alignment with the broader interests of EU steel consumers.

4 The EU is required to compensate India for the loss in trade.

In terms of Articles 8 and 12.3 of the Agreement on Safeguards, any Member that proposes to prolong the application of a safeguard measure must provide compensation to its trading partners in the form of an equivalent level of concessions. GOI submits that it has been 6 years since the initial implementation of the measures and the EU is yet to propose any compensation as contemplated under Article 8 of the Agreement on Safeguards. India notified the Council for Trade in Goods of its proposal regarding suspension of concessions and other obligations under Article 8.2 of the Agreement on Safeguards circulated under G/L/1396, G/SG/N/12/IND/2 dated 30 August 2021. However, India has not so far taken any retaliatory measures.

At this stage, GOI requests the EU to make an initial offer of compensation to India in terms of Articles 8 and 12.3 of the Agreement on Safeguards.

SECTION II – POTENTIAL ADJUSTMENTS TO THE FUNCTIONING OF THE MEASURES:

C. Update of the list of developing WTO Member countries excluded from the scope of the measures based on their most recent level of imports.

Exclude India from The Scope of Measure for Certain Product Categories Under Developing Country Criteria

As per the Notice of Initiation, besides the assessment in the first place, on whether the safeguard measure continues to be necessary, the Commission's scope and objective also includes updation of the list of developing WTO Member countries excluded from the scope of the measures based on their most recent level of imports. As per the recently accessed data on EUROSTAT from July 2023 to December 2023, the import status of product categories 12 and 16 from India warrants a consideration for excluding India from the scope of measure for these categories. The details are provided below:

- For product category no. 12 concerning Non-Alloy and Other Alloy Merchant Bars and Light Sections), imports from India of 17,899 MT constituted approx. 2.8% of total EU imports at 639,861 MT from July 2023 to December 2023.
- For product category No. 16 concerning Non-Alloy and Other Alloy Wire Rod, imports from India of 366 MT constituted approximately 0.04% of total EU Imports of 953,193 MT from July 2023 to December 2023.

We request the Commission to consider the latest available information and include India in the list of developing WTO Member countries excluded from the scope of the measures for product categories 12 and 16 based on its most recent level of import from India.

D. LEVEL OF LIBERALISATION

The pace of liberalisation shall be increased to at least 6% annually from the existing rate of 4% annually

The European Union has set the pace of liberalisation at 4% annually. The rate of liberalisation is too low and does not take into account the changes that have occurred in the

global steel market since the imposition of the measures. In fact, the performance of the EU industry has been robust and the trade diversion apprehended by the Commission had not actually taken place. In view of the same, GOI requests the Commission to increase the pace of liberalisation to at least 6% considering that any further prolongation will take the measure to the seventh and eighth year of the imposition of the measures.

PRAYER

In light of the submissions made by the GOI, it is requested that the EU terminate the safeguard measure and compensate India for the loss in trade volumes suffered as a result.



**REPUBLIC OF TÜRKİYE
MINISTRY OF TRADE
DIRECTORATE GENERAL OF IMPORTS**

28 February 2024

**VIEWS OF THE GOVERNMENT OF TÜRKİYE ON THE INITIATION OF THE
REVIEW OF THE SAFEGUARD MEASURES APPLICABLE TO IMPORTS OF
CERTAIN STEEL PRODUCTS BY THE EUROPEAN COMMISSION**

A) Introduction

Before proceeding with the Government of Türkiye's remarks on this review, we would like to remind the provisions of the "Agreement between the Republic of Türkiye and ECSC on Trade in Products Covered by the Treaty Establishing the ECSC" (Türkiye- ECSC FTA) and conclusion of the Panel proceeding of the dispute numbered DS595.

As clearly indicated in the Türkiye-European Coal and Steel Community Free Trade Agreement (Türkiye-ECSC FTA), both parties decided to abolish taxes, duties, and charges other than customs duties and measures having an equivalent effect as of the Agreement's entry into force. These levies would not be reintroduced thereafter.

In accordance with paragraph 2 of Article 12 of the Agreement, priority must be given to measures that least disrupt the functioning of the Agreement when choosing measures to be implemented in pursuance of paragraph 1 of the same Article. However, the Commission has completely disregarded the mechanisms and provisions of the Agreement from the outset of the original safeguard investigation for Türkiye.

Furthermore, the Agreement specifies "increased quantities," "serious injury to domestic producers," and "serious disturbances in the steel sector or a related sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region" as mandatory prerequisites for potential measures taken by either party. However, the characteristics of Turkish exports have never been subjected to specific and individual consideration, taking into account the provisions, procedural mechanisms, and obligations outlined in the Agreement.

On the other hand, we would like to remind the conclusion of the Panel proceeding of the dispute numbered DS595. We have conveyed our views to the Commission within the



context of the review on implementation of the Panel's ruling and we will fully repeat our arguments in this review as well because they have not been taken into account and international legislation has been totally disregarded. Still, we would like to briefly touch upon our remarks on ruling of the Panel during the DS595 proceeding as follows.

First of all, we would like to remind that the Panel concluded that:

"Turkey has established that definitive safeguard is inconsistent with:

i. Article XIX:1(a) of the GATT 1994, because the European Commission did not ascertain that the increase in imports took place as a result of the unforeseen developments it had identified, and did not identify in its published reports the obligations whose effect resulted in the increase in imports; and

*ii. Article 4.1(b) of the Agreement on Safeguards, because two central elements of the European Commission's determination of a threat of serious injury were not "based on facts" as required by that provision"*¹

In this context, pursuant to Article 19.1 of the DSU, the Panel recommended that the European Union should bring its measure into conformity with the Agreement on Safeguards and the GATT 1994.²

Türkiye is highly disappointed that the Commission continues to impose the measure and seeks further revisions with the reviews while it should have already terminated the measure. As the Panel confirmed, the measure is taken without a consistent determination on the two of the most important prerequisites of a safeguard measures namely, increase in imports as a result of unforeseen developments and threat of serious injury. With this regard, the only way to bring the measure into conformity with the Panel's ruling is to terminate the measure. In our understanding, with its recommendation Panel does not suggest the Commission to put some make up on its measures to make it look like that it is brought into conformity. On the contrary, the purpose of the Panel's ruling is pointing out the inconsistencies. The members

¹ Para 8.1 of the Report of the Panel on European Union – Safeguard Measures on Certain Steel Products (DS595)

² Para 8.3 of the Report of the Panel on European Union – Safeguard Measures on Certain Steel Products (DS595)



should change their measures **in substance** to eliminate inconsistencies if it is possible; if it is not possible, the member should terminate the measures altogether.

In this context, it is disappointing to see that the Commission ignores its WTO obligations and does not comply with the Panel's ruling.

In the supplemental report submitted to the WTO, the Commission claims that among the many claims brought up by Türkiye in the dispute, the Panel only found that Türkiye had established that the definitive safeguard was inconsistent with the WTO provisions in two elements.³ However, the Panel did not make any examination on consistency with 5 other provisions because they would automatically be inconsistent due to the inconsistencies which are already found. For instance, in its Panel request, Türkiye strongly argued that there was no causal link between the increase in imports and the threat of serious injury.⁴ In its final report, the Panel did not make any examination on this claim, because it already found out the inconsistencies of both sides of the link.⁵

On the other hand, the Commission stated in its notification to the Committee on Safeguards after the Panel's ruling that *"For implementing the Panel Report, the Commission only used information that was available at the time it made its original determination, and thus, it did not refer to any data that became available after the adoption of the Definitive Regulation"*⁶. With this perspective, the Commission acted as if data from 2019 to 2022 was not available and made conclusions on this basis. The Commission behaved like it does not know that more than 75% of the US imports including the EU originated imports are excluded from the section 232 measures which was the main reason of EU's measure.

³ Annex of the Notification pursuant to Article 12.1(c) of the Agreement on Safeguards - G/SG/N/10/EU/1/Suppl.16

⁴ Para 19 of the Request for the Establishment of a Panel by Türkiye - WT/DS595/3

⁵ Para 7.244 of the Report of the Panel on European Union – Safeguard Measures on Certain Steel Products (DS595)

⁶ Annex of the Notification pursuant to Article 12.1(c) of the Agreement on Safeguards - G/SG/N/10/EU/1/Suppl.16



Türkiye asserts that the Commission undermines the fundamental features of the multilateral trade system, WTO dispute settlement system, and the existence of the Türkiye-European Coal and Steel Community Free Trade Agreement with this approach. Accordingly, Türkiye urges the Commission to promptly cease this inconsistent measure and to cease violating the most fundamental principles of international law.

B) Changes in the US Section 232 Measures

The Section 232 measures, which form the basis of the EU's measures, have undergone significant changes since 2018. As previously noted in every review investigation, the US granted exemptions to several countries, including Argentina, Australia, Brazil, Canada, Japan, Mexico, South Korea, and the UK.

As of 2024, the United States has exempted Canada, Mexico, South Africa, and Australia from Section 232 measures. Additionally, the US has agreed on a Tariff Rate Quota (TRQ) system with the European Union, South Korea, Brazil, Argentina, Japan, and the United Kingdom. Furthermore, India has been partially exempted from Section 232 under the exclusion process. In 2023, the majority of Section 232 products' imports were sourced from countries with which the US has established alternative schemes through different agreements.

In line with its announcement on December 31, 2021⁷, the US decided to remove the Section 232 tariffs on steel and aluminum imports from the EU. Simultaneously, the US fully eliminated its Section 232 duties on imports of EU derivative articles. In response, the EU temporarily suspended, effective from January 1, 2022, the additional duties it had imposed on US goods in response to the Section 232 actions.

Initiating this review investigation, the Commission appears to be disregarding the fact that over 85% of US imports in 2023, including those from the EU, are exempt from the Section 232 measures and Section 232 measures were the primary factor behind the EU's own measures.

⁷ <https://www.commerce.gov/sites/default/files/2021-10/US-232-EU-Statement.pdf>



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Furthermore, it is worth noting that the Panel report regarding the dispute initiated by Türkiye (and initially by the EU, which was later withdrawn) against the US Section 232 measures (DS564) was circulated on December 9, 2022. In this report, the Panel found that the US measures are inconsistent with several articles of the GATT 1994, including Article II:1(b), II:1(a), Article I:1, Article XI:1, and Article XXI. Therefore, the Section 232 measures, which were among the primary reasons for the safeguard investigation initiated by the EU, have been confirmed by a WTO Panel to be inconsistent, as is the case with the EU's current measures.

C) Changes in Composition of Trade and Insufficient Production in the EU

Global crude steel production reached to 1,89 billion tons in 2023 according to the World Steel Association. The data reveals that China's crude steel production rose to 1,02 billion tons from 995,42 million tons in 2019, while Türkiye's production declined to 33,71 million tons in 2023 from 33,74 million tons in 2019.

India, one of the world's top 10 steel producers, experienced the largest annual increase, rising by 11% to 140.2 million tons in 2023. India's share of world production also increased to 7,43% in 2023, up from 5,93% in 2019. Additionally, Vietnam and Egypt are among the countries that have steadily increased their production since 2019.

Türkiye has traditionally been a net importer of steel products, supported by a strong domestic market. In fact, Türkiye ranked as the 5th largest steel importer in the world in 2023 and imported half of its domestic consumption, representing one of the highest ratios among major steel importers. When examining the trade of steel products between Türkiye and the EU on a global scale, there is a clear deficit in favor of the EU.

Within the scope of the safeguard measure, the EU's imports from Türkiye in 2018 amounted to 6.8 million tons, which decreased to 3 million tons in 2023, representing a 55% decrease. Following the implementation of the measure, the EU's total import of hot-rolled coils (HRC) increased, while HRC imports from Türkiye decreased by 80%, from 2.8 million tons to 590 thousand tons. In essence, rather than importing from Türkiye, a signatory of the ECSC, a trade partner with deep relations, and a party to a customs union; the EU redirected its HRC



imports to Far and Middle Eastern countries such as Vietnam, Japan, Taiwan, India, South Korea, Indonesia, and Egypt.

Furthermore, in the HRC product category, the EU applies anti-dumping measures to its deep-rooted trading partner and neighbor Türkiye besides China, Brazil, Iran, and Russia. However, it does not impose any anti-dumping or countervailing duty measures against Vietnam, Japan, Taiwan, India, South Korea, Indonesia, and Egypt, despite these countries being major sources of its imports and have lower prices compared to Türkiye.

Upon examining the data, it is evident that the safeguard measure is an inappropriate tool for addressing production increases in selected countries and regions. It is evident that country-specific measures, such as anti-dumping measures, should be implemented instead of a non-selective tool like a safeguard measure. Türkiye's domestic prices are consistently close to EU domestic prices, and when considering freight costs to the EU, Türkiye's domestic prices are even higher in some instances. Therefore, it is quite difficult to argue that imports from Türkiye would cause injury to the EU's domestic market.

Indeed, the shift in trade dynamics towards Far Eastern markets and the rise of imports of EU from these regions are significant developments. This shift may be influenced by various factors, including changes in production costs, dumped prices, **less restrictive environmental regulations** in these regions and market demand solely focused on price rather than quality and sustainability. Understanding these dynamics is crucial for formulating effective trade strategies. Safeguard measures, rather than offering a solution to these issues, serve only to exacerbate them. The quota allocation system induces volatility in steel markets and introduces the risk of speculative behaviors. Long delivery times and high prices are natural outcomes of these distorted market conditions, stemming from safeguard measures that are more a source of the problem than a remedy.

Given the decline in the EU's production volume, it is evident that the EU steel industry will struggle to meet domestic market demand, potentially deepening the dominance of certain countries in the EU market. The decrease in Türkiye's exports to the EU following the



implementation of the measure was not offset by EU's domestic production, on the contrary it has been followed by increase in exports of certain countries to the EU.

It is expected that the EU rectifies its stance on the issue and provides a fair evaluation basis for Türkiye, its traditional trade partner, and a country with advanced commercial relations such as a customs union and an FTA for the investigated products. Türkiye offers reliable, fair sales conditions, and environmentally sustainable practices for Europe, and its industrial base must be evaluated correctly. Such a fair and rational assessment will be beneficial not only for the Turkish steel industry but also for the EU industries mostly steel producers in the long-term.

Consequently, vital sectors such as automotive and home appliances may face challenges in sourcing inputs from domestic producers. Unless this measure is discontinued, the Commission risks adversely impacting numerous sectors while attempting to address the demand of the steel sector.

D) Changes in Market Conditions and Recent Arguments of the EU Steel Industry

To demonstrate the invalidity of the measure, we would like to demonstrate how the global trade and supply chain and therefore crucial market conditions have changed after the initial imposition of the EU safeguard measure.

As the whole world suffered from the COVID-19 pandemic for last 3 years, effects of the pandemic on global economy and trade still prevail.

Moreover, within the context of energy crisis and disruption of the global supply chain stemming from the Russia-Ukraine war, economic decisions of all sectors changed radically, considering energy costs constitute a major proportion in steel production.

On the other hand, as we underlined above, Section 232 measures significantly changed since 2018. Over 85% of the US steel imports are from the countries which are not subject to original Section 232 measures anymore.



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Similarly, the global steel overcapacity has been cited as one of the primary justifications for implementing measures. Nevertheless, the pressure arising from this factor does not furnish evidence or rationale for extending this protective measure. It is a clear fact that the dynamics of the capacity issue is moving in a direction entirely contrary to the outcomes observed from the safeguard measures currently in force.

Upon examination of a report published by the OECD in 2024⁸, it is observed that the total global steel production capacity as of 2023 amounted to 2498.6 million metric tons (mmt), with Türkiye contributing only 60 mmt, constituting approximately 2.5% of this capacity. The increase in total world supply in 2023 compared to 2022 is determined to be 2.3%, with 53.3% of this attributed to Asian countries, as outlined in the relevant report.

In Eurofer's statement⁹ following the initiation of the investigation, particular emphasis is placed on China regarding the capacity issue. It is a significant contradiction to both complain about the overcapacity and fail to recognize that the existing safeguard measure has deepened the penetration of Far Eastern countries in the EU market.

Additionally, in the same statement, Eurofer also requests the continuation of measures concerning decarbonization policies. Although the Commission neglected this issue since the very beginning, safeguard measures are well-defined instruments under WTO law with clear implementation conditions. Combining decarbonization policy with safeguard measures lacks any legitimate or legal basis.

E) Low Usage of TRQs

As we mentioned above, conditions of the global trade significantly changed since the imposition of the measure. On top of that, the Commission imposed many trade remedy measures against steel products in last 5 years. With these developments, Türkiye believes that it is not likely to observe any import surge.

⁸ OECD, Latest Developments in Steelmaking Capacity, 2024

⁹ Eurofer Press Release, Brussels, 9 February 2024.



Usage of the tariff rate quotas (TRQs) also confirms that there is no import pressure in EU steel market. For instance, regarding the TRQ of category 1 which constitutes more than a quarter of the total TRQ, only 54% of the quota is used in last quarter of 2023. In 12 categories Türkiye has country specific quotas and 10 of these categories are not fully utilized in first three quarters of 2023.¹⁰

F) Conclusion

In conclusion, we regret to see that the Commission ignores the main principals of the international law. We urge the Commission to terminate this measure to bring it into conformity with the Agreement on Safeguards and the GATT 1994 without further hindering the spirit of the free and fair trade.

The retaliatory measures based on reciprocity against the EU was last communicated to the WTO with a notification on 30 June 2021. However, considering our comprehensive economic and trade relations with the EU, no retaliatory measures have been taken until today. Nevertheless, Türkiye is decisive at this point to protect all its rights arising from international law against the unfair treatments it has been subjected thus far.

Taking the production and consumption figures into account, continuation of the measure will cause injury to steel consuming sectors in the EU. Since the imposition of the measure almost all market conditions have changed. Usage rates of the TRQs shows that there is no import pressure.

With this regard, this inconsistent measure should be terminated immediately.

Türkiye is closely monitoring the review process without prejudice to its rights stemming from the WTO Safeguards Agreement and DSU.

¹⁰ Data extracted from Tariff Quota Consultation portal on 22.02.2024

**Written submission of Ukraine regarding initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products to the European Union
(SAFE009R7)**

On 09 February 2024 the European Commission (“the Commission”) notified of the initiation of investigation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products.

Since 31 January 2019 definitive safeguard measure on certain steel products by Commission Implementing Regulation (EU) 2019/159 was imposed. Accordingly, the tariff-rate quota on 26 product categories was applied. The safeguard measure was imposed for an initial period of three years, i.e., until 30 June 2021. By Regulation (EU) 2021/1029, the Commission prolonged the steel safeguard measure until 30 June 2024.

According to the Regulation of the European Parliament and of the Council of 31 May 2023 № 2023/1077 on temporary trade liberalisation measures supplementing trade concessions, applicable to Ukrainian products under the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Ukraine, of the other part, the European Union provides for the extension for one more year of the duty-free trade regime with Ukraine, which covers the abolition of all duties, quotas and trade safeguards on Ukrainian exports, in accordance with the Regulation of the European Parliament and of the Council of 30 May 2022 № 2022/870 as due to “Russia’s unprovoked and unjustified war of aggression against Ukraine since 24 February 2022 has had a profoundly negative impact on the ability of Ukraine to trade with the rest of the world, both because of the destruction of production capacity and the unavailability of a significant proportion of means of transport due to, for example, the restriction and uncertainty of access to the Black Sea. Under such exceptional circumstances and to mitigate the negative economic impact of Russia’s war of aggression against Ukraine, it is necessary to accelerate the development of closer economic relations between the Union and Ukraine in order to provide continued support to the Ukrainian authorities and population. It is therefore necessary and appropriate to continue stimulating trade flows and granting concessions in the form of trade-liberalisation measures for all products, in line with the acceleration of the elimination of customs duties on trade between the Union and Ukraine.”¹

¹ Regulation of the European Parliament and of the Council of 31 May 2023 № 2023/1077, Preamble, para. 4.



ДОКУМЕНТ СЕД Мінекономіки АСКОД

Підписувач Засипкіна Олена Олександрівна
Сертифікат 6FA97849F1B2570D0400000B3D8000047B20200
Дійсний з 19.12.2023 15:49:00 по 19.12.2025 15:49:00

Мінекономіки



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Furthermore, it is worth noting that since 2014 Ukrainian economy has been affected by the long-term armed aggression of Russia on the certain areas of the Donetsk and Luhansk regions as well as occupation of Crimea and starting from 24 February 2022 after Russia committed a blatant act of aggression against Ukraine through its brutal and unprovoked full-scale armed invasion, Ukrainian economy has faced the unprecedented times and challenges in order to survive in the circumstances of war.

Ukraine would also like to emphasise that safeguard measure is an emergency measure applicable only for the necessary period of time in order to prevent or remedy serious injury.

In the current conditions of the functioning of Ukrainian metallurgical industries when Russia by its barbaric actions intentionally destructs production sites, interrupt supply chains and logistics, significantly reducing Ukraine's exports and trade, it is evident that imports of products concerned from Ukraine would not to cause or threaten to cause serious injury to the domestic industry of the EU.

Ukraine believes that there are no grounds to resume imposition of safeguard measures on imports of certain steel products originating in Ukraine and is confident that there is evidence to terminate safeguard measures on imports of products concerned originating in or exported from Ukraine and hopes that its submission and position will be considered within this case.

1. Other changes of circumstances that may require an adjustment to the level or allocation of the tariff-rate quota (item "E" of the scope and objective of the investigation)

The important issue that we would like to emphasise and that is crucial for objective conclusions within the case, is that, despite Russia's war against Ukraine, Ukrainian steel producers continue to operate, but with significant complications and interruptions due to supplies and logistical problems, as well as finding itself under extraordinary conditions, including regular shelling and damaging by the Russian armed forces.

Due to the Russian invasion about 40% of the steel production facilities of Ukrainian metallurgical industries remained in the temporary occupied territories, Ukraine has temporarily lost control over a number of steel production plants and enterprises of the related industries (firstly in 2014 and then in 2022).

The other significant point that we would like to address, and which is essential for an objective conclusion within the case, is that today Ukraine's steel industry is represented only by 6 operating plants:

- JSC "ArcelorMittal Kryvyi Rih" (Kryvyi Rih, Dnepropetrovsk region);
- PJSC "Kamet Steel" (Kamianske, Dnepropetrovsk region);
- PJSC "Zaporizhstal Iron and Steel Works" (Zaporizhzhia, Zaporizhzhia region);
- PJSC "Electrometallurgical Works Dniprospetsstal named after A.Kuzmin" (Zaporizhzhia, Zaporizhzhia region);
- PJSC "Dniprovsk Iron and Steel Works" (Dnipro, Dnepropetrovsk region);
- "Interpipe Steel" - Metallurgical plant Dniprosteel LLC (Dnipro, Dnepropetrovsk region).

Before the full scale russia's military invasion PJSC "Ilyich Iron and Steel Works of Mariupol" (Mariupol, Donetsk region), PJSC "Azovstal Iron and Steel Works" (Mariupol, Donetsk region), "Electrostal" LLC (Kurakhove, Donetsk region) and JSC "Energomashpetsstal" (Kramatorsk, Donetsk Region) were also fully operable. All these enterprises were disabled and destroyed as a result of russia's bombings of Mariupol (which is occupied since May 2022), Kurakhove and Kramatorsk. Mariupol enterprises produced up to 40% of the Ukrainian steel and 70% of Ukrainian flat products and can not be rebuild even after the war.

According to Ukrainian steel association "UKRMETALLURGPROM"² data the steel world production in January-December 2023 was 1849.73 Mt that was of 0.02% less than in January-December 2022 (1850.12 Mt). Ukraine produced 6.23 Mt of steel or 99.4% as compared to January-December 2022 and ranked on 23rd position among 71 world steel producers. In January-December 2021 steelmaking enterprises of Ukraine produced 21.37 Mt of steel and ranked 14th position.

1.1. Damaged or destroyed energy infrastructure and personnel related issues

Ukraine's industry of the products concerned is currently located mainly in the Dnipropetrovsk and Zaporizhzhia regions of Ukraine, which are regularly shelled by russia.

At the same time, the attacks of russia in October-November 2022 significantly affected the production capacity of the enterprises. Even more, since October 2022,

² <https://www.ukrmetprom.org/ukraine-in-the-world-ferrous-production-in-jan-dec-2023/>.

the situation became critical: russia has targeted Ukraine's energy infrastructure, which led to the introduction of restrictions on electricity consumption by regional military administrations, including the Dnipropetrovsk and Zaporizhzhia Regional Military Administrations, while National Energy and Utilities Regulatory Commission, imposed restrictions on electricity consumption regarding that a great part of Ukraine's energy facilities were damaged or destroyed by russia's deliberate attacks.

In the winter season of 2022-2023, russia carried out 33 massive missile attacks on Ukraine's energy infrastructure facilities, with more than 300 hits recorded. 24 generation facilities (mostly power plants), half of the transmission system substations and trunk power grids were affected.

Ukraine lost near 50% of the entire power system, including generation and transmission facilities including 44% of nuclear generation, 60% - thermal, over 70% - wind and about 20% - solar capacities. In addition, the Zaporizhzhia Nuclear Power Plant is still under russian occupation. Russia's attacks on Ukraine's energy system caused losses of more than 11 billion USD, according to the assessment by United Nations Development Programme and World Bank.

Russia tried to destroy the Ukrainian economy by launching missile attacks to disconnect key Ukrainian industrial regions from the power grid.

Until the full-scale armed invasion of russia on 24 February 2022, the significant factor in the production of certain steel products and the volume of electricity consumption was the demand for certain steel products and their prices, the cost of electricity as one of the basic items of production costs. Accordingly, in conditions of energy-intensive manufacturing of the product concerned, the influence of the cost of electricity is direct.

The period of the russia's war of aggression against Ukraine was accompanied by a sharp increase in the cost of electricity, which, against the background of a decrease in demand, was also reflected in the volume of production and, accordingly, the total consumption of electricity.

Thereby, while in revenge for its military losses on the ground russia continues terrorizing Ukraine by attacking critical infrastructure, the problems in ensuring production arose critically, regarding that for the stable operation of the enterprise, there must be a guaranteed supply of electricity. Herewith, the full restoration of the energy infrastructure can not be carried out in any way in the foreseeable future, even in the condition that russia stops shelling the critical infrastructure which it regularly shells.

As a result of the destruction of critical infrastructure in the Dnipropetrovsk and Zaporizhzhia regions and the above restrictions on the supply of electricity since November 2022 the production of certain steel goods was stopped (shutdown lasted until March 2023) or was significantly reduced. To restore the production chains, it is necessary to have a raw material base and the logistics of its supply, to provide technological units with qualified personnel, and this issue is currently relevant. During the following period and until today, only a part of the production facilities of the enterprises has been launched.

Herewith, the hostilities had a negative impact on the availability of personnel necessary for the production processes, in particular in the light of ongoing conscription to the Armed Forces of Ukraine.

During the war the number of employees had decreased significantly – for example, if there were 69,1 thousand workers directly employed in all steelmaking plants in 2021, in 2022 their number reduced to 37,8 thousand (-45.3%), first of all, due to the destruction of enterprises and mobilization to the Armed Forces of Ukraine. In 2023 the number of employees continued to decrease (-8.7% to 2022). The number of remained employees is not enough to achieve the 100% productivity of the Ukrainian steelmaking industry.



Moreover, the employees regularly have to hide in shelters within their daily operating activity and the production cycle, the operating activity is interrupted by the needs to save people's lives due to sever attacks of russian troops. Communication networks in the area are often damaged and majority of administrative staff may be executing their duties remotely that makes it very difficult for them to ensure normal level of cooperation.

Due to the above-mentioned reasons, as well as the lack of sufficient water supply and limitation of energy consumption, the threat of missile attacks, the production facilities work unstably with interruptions, which is reflected in the work indicators of the enterprises.

Lack of sufficient water supply is caused by the undermining by the troops of russia of the Kakhovka HPP dam (hydroelectric power plant) in June 2023. Due to the lack of technical water and also as a result of the low quality of water supplied from alternative sources, steel production had to be stopped for some period of time until the quality indicators of the water supplied were stabilized. Moreover, the mentioned circumstances negatively affected the equipment for preparing water for technological processes, which led to the need for its replacement.

1.2. Logistical challenges

The current state of the enterprises work is characterised by a decrease in production and sales of finished products, which was a consequence of the russia's war aggression against Ukraine, the blockade of seaports, and the inability to use traditional logistics routes.

Thereby for the last two years it drastically fell due to the russia's military invasion, and all related reasons provided in this Written Submission.

Other important point for current price formation is extremely complicated logistics conditions resulted by the russia's armed aggression against Ukraine.

Since 24 February 2022, after the start of full-scale armed invasion, shipment by water transport through Ukrainian ports was very limited, there is only Izmail Sea Commercial Port, which is extremely overloaded. Sea straits were closed in Ukraine. The above is confirmed by the Order № 256 "On the closure of seaports" adopted by the Ministry for Communities, Territories and Infrastructure Development of Ukraine dated 28 April 2022; information from official sources of the Ministry for Communities, Territories and Infrastructure Development of Ukraine. Ports in Berdyansk, Mariupol, Skadovsk are not working due to the temporary occupation of these cities by russia, or their blocking. Regarding the ports "Pivdenny", "Mykolaiiv", "Olvia", "Kherson", "Odessa", "Chornomorsk" and "Bilhorod-Dnistrovskiy" since 24 February 2022 the export of the products concerned from these ports is also not possible due to the constant shelling by russia.

Recently certain ports of Odesa region resumed cargo processing, but it is still not comparable with rhythmic and uninterrupted operations prior to full scale russia's

armed invasion. Moreover, high insurance premium for these routes make transportation of certain goods hardly economically viable.

Other way of transportation, which should be mentioned is the one by means of rail transport. However, there are a number of problems, which make it impossible for JSC “Ukrainian Railways” to increase the transportation of export goods in the necessary volumes, namely:

- insufficient capacity of state border crossing points;
- technical and organisational incompatibility of railway systems of Ukraine and the European Union (for example NCTS in railway transportation between Ukraine and the EU Member States is not operational);
- the limited ability of the railway system of the countries of the European Union to serve the necessary cargo flow from Ukraine, which has increased significantly due to the Russia’s military invasion.

Another obstacle in the organisation of the transportation of goods by railway transport during military operations on the territory of Ukraine is a significant increase in the railway tariff (by 70%).

The last variant of transportation remains by roads and now it is also complicated by huge queues at the state border and the blocking of cargo transport from Ukraine by certain neighbouring countries in particular blocking of Ukrainian-Polish and Ukrainian-Slovak borders for the Ukrainian export and import by trucks.

Though trucks are not the key mean to export the Ukrainian steel products, lately they started to play more significant role due to the above-mentioned Ukrainian seaports blockade and lack of necessary number of railway cargo carriages. But since border blockade commenced, it became very challenging to deploy this route.

Such complicated logistics entails the following main problems:

- increase in price of transportation by 4 to 6 times (compared to the period before 24 February 2022);
- decrease in the product quality as a result of new transportation means;
- increase in time of transportation.

1.3. Decreased exports

Taking into consideration the loss of number of steelmaking enterprises, decrease of production on survived metallurgical plants (30-70% of pre-war productivity) as well as forced change of produced assortment (lost flat capacities in Mariupol), Ukrainian steel enterprises even have to compensate the deficit of certain positions by import of respective product mix.

Taking into account huge post war recovery requirements and above-mentioned production capacity issues while consequences of the war are only accumulating it should be noted that eventually domestic consumption will be growing significantly, and production will first of all be directed to meet the needs of the domestic market (recovery and reconstruction purposes).

Considering that Ukrainian manufacturers of the products concerned are under constant fire it affected the capacities, production, cost of production and export potential. Opportunities for exports sales are significantly inhibited since both cost and times of transportation have increased.

Concerning the safeguard product mix, the dynamics of its export to EU from Ukraine within 2021-2023 is shown in a table below, that confirms a significant decrease of exported volumes in a wartime.

Group	Product Mix	CN	2021	2022	2023
2	Non-Alloy and Other Alloy Cold Rolled Sheets	7209, 7211, 7225, 7226	250 650	92 495	148 705
7	Non-Alloy and Other Alloy Quarto Plates	7208, 7210, 7225	827 835	696 593	806 489
13	Rebars	7214	104 823	105 713	62 177
14	Stainless Bars and Light Sections	7222	13 777	5 214	1 548
16	Non-Alloy and Other Alloy Wire Rod	7213, 7227	324 507	333 894	229 925
17	Angles, Shapes and Sections of Iron or Non-Alloy Steel	7216	50 211	3 130	6 757
21	Hollow Sections	7306	60 851	22 248	25 113
20	Gas Pipes	7306	52 098	27 194	37 669
22	Seamless Stainless Tubes and Pipes	7304	13 263	11 876	15 321
24	Other Seamless Pipes	7304	96 785	100 824	130 068
27	Non-Alloy and Other Alloy Cold Finished Bars	7215, 7228	36 261	20 448	12 618
28	Non-Alloy Wire	7217	64 720	88 551	115 205
	TOTAL		1 895 782	1 508 180	1 591 595

At the same time it is worth noted the Proclamation of the President of the United States of America of 31 May 2023 which extended the suspension of the additional 25% customs tariffs on steel imports from Ukraine to the U.S. for 1 year (until 01 June 2024), and also extended the right to duty-free access to the U.S. market for steel products produced in the EU using Ukrainian semi-finished products that provides the possibility to export steel products from Ukraine to the EU for

processing on its territory and further export to the U.S.

Besides, on 25-26 September 2023 was held a hybrid meeting of the 94th session of the OECD Steel Committee where the Ukrainian delegation provided presentation concerning the rebuilding of Ukraine's iron and steel sectors.³

Ukraine certainly shares the EU concerns regarding the need to address global steel overcapacity. It is worth noted that on 22 November 2023 an association of Ukrainian steel and mining companies, "Ukrmetallurgprom", was unanimously accepted as a new associate member of the European Steel Association (Eurofer) and ready to work closely on these issues with European partners.

Herewith, in the meanwhile the EU market due to its geographical proximity is the most important and convenient for deliveries from Ukraine and vital for the economic and national security of Ukraine as a whole and in particular metallurgical sphere which has historically been an anchor that helps maintain stable employment and keep political stability throughout the nation, as well as it is a net exporter of its products, due to which Ukraine has received and continues to receive significant foreign exchange earnings. Domestic production and exports alike the whole economy of Ukraine is already awfully affected by the war.

Conclusion

Steel industry constitutes a significant part of the Ukrainian economy, which, in its turn, determines Ukraine's capability to counteract russia's war of aggression against Ukraine. Therefore, the ability of Ukrainian metallurgical enterprises to export is vital both for their future existence and for the economic and national security of Ukraine as a whole.

It should be taken into account nowadays reality of the brutal and unprovoked full-scale russia's military invasion. Ukrainian economy has changed dramatically, and such a change is of a long-term character. Herewith, it is worth noted that the consequences of this war are increasing every time, and every time they are becoming more global affecting different spheres of Ukrainian industry and economy at all.

Indeed, the unprecedented damage caused to the domestic infrastructure of Ukraine as a result of the russia's full-scale armed invasion in Ukraine will require significant restoration and rebuilding during the post-war recovery, and the products concerned will play an essential role in it.

³ https://www.oecd.org/industry/ind/94th_Steel_Committee_Green_Marshall_Plan.pdf.

The perspectives that Ukraine would increase its production and export to such an amount that it would be able to cause or threaten to cause serious injury to the EU industry is impossible in the foreseeable future, especially while the war is continued.

Hence, Ukraine believes that there are no grounds to resume imposition of safeguard measures on imports of certain steel products originating in Ukraine and is confident that there is evidence to terminate safeguard measures on imports of products concerned originating in or exported from Ukraine.

Therefore, we respectfully ask the Commission to terminate safeguard measures on imports of certain steel products originating in or exported from Ukraine.

Views of the Government of Japan on the “Notice of initiation concerning the possible extension of the safeguard measure applicable to imports of certain steel products” (C/2024/1460) issued by the European Union on February 9, 2024, and EU’s notification to the WTO Committee on Safeguards (G/SG/N/6/E/1/Suupl.3) on February 9, 2024

February, 2024

1. Japan and the European Union (hereinafter referred to as “EU”) have maintained sound relationship in the economic area for decades and have contributed greatly to maintaining and strengthening multilateral trading system so far.
2. The Government of Japan has the honour to submit its views on EU’s “Notice of initiation concerning the possible extension of the safeguard measure applicable to imports of certain steel products” (C/2024/1460), dated on 9 Feb. 2024, as well as its notification to WTO Committee on Safeguards, dated 9 Feb. 2024 (G/SG/N/6/EU/1/Suppl.3) on the initiation of extension review investigation of the safeguard measures on steel products, since the Government of Japan is deeply concerned about the initiation of this review investigation.
3. The concerned safeguard measures started in July 2018, originally with 3-year duration (until June 2021), and have been extended for another 3 years (until June 2024). However, the Panel Report in DS595 (EU-Safeguard Measures on Certain Steel Product) found that the safeguard measures, as it started, lacked the basic prerequisites including "unforeseen developments" and "threat of serious injury", and therefore recommended, subsequently adopted by the DSB, the EU to bring its measures into conformity with relevant WTO Agreements.
4. The safeguard measures may be extended only when the investigating authority determines that the measures “continue[] to be necessary to prevent or remedy serious injury” (Article 7.2 of the Agreement on Safeguards). Accordingly, it is hard to imagine that the measures which lacked the prerequisites such as “threat of serious injury” turns out to “be necessary to prevent or remedy serious injury” after 6 years.
5. While the EU's proposed implementation of the aforementioned DSB recommendations was notified (G/SG/N10/EU/1/Suppl.16), EU’s implementation was to continue the safeguard measures as they are, just supplementing the findings in the original determination. Japan casts doubts as to whether this implementation is consistent with the DSB recommendations.

6. Since the imposition, the Government of Japan constantly expressed, including at the WTO SG Committee, its concerns on the WTO consistency, and insisted that the measures should be terminated as soon as possible. However, it is deeply regrettable that the measures have been continued until now and the further extension review investigation has been initiated.
7. While the safeguard measures should be terminated as soon as possible, if a further extension is determined, we request flexible adjustment to the TRQs of category 1 (hot-rolled plates) and category 16 (wire rods), such as increasing the amounts of quotas or establishing Japan-specific TRQs, since “other countries” quotas in these categories have been constantly exhausted and insufficient.
8. The Government of Japan strongly requests that the EU conduct the review carefully, by paying due consideration to the full consistency with the WTO Agreement, and by considering the interests of Japanese steel manufacturers and users of Japanese steel products within the EU. In this context, the Government of Japan reserves its rights to make further requests permitted under the WTO Agreement.



Schweizerische Eidgenossenschaft
Confédération suisse
Confederazione Svizzera
Confederaziun svizra

Mission of Switzerland to the European Union

Reference: 793.9-04
Note number :15/2024

The Mission of Switzerland to the European Union presents its compliments to the Directorate-General for Trade of the European Commission and has the honour to refer to the Note Verbale dated 9 February 2024, by which the Directorate-General for Trade of the European Commission informed of the Notice of Initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products (C/2024/1460).

The Swiss authorities submit the following requests concerning the review of a possible extension and, in case the European Commission concludes that the safeguard measure should be prolonged, concerning technical adjustment to the functioning of the safeguard measure under letter A, B, and D of the Notice of Initiation.

i) The safeguard measures applicable to imports of certain steel products shall be terminated by 30 June 2024

As Switzerland has outlined in several communications to the Directorate-General for Trade, the termination of the safeguard measures by June 2024 is particularly crucial, as the measures are restricting traditional trade flows between Switzerland and the EU with the situation having continued to aggravate since summer 2023.

Specifically, the residual tariff-rate quota (TRQ) for product category 1 *Non Alloy and Other Alloy Hot Rolled Sheets and Strips* was exhausted on the very first day in the previous (1 October – 31 December 2023) as well as the current quarter (1 January – 31 March 2024). A similar situation had already occurred in summer 2023, when the TRQ was exhausted on 25 July 2023. Faced with a safeguard duty of 25%, a heavy financial burden that neither Swiss exporters nor their EU customers can bear, Swiss exporters have not been able to supply their EU customers. According to information from the Swiss industry, the situation is unlikely to improve over the coming months.

The Swiss authorities reiterate that bilateral steel trade shall be allowed to continue unrestricted between the EU and Switzerland. And that, according to the Free Trade Agreement between European Commission
Directorate-General for Trade
Directorate G, unit G5
1049 Brussels

Switzerland and the EU, priority shall be given to measures that least disturb the functioning of the agreement. The Swiss authorities are of the view that the current situation, which amounts to a *de facto* ban of certain steel imports from Switzerland into the EU is not in line with the relevant provisions of the Agreement.

Moreover, due to the strongly integrated value chains of the steel industries in the EU and Switzerland, it is in our common interest not to impair bilateral trade flows. The Swiss authorities recall that Swiss exporters have not contributed to the problem of global steel-making excess capacity and their exports to the EU have not had any detrimental effects on EU steel markets. On the contrary, the Swiss and EU steel and associated industries are highly integrated, with the vast majority of Swiss steel exports to the EU being based on EU inputs. Hence, the EU safeguard measures adversely affect established supply chains between Switzerland and the EU.

These considerations warrant, from the Swiss point of view, a termination of the safeguard measures.

The Swiss authorities request that the EU safeguard measures applicable to imports of certain steel products shall be terminated at the latest by 30 June 2024.

- II) In the case the European Commission concludes that the safeguard measure should be prolonged, they shall not restrict traditional trade flows between the EU and Switzerland and any extension of the measures should be limited to what is absolutely necessary and include an increased pace of liberalisation**

A./B. Modification in the allocation and management of tariff-rate-quotas to avoid crowding out of traditional trade flows between economic operators in the EU and Switzerland

With regard to the specific application of the safeguard measures and referring to the worsening situation for product category 1 described above, traditional trade flows for product category 1 are crowded out by countries able to largely increase their production capacity. Suppliers that are in a position to increase their production capacities within a short period of time and often deliver their products by sea, hence being able to use the available volumes of the TRQ within a single shipment, are crowding out traditional suppliers from countries such as Switzerland. This disrupts long-established regional supply chains and is to the detriment, not only of the Swiss exporters, but also of their EU customers. Despite several modifications undertaken by the European Commission (e.g., enlarged residual TRQs for certain countries and further liberalisation of the safeguard measures) the situation has not improved.

The Swiss authorities request that the EU immediately undertakes all possible actions, including the necessary adjustments to the residual TRQ for product category 1, to ensure that traditional trade flows can continue unrestricted. In particular, the Swiss authorities request the EU to consider a country-specific TRQ under product category 1 for Switzerland or the introduction of sub-categories for product category 1 to avoid crowding out of traditional trade flows within this product category (see Annex 1).

D. Any extension of the EU safeguard measures should be limited to what is absolutely necessary as well as include an increased pace of liberalisation

In the event the safeguard measures can be proven to remain necessary to prevent serious injury and that there is evidence that the industry is adjusting, Switzerland recalls that according to paragraph 4 of Article 7 of the WTO Agreement on Safeguards, a Member imposing safeguard measures for more than one year is obliged to progressively liberalise the measures at regular intervals during the period of application. If the duration of the measures exceeds three years, the Member applying such measures shall review the situation not later than the mid-term of the measures and, if appropriate, withdraw it or increase the pace of liberalisation.

In Commission Implementing Regulation (EU) 2019/1590 of 26 September 2019 the EU decided to lower the liberalisation rate from the initially defined pace of liberalisation of 5% to 3% for the second and third year of the safeguard measures, and has since adjusted the liberalization rate to 4% in Commission Implementing Regulation (EU) 2022/978.

In case the EU were to determine that the strict requirements for an extension of the safeguard measures are again fulfilled, Switzerland requests that the EU at least applies the initially defined pace of liberalisation of 5% in order to ensure that the adjustment of the industry continues. In any event, the safeguard measures shall not be made more restrictive, as provided for in Article 7.4 of the Agreement on Safeguards.

Furthermore, any possible extension of the safeguard measure shall be as little trade-restrictive as possible and be applied for the shortest period of time as may be necessary.

In any event, Switzerland reserves its rights under the WTO agreement on safeguards.

III) Final remarks

The Swiss authorities reiterate their request to terminate the EU safeguard measures on certain steel products at the latest by 30 June 2024 and to publish the related decision as early as possible. Swiss exporters work with long-term delivery contracts, hence short-term changes endanger the long-established relationships with their EU customers. Therefore, Switzerland considers that planning security for economic operators should be considered in the review process of safeguard measures.

In order to further clarify the Swiss position, Switzerland requests consultations as offered in the Note Verbale dated 9 February 2024.

The Mission of Switzerland to the European Union avails itself of this opportunity to renew to the Directorate-General for Trade of the European Commission the assurances of its highest consideration.



Annex: Proposal for Establishment of Sub-Categories in Product Group 1

Brussels, 26 February 2024



Annex: Proposal for Establishment of Sub-Categories in Product Group 1

1) Non Alloy and Other Alloy Hot Rolled Sheets and Strips	<p style="text-align: center;">Sub-category With a width of 600 mm or more</p> <p>7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7225 19 10, 7225 30 10, 7225 30 30, 7225 30 90, 7225 40 15, 7225 40 90</p> <p style="text-align: center;">Sub-category With a width of 600 mm or less</p> <p>7211 13 00, 7211 14 00, 7211 19 00, 7212 60 00, 7226 19 10, 7226 91 20, 7226 91 91, 7226 91 99</p>
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PUBLIC

**SUBMISSION OF THE GOVERNMENT OF THE REPUBLIC OF KOREA
REGARDING THE POSSIBLE EXTENSION AND REVIEW OF
THE SAFEGUARD MEASURES APPLICABLE TO
IMPORTS OF CERTAIN STEEL PRODUCTS**

26 February 2024

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- The risk of trade diversion to the union has been significantly reduced with Section 232 quota agreements between the US-UK and US-Japan.

III. EU steel safeguard measure needs adjustment to the functioning of the measure in case it is to be further extended

A. Allocation and management of tariff-rate quotas

- The Korean Government requests an increase of the Country-specific quota for certain products which have a very high rate of quota exhaustion in the context of green transition
- Break down of products into subcategories according to its different usage is required for efficient management of the tariff-rate quotas.
- Possible introduction of 'Product Exclusion Process'

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D. Other changes of circumstances that may require an adjustment to the level or allocation of the tariff-rate quota

- Among the four trade defence measures that has been imposed by the Korean Government against EU, two of the measures are lifted or will be removed without further extension before May 2024
- Statistics for quota exhaustion rate amidst the ongoing Red Sea shipping crisis need to be carefully reflected to the period of this safeguard year.
- Korean Government would like to include suggestion for statistics exchange in limited number of products where there is no residual quota for Q4 and statistical discrepancy continues

IV. Conclusion

I. INTRODUCTION

1. The Government of Republic of Korea (“**Korean Government**”) hereby submits its views on the Notice of initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products (“**EU steel safeguard measure extension review**”)(C/2024/1460) initiated by the European Commission (“**Commission**”) on 9 February 2024.
2. Definitive Safeguard measure was imposed by Regulation (EU) 2019/159 on 31 January 2019¹ (“**EU steel safeguard measure**”) and extended on 24 June 2021 by Commission Implementing Regulation (EU) 2021/1029 (“**prolonged safeguard measure**”).²
3. According to the notice of initiation of the extension review, the Commission will assess whether the prolonged safeguard measure should be terminated by 30 June 2024 – at latest. To this end, the Commission will focus on collecting and analysing any relevant evidence and data to determine whether (1) whether the safeguard measure continues to be necessary to prevent or remedy serious injury (2) whether there is evidence that Union producers are adjusting (3) whether a prolongation would be in the Union interest (4) appropriate duration of the extension (if any) (5) (In case the Commission concludes that the safeguard measure should be prolonged, the investigation will also assess) whether any technical adjustment to the functioning of the measure would be necessary.
4. On this basis, the Korean Government submits the following with regard to the EU steel safeguard measure extension review.

¹ 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.

² Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products, 2021 O.J. (L1 225) 1.

II. EU STEEL SAFEGUARD MEASURE SHOULD BE WITHDRAWN

CONSIDERING THE INSUFFICIENT LEGAL AND FACTUAL GROUND FOR ITS EXTENSION

5. **The EU steel safeguard measure has been deemed World Trade Organization (“WTO”)-inconsistent**, in particular with respect to the Commission’s finding that the Union producers were in a situation of serious injury.

The Korean Government submits that the Commission should terminate the prolonged safeguard measure in light of the fact that the WTO Dispute Settlement Body has deemed the EU steel safeguard measure WTO-inconsistent.³

In particular, the EU steel safeguard measure is inconsistent with Article 4.1(b) of the WTO Agreement on Safeguards because two central elements of the Commission’s determination of a threat of serious injury were not “based on facts”, namely (i) the finding that the domestic industry was “in a fragile and vulnerable position”, despite its improved performance in 2017 (that is, the year prior to the imposition of the provisional steel safeguard measure) and (ii) the finding that a further increase in import volumes in the future would bring about serious injury to the domestic industry.⁴

In its view, the Korean Government considers that this violation cannot be cured, and is, in any event, not rectified by the European Union’s proposed implementing measures outlined in its Notification dated 1 December 2022 made to the WTO Committee on Safeguards in document G/SG/N/10/EU/1/Suppl.16⁵ For example, the Commission’s revised determination of threat of serious injury does not explain and demonstrate why the Union producers were in a fragile situation despite improvements in its capacity to operate in the face of constantly increasing imports.

³ *European Union – Safeguard Measures On Certain Steel Products*, Panel Report, Action by the Dispute Settlement Body, 3 June 2022, available [here](#). *European Union – Safeguard Measures On Certain Steel Products*, Panel Report, available [here](#).

⁴ *Ibid.*

⁵ Notification pursuant to Article 12.1(C) of the Agreement on Safeguards European Union Certain Steel Products Supplement, G/SG/N/10/EU/1/Suppl.16, available [here](#).

This reveals that the Union producers were not facing a threat of serious injury in the first place so that the prolonged safeguard measure should be withdrawn forthwith.

Furthermore, the EU steel safeguard measure violates Article XIX:1(a) of the General Agreement on Tariffs and Trade (“GATT”)1994 because the Commission did not sufficiently explain how the increase in imports took place as a result of the identified unforeseen developments and did not identify the GATT 1994 obligations whose effect resulted in the increase in imports.⁶ While the Commission has proposed implementing measures to remedy this violation,⁷ the Korean Government highly doubts that the Commission has fully remedied its error to continue justifying the application of the prolonged safeguard measure beyond 30 June 2023.

The Korean Government thus calls on the Commission to lapse the prolonged safeguard measure on 30 June 2024 in view of the EU steel safeguard measure’s inconsistencies with WTO rules. The Korean Government considers that this would be a positive step in restoring the Union’s respect for WTO rules and stopping the negative effects of the prolonged safeguard measure on third countries’ trade, and notably Korea’s, trade.

6. **The risk of trade diversion to the Union has been significantly reduced with the change in global market conditions due to the fact that the United States (“US”) has granted certain exemptions to its Section 232 measures,** the prolonged safeguard measure should be terminated as the risk of trade diversion to the Union has been reduced.

The US granted Japan an exemption from the 25% tariff on Japanese imports of steel products under Section 232 and an annual tariff-rate quota of 1.25 million metric tons under 54 product categories on 7 February 2022.⁸ The US also granted the UK the

⁶ *European Union – Safeguard Measures On Certain Steel Products*, Panel Report, available [here](#), para. 8.1.

⁷ Notification pursuant to Article 12.1(C) of the Agreement on Safeguards European Union Certain Steel Products Supplement, G/SG/N/10/EU/1/Suppl.16, available [here](#).

⁸ Announcement Of Actions On Japanese Imports Of Steels Under Section 232, 7 February 2022, available [here](#).

same exemption as Japan with an annual tariff-rate quota of 0.5 million metric tons under 54 product categories in March 2022.⁹ These exemptions and quotas are in addition to the full exemptions to the Section 232 measures which were granted to Australia, Canada and Mexico, and the import quotas granted to Argentina, Brazil and South Korea previously.¹⁰ The fact that these countries, which make up a significant share of imports into the Union market, are no longer dis-incentivized from exporting to the US market, means that the risk of the trade diversion to the Union has diminished. The main rationale for the imposition of the EU steel safeguard measure and its prolongation¹¹ is thus called into question.

In addition, the US granted the Union a similar exemption from the Section 232 measures and an annual tariff-rate quota as the UK and Japan in October 2021.¹² This has freed up 3.3 million metric tons under 54 product categories for Union steel exports annually, in addition to 1.1 million metric tons in light of the automatic extension of the application of exclusions granted for and utilized in US fiscal year 2021 until 31 December 2023.¹³ Accordingly, any injury caused to the Union producers as a result of trade diversion resulting from the Section 232 measures has been mended so that the prolonged safeguard measure is no longer needed.

7. In light of the above, the Korean government considers that the EU steel safeguard measure is no longer warranted and should be withdrawn. Six years of application of a safeguard measure has been enough to provide protection to the Union domestic steel industry and Union producers. The Korean government thus respectfully requests that the Commission duly consider the comments in this submission and terminate the prolonged safeguard measure by 30 June 2024.

⁹ Announcement of Actions on UK Imports Under Section 232, 22 March 2022, available [here](#).

¹⁰ Section 232 of the Trade Expansion Act of 1962, CRS, available [here](#), p. 2.

¹¹ Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products, 2021 O.J. (L1 225) 1, at recital 31.

¹² Announcement of Actions on EU Imports Under Section 232, 31 October 2021, available [here](#).

¹³ Announcement of Actions on EU Imports Under Section 232, 31 October 2021, available [here](#).

III. EU STEEL SAFEGUARD MEASURE NEEDS ADJUSTMENT TO THE FUNCTIONING OF THE MEASURE IN CASE IT IS FURTHER EXTENDED

A. Allocation and management of tariff-rate quotas

8. **The Korean Government requests an increase of the Country-specific quota for certain products which have a very high rate of quota exhaustion** and the products that marks 100% exhaustion rate for country-specific quotas need an additional consideration for increase in allocation of tariff-rate quotas, if needed.

Currently, product category number 1(non-alloy and other alloy hot rolled sheets and strips), 2(non-alloy and other alloy cold rolled sheets), 4(metallic coated sheets) and 15(stainless wire rod) are known to exhaust high rate of it quotas.

9. Since the measure lasted for more than five years, the Korean Government views that it was sufficient period of time to prevent or remedy serious injury. In fact, the industry had around five years to adjust and trade diversion effect has decreased in current market situations. With the changes in global market conditions, there needs to be a review on the increase in quotas for product category number 4(metallic coated sheets).

Green transition would affect the global supply chain in upcoming years and stable supply of product category number 4(metallic coated sheets) would be critical for EU in its green diversions in various sectors including electric cars. With the expected increase in demand for the electric cars with the newly introduced environment-friendly regulations, EU may consider adjustments to its safeguard measure related to the environment-friendly transitions ahead of the change in global supply.¹⁴ Specifically, given that the EU steel manufacturers may not be able to fully meet the demand of the automotive sector alone in the years to come, the Commission is respectfully requested to increase the country specific TRQ at least by 41,000 metric tons for product category 4A, around 36,000 to 60,000 metric tons for

¹⁴ On a separate note, the UK Trade Remedy Authority recently announced its plan to review suspend steel safeguard on a certain product category to ensure stable supply of the product (UK Trade Remedies Authority case number SS0051 (Notice of Initiation of a suspension review on category 1 steel HRFC))

category 4B and by 20,000 metric tons for cold-rolled coils from South Korea respectively to reflect the growing demand in the abovementioned industries which has been taking place as of recently.

10. Also, in terms of the potential adjustment to the tariff-rate quotas, the **Korean Government requests break down of products into subcategories according to its different usage is required for efficient management of the tariff-rate quotas.**

According to the Annex which lists products under the investigation, **product category number 16** (Wire Rod) needs to be classified into subcategories according to its characteristics. Wire Rod can be divided into low-carbon and high-carbon products according to its usage. Like in other product categories which set different aspects of products into A and B, we suggest having product category number 16A and 16B based on their traits and utilization.

11. On additional note, introducing a new means of tariff-rate quota management is suggested. Specifically, **possible introduction of ‘Product Exclusion Process’** for the products that (1) bring contribution to European economy by having foreign companies invest in EU countries and creating jobs to increase employment rate, (2) are not domestically produced or not produced sufficiently in EU countries, (3) has low level of objection from the domestic interest groups may be adopted according to its benefits to the EU producers. In fact, this may bring price-down effect to the downstream productions with the diverged suppliers in regards to **the product category number 1**(non-alloy and other alloy hot rolled sheets and strips).

B. Crowding out of traditional trade flows

12. EU steel safeguard measure extension review(C/2024/1460) outlines that the Commission would “*examine whether any specific adjustment is necessary due to unduly crowding out effects of the TRQ on traditional trade flows, including to the regime for access to the residual quota.*” In this regard, the Korean **Government raises concerns on certain countries’ dominance of residual quota against the traditional trade flows when it comes to product category number 1**(non-alloy and other alloy hot rolled sheets and strips) **and 16**(wire rod). Recently, the residual quotas for product number 1 and 16 were exhausted within one to three days at the

start of each quarter with a few number of countries exported unprecedented amount of products at an unprecedented pace.

13. Notably, in some cases relating to the **product category number 1** (non-alloy and other alloy hot rolled sheets and strips) and **16** (Wire Rod), a country without national-specific quota is exporting in excess of the volume a of a certain country's national quota. This undermines the will and intention of the EU steel safeguard measure against the traditional trade flow. Thus, a special regime to prevent certain countries from monopolizing the residual quotas should be adopted. The Government of Korea requests for the detailed review to preserve the Commission's intention in setting national-specific quotas and to ensure fair use of residual quota.

C. Level of liberalization

14. **The Government of Korea requests EU Commission an increase in level of liberalization to at least 5%** according to the initial Regulation (EU) 2019/159 of 31 January 2019 originally prescribed to increase the level of free duty quota by 5% after each year. Later, however, the Commission decided to lower the liberalization rate from 1 October 2019 onwards to 3%. This 3% rate was maintained for the initial period of three years. The Regulation extending the safeguard measures beyond the initial period of three years also maintained this reduced rate of 3% for the period running from 30 June 2021 to 30 June 2022. The Commission only decided to increase the liberalization rate by 1%, to 4% as of 1 July 2022 and which remains applicable as of today.
15. In this respect, it must be highlighted that both the WTO Agreement on Safeguards and Regulation 2015/478 on common rules for imports promote a gradual liberalization of the applicable safeguard measure and require reviewing the extended safeguard measure, for it "shall not be more restrictive than it was at the end of the initial period." However, the currently applicable liberalization rate of 4% has been in place for two years without any increase, or liberalization.
16. If the Commission decides to extend the safeguard measure beyond 30 June 2024, the Government of Korea maintains that the rate of liberalization should also be increased in view of the current market conditions and the demand, as explained in

the present submission. The Government of Korea recommends increasing the rate to at least 5%, i.e., the same level that was introduced in the initial Regulation imposing the safeguard measures.

D. Other changes of circumstances that may require an adjustment to the level or allocation of the tariff-rate quota

17. In EU's extension review (C/2024/1460), the Commission states that 14 Member States requested to examine pursuant to Article 19 of Regulation (EU) 2015/478 of the European Parliament and of the Council¹⁵ and Article 16 of Regulation (EU) 2015/755 of the European Parliament and of the Council¹⁶ whether the current safeguard measure should be extended. One of the elements of the request points that a relevant number of trade restrictive measures and trade defence measures by third countries continue being adopted.
18. On this point, Korea would mention that **among the four trade defence measures that has been imposed by the Korean Government against EU, two of the measures are lifted or will be removed without further extension before May 2024** – in regards to the Spanish stainless steel bars and Italian stainless steel bars. As demonstrated in this anti-dumping termination, the Korean government puts importance on the economic cooperation with the EU. In this context, we would welcome termination of the safeguard measure or at least some improvements in its potential adjustments to the functioning of the measure.
19. **Delay in global shipping due to the Red Sea crisis should be reflected in tariff-rate quotas in a timely manner with careful attention on the impact of the crisis.** Due to the prolonged shipping period as a result of attacks and counter strikes around the Red Sea, exporting companies are experiencing difficulties as they can not sail through Suez Canal which used to be the vital route for international shipping connecting Asia and Europe. Although the exports are done as usual, companies are experiencing at least two weeks of delay in their delivering schedule. If this situation

¹⁵ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports; OJ L 83, 27.3.2015, p. 16.

¹⁶ Regulation (EU) 2015/755 of the European Parliament and of the Council of 29 April 2015 on common rules for imports from certain third countries; OJ L 123, 19.5.2015, p. 33.

lasts long, there are concerns that the exported amounts cannot be counted in their intended period of quarter of the year. In case the EU steel safeguard measure is to be further extended, statistics for quota exhaustion rate amidst the ongoing Red Sea shipping crisis need to be carefully reflected to the period of this safeguard year (which ends on 30 June 2024).

20. In this submission of the paper, **the Korean Government would like to include suggestion for statistics exchange in limited number of products where there is no residual quota for Q4 and statistical discrepancy continues – product category number 5 (Organic Coated Sheets)**. Although trade statistics at CN code level are publicly available on the EUROSTAT and information on the TRQ use could be found via Taxation and Customs Union database, updates take more than one month to have most up-to-date and precise numbers. This becomes problematic as the end of each quarter approaches, and around the end of each safeguard year, since accurate number is required to meet the allocated amount of tariff-rate quotas.

IV. CONCLUSION

21. In light of above, the Korean Government considers that the EU steel safeguard measure is no longer warranted and should be withdrawn. Five years of application of a safeguard measure has been enough to provide protection to the Union domestic steel industry and Union producers. The Korean Government thus respectfully requests that the Commission duly consider the comments in this submission and terminate the prolonged safeguard measure by 30 June 2024.
22. If EU steel safeguard is to be further extended, the Korean Government requests adjustments to the functioning of the measure in terms of (A) Allocation and management of tariff-rate quotas; (B) Crowding out of traditional trade flows; (C) Level of Liberalization; and (D) other changes of circumstances that may require an adjustment to the level or allocation of the tariff-rate quota as stated in this submission.
23. The Korean government also reminds the Commission that Korea has reserved its right to suspend substantially equivalent concessions or other obligations with the EU,

Government of the Republic of Korea
Certain Steel Products

PUBLIC

referred to in paragraph 2 of Article 8 of the Agreement on Safeguards as notified to the council for trade in goods on 2 April 2019.

OPEN FOR INSPECTION BY INTERESTED PARTIES

February 24, 2024

**OBSERVATIONS REGARDING THE POSSIBLE EXTENSION IN TIME AND REVIEW OF
THE SAFEGUARD MEASURES APPLICABLE TO IMPORTS OF CERTAIN STEEL
PRODUCTS**

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I. INTRODUCTION

1. The Republic of Serbia (“**Serbia**” or “**RoS**”) has the pleasure of communicating to the European Commission (“**Commission**”) the present observations (“**Observations**”), as an exporting country of steel products, in particular non-alloy and other alloy hot-rolled sheets and strips, non-alloy and other alloy cold-rolled sheets and tin mill products.
2. The Observations are made in connection with the Notice of Initiation concerning the possible extension in time and review of the safeguard measures (the “**Measures**”) applicable to imports of certain steel products¹ (the “**Review**”), the application of which had been extended until June 30, 2024². The Review is the result of a request made by 14 Member States (“**Request**”).
3. The European Union’s (“**EU**” or “**Union**”) general trade policy aims at trade facilitation and not at obstructing trade flows. Exceptionally, trade defense measures can be adopted. Safeguard measures, in particular, can only be imposed or maintained by the Union “*where a product is imported into the Union in such greatly increased quantities and/or on such terms or conditions as to cause, or threaten to cause, serious injury to Union producers.*”³. Since safeguard measures are an exception to the general trade facilitation objective, the requirements for the adoption (and maintenance) must be carefully observed and narrowly construed.
4. It is also important to say that both the EU legislation and international agreements, such as Article 19 of the EU Regulation on common rules for imports⁴ (“**2015 Import Regulation**”) and Article 7 of the Agreement on Safeguards by the World Trade Organization⁵ (“**WTO Agreement**”) prescribe certain conditions for imposing or extending safeguard measures. Those conditions are (i) that safeguard measures continue to be necessary to prevent or remedy serious injury and (ii) there is evidence that industry is adjusting. In these Observations, Serbia will explain (albeit, given the shortness of time on a preliminary basis) that these conditions are not present.
5. Serbia’s main arguments for requesting that Measures should not be extended can be summarized as follows:
 - (i) The measures are no longer necessary to prevent or remedy serious injury:
 - a. The Union steel industry (“**EU Industry**”) has operated profitably over the last three years (and in particular in 2021 and 2022, in spite of a temporary increase in imports in 2021 and 2022) (imports in 2023 being at a level that is consistent with those during the reference period prior to 2017). Hence, at present there is no actual injury to the EU Industry that the Measures could “remedy”.
 - b. The alleged threat of future injury is not based on concerns properly linked to a future sudden surge in imports. Rather, the alleged future difficulties relate:

¹ Notice of Initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products, C/2024/1460 of February 9, 2024 Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52024XC01460>

² Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products, OJ L 225I, of June 25, 2021. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021R1029>.

³ Ibid, Article 15(1).

⁴ Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015 on common rules for imports, OJ 2015 L83/16, Article 19 (5); Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32015R0478>.

⁵ Agreement on Safeguards, WTO, Article 7. Available at: https://www.wto.org/english/docs_e/legal_e/25-safeg_e.htm.

- i. to possible export behavior from producers in certain countries that can only properly be addressed by country specific trade defense instruments. In fact, there are a number of existing anti-dumping and anti-subsidy measures already, that are adequate to address the concerns voiced in the Request, and both the EU's basic anti-dumping and the basic anti-subsidy regulations allow to deal with the circumvention concerns that the Request has raised;
 - ii. to effects (such as the US Section 232 measures (“**U.S. Measures**”)) that the Union can no longer properly rely on as a justification, because the Union has embraced them rather than seeking to avoid them. By entering into the arrangement with the U.S., and effectively abandoning a WTO challenge, the Union has opted for not challenging the U.S. Measures, avoiding their application for its own industry and has thus adopted a country specific approach, rather than an *erga omnes* approach that characterizes safeguard proceedings.
 - c. Since the Union has (through the agreement with the U.S.) abandoned the *erga omnes* approach, it is even more required to use country specific trade remedies (*i.e.*, anti-dumping and countervailing duties) to deal with any remaining trade imbalances.
 - d. By using country specific trade remedy measures the Union would also be able to respect the requirements of the Stabilisation and Association Agreements (“**SAA**”) between the Union and Serbia and the other Western Balkans jurisdictions (“**WB6**”), which has the objective of supporting WB6's transition into a functioning market economy within the EU framework. As Serbia has argued many times before, the Measures (and their extension) adversely affect Serbia's (and more generally the WB6's) competitiveness and limit trade between the EU and both Serbia and WB6.
 - e. Specifically, Serbian exports to the Union have not contributed to import surges or market pressure (and there is no indication that they would in the future), contrary to concerns raised in the Request regarding the exhaustion of tariff rate quotas and persistent import pressures.
- (ii) The EU Industry has not properly “adjusted” to the availability of steel in other parts of the world. The adjustment measures quoted in the Request essentially relate to environmental improvements of production processes. They were not implemented in reaction to possible imports of steel, did not lead to a lasting reduction of capacity, and were, moreover, financed by massive amounts of State support. Serbia takes the view that while decarbonization efforts are commendable, these measures are not “adjustments” that can serve as a justification for extending the Measures, as they are unrelated to the Measures' purpose.
 - (iii) Serbia suggests increasing or at least maintaining the current level of liberalization if the EU decides to prolong the Measures, viewing it as a temporary measure to protect against sudden import increases.

6. The Commission is aware that the effect of the Measures on the WB6 jurisdictions is important to Serbia. As such, Serbia invites the Commission to take the broader effects of the Measures on the WB6 jurisdictions into account, to which these Observations refer from time to time.

II. PROCEDURAL CONSIDERATIONS

7. The expeditious manner in which the Notice has been released raises significant procedural concerns. The Notice was made available on February 9, 2024, with a submission deadline of February 26, 2024. Such a narrow window for submissions does not allow for adequate time for stakeholders to thoroughly analyze the implications of the proposed extension and to prepare comprehensive responses.
8. Notably, both the Commission and Member States had ample time to analyze the steel industry, market conditions, and formulate arguments, whereas stakeholders are only given a mere 15-day deadline for submissions. This stark contrast undermines fairness and due process, especially considering that the Commission typically allows more days for stakeholder observations⁶. For instance, in 2022 review the Commission allowed for 24 days, while in 2023 even 42 days.
9. It is crucial to recognize that these Measures have been in place for the past six years. Considering their substantial impact on trade dynamics and market participants, it is imperative that any decision regarding their extension be made with utmost diligence and transparency. However, the timeline provided for submissions severely limits the ability of interested parties to provide meaningful input, thereby undermining the principles of fairness and due process.

III. SUBSTANTIVE CONSIDERATIONS

10. Pursuant to Article 19 of the 2015 Import Regulation and Article 7 of the WTO Agreement safeguard measures must only be extended, if (i) safeguard measures continue to be necessary to prevent or remedy serious injury and (ii) there is evidence that (EU) industry is adjusting.

3.1. Lack of Actual Injury

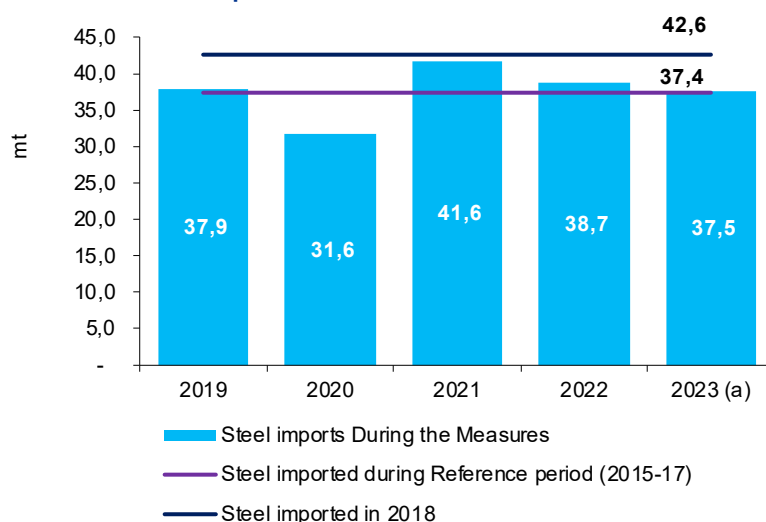
11. Serbia takes the view that the EU Industry is not presently suffering any actual injury, so that an extension cannot be justified on the basis that the Measures would be necessary to “remedy” serious injury. The absence of actual serious injury is apparent from the fact that steel imports into the Union essentially remain at the level today that existed during the original reference period of 2015-2017 (“**Reference Period**”). Moreover, the EU Industry remains a net exporter of steel (in value terms), and most importantly, the EU Industry has remained profitable during the last three years.

⁶In 2023, review notice was released on December 2, 2022, and the deadline for submissions was January 13, 2023. Please see: Notice of Initiation concerning a review of the safeguard measure applicable to imports of certain steel products 2022/C 459/06 of December 2, 2022. In 2022, review notice was released on December 17, 2021, and the deadline for submissions was January 10, 2022. Please see: 2021/C 509/10; OJ 2021 C 509/12, of December 17, 2021.

3.1.1. Imports Have Only Increased in Line with Consumption

12. Point 52 of the Request outlines the difference between the available quota level and EU real consumption in the period that includes the reference period of 2015-2017 (“**Reference Period**”) until 2024. This shows, for example, that the available quota level for 2023 increased by 21.7pp against 2019, compared to the 3.5pp increase in real consumption over the same period. This analysis omits to show the development of actual imports. Had the actual import data been included, the table would demonstrate that there is no material difference between the development in real consumption and actual imports.
13. The level of imports is presented in Point 47 of the Request, where it is stated: “*the pressure on imports into the attractive EU market has been consistent throughout the years of the measures. Even with the safeguard in place and in the context of decreased demand, imports into the EU in 2023 remain at similarly high levels to the benchmark years used to adopt the EU SFG in the first place (2015-2017)*”.

Total EU27 Steel Imports



Source: The data used from the Request, Point 47.⁷

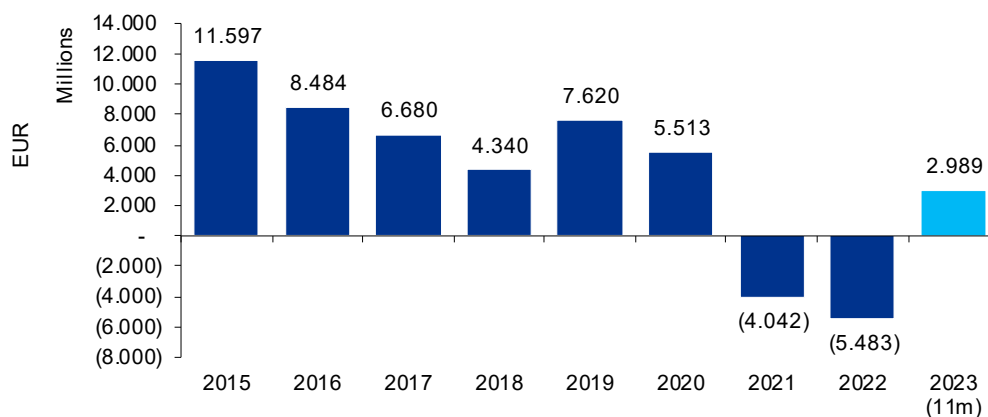
14. The observations made in Points 47 and 52 of the Request cannot stand, in particular if the data presented is viewed together. Serbia observes the following:
- The Reference Period is wrongly referred to as a period of high level of imports. Rather, when considering the introduction of the Measures in 2018, the Commission itself considered that the 2018 import levels presented the significant surge in imports compared to the Reference Period (and a threat to the EU Industry), which justified the imposition of safeguard measures. The Reference Period could not itself have been a period of abnormally high imports.

⁷ The original graph presented in the Request at Point 47 offers data per year (the “**Point 47 Graph**”). This amended graph focused instead on the actual difference between imports during the Reference Period and the level of 2018. Per our understanding, Point 47 Graph shows total imports of steel, both under the Measures and excluded therefrom. However, even in case that only the information on imports of steel under the Measures were presented, the overall conclusion would not differ.

- b. The increase in imports which supported the decision to adopt the Measures in 2018 was not matched at any point throughout the period in which the Measures were in place.
 - c. The increase in available duty-free quotas was not matched by a similar increase in actual imports, suggesting that the danger of a sudden increase in actual imports is low (this is important in connection with the threat of injury arguments addressed below).
 - d. Any temporary increase of actual imports in interim periods can be explained by other factors *i.e.*, the increase in imports in 2021 is a result of the inability of the EU Industry to ramp-up production from the low COVID-19 pandemic levels. User industries were very vocal in complaining about insufficient supplies, and the EU Industry increased its prices significantly, leading to unprecedented profit levels in 2021 and 2002 (see below).
 - e. Overall, during the application of the Measures, the EU's steel imports amounted to - on average - 37.5 million t, *i.e.*, only 0.1 million t (0.4%) more than the average imports during the Reference Period.
15. Hence, on average, actual imports remained at the level observed during the Reference Period prior to the “surge” that the Union used to justify the imposition of the Measures, and this development could be observed in circumstances where an increasing part of the duty-free import quotas were not utilized.

3.1.2. EU Retains its Trade Surplus

16. Historically, the EU has been a net steel exporter in terms of value and has maintained a trade surplus in steel trade in the period 2015-2020. The value deficit experienced in 2021 and 2022 was the result of the post COVID-19 recovery and did not affect the performance of EU producers, as presented below. During the first 11 months of 2023, the EU trade balance in steel products under the Measures recovered and recorded a surplus of EUR 2,989 million (see **Table 1** below).

Table 1 : EU Trade Balance in Terms of Value of Products**EU's Trade Balance in terms of value of the products**

Source: Eurostat

17. Hence, the EU Industry manages to export more steel than is imported into the Union so that the overall net balance is positive in value terms. It seems difficult to argue in such circumstances that the EU Industry is suffering “serious injury” from excessive import levels.

3.1.3. The EU Industry Is Profitable

18. The most obvious element demonstrating the lack of serious injury to the EU Industry is the fact that the EU Industry has generated significant profits over the last three years. This is well documented as regards the years 2021 and 2022 and public information shows that the observation still applies to 2023:

- ArcelorMittal Europe, the most significant EU producer, had its **EBITDA of USD 6,033 million and USD 2,345 million**⁸ during their 2022 and 2023 FY, respectively.
- US Steel Europe reported an **EBITDA for Q1-Q3 2023 of USD 95 million compared to EBITDA for 2022 of USD 529 million**.⁹
- Other producers, such as **ThyssenKrupp Steel Europe** achieved a **5.55% EBITDA margin** in the FY 2023.¹⁰
- Outokumpu in Europe achieved an **EBITDA margin of 2%** in FY 2023, while its **EBITDA was EUR 96 million**.¹¹

19. Given these empirical observations, Serbia maintains that the EU Industry remains profitable. Imports from third countries have remained at the level that could be observed prior to the “surge”. Moreover, an increasing portion of the import quotas were not utilized. All in all,

⁸ Please see: [4Q23 Earnings release \(arcelormittal.com\)](#) and [4q-23-analyst-model.xlsx \(live.com\)](#).

⁹ Please see: [U.+S.+Steel+and+Segment+and+Financial+Operational+Data+-+Q3+2023.pdf \(d1io3vog0oux5.cloudfront.net\)](#).

¹⁰ Please see: [Annual report 2022/2023 \(d2zo35mdb530wx.cloudfront.net\)](#).

¹¹ Please see: [Financial statements release 2023 \(cision.com\)](#).

there is no indication that the EU Industry suffers from actual serious injury that could, or would be able to, be remedied as a result of the extension of the Measures.

3.2.No Threat of Future Injury

20. Serbia takes the view under Article 19 of the 2015 Import Regulation and Article 7 of the WTO Agreement that any extension of the safeguard measures would also not be necessary to prevent serious injury from occurring in the future. To the extent the Request is based on the theory that there is a threat of future serious injury, Serbia takes the view that such allegations are not supported by substantiated evidence and that any support the Request seeks to draw from the existence of the U.S. Measures is legally unsound.

3.2.1. There Is No Evidence for a Risk That a Surge of Imports Would Reoccur and Cause Serious Injury

21. Serbia takes the view that the Request does not present any basis for the conclusion that in the absence of an extension there would be a new surge in imports that would cause serious injury. Rather, the data submitted with the Request demonstrates the opposite. The data from the Request, referred to in paragraphs 11 to 14 of the present Observations, demonstrates, that the present and the average imports of steel by-and-large correspond to the import levels observed prior to 2018, prior to the surge in imports and the adoption of the Measures (average increase 0.4%). The data also show that this development is not due to Measures, because an ever-increasing portion of the available duty-free quotas was not utilized.
22. Moreover, the EU Industry has been profitable over the last three years, and particularly profitable at times when imports were relatively high. It is therefore unconvincing for the Request to argue that if imports increased, the EU Industry would massively suffer and be unable to attain a minimum level of profitability. The experience over the last three years shows the opposite effect.
23. In addition, and in light of the concerns raised in Points 49 and 50 of the Request, Serbia emphasizes that its exporters do not engage in practices leading to import surges or market pressure.
24. The Request seeks to overcome the evidence that there will be no new surge of imports and that there is no threat that the extension of the Measures would be necessary to prevent serious injury, by rather speculative arguments. The Request suggests that a threat of future injury might result (i) from the effects of the U.S. Measures or (ii) from the export behavior of certain exporters from certain third countries that would circumvent existing trade defense measures (so that their existence would not protect the EU Industry sufficiently).
25. These claims are already factually difficult to maintain. The U.S. Measures have been adopted more than six years ago, and markets have since adjusted to their existence. In spite of their existence, and in spite of the alleged particular attractiveness of the EU market, exporters have not rushed to the EU and used available duty-free quotas to their ultimate limits. Rather, the quotas have increasingly not been fully utilized. And the claims that exporters from certain third countries would establish new production facilities elsewhere is not only speculative but could not be realistically implemented in the remaining two-year period, to which any extension would be limited by law.

26. What is more, these claims are also legally unsound. The Union can no longer properly rely on the U.S. Measures for a justification of an extension, because the Union has embraced them (through the U.S. Agreement) rather than seeking to avoid them (by maintaining its action in the WTO) and (ii) possible export behavior from producers in certain specific third countries can only be properly addressed by country specific trade defense instruments that would address the specifics of the unfair trade practices the Request appears to be concerned about.

3.2.2. EU - U.S. Arrangement on the U.S. Measures

27. The U.S. Measures have undoubtedly been the original trigger for the imbalance that the world steel markets experienced since March 2018. The U.S. Measures were widely considered to be consistent with the obligations of the United States, and a number of WTO Members objected to such measures, including the EU, and including by initiating dispute settlement proceedings in the WTO.
28. However, the Union decided the change course after a new U.S. administration came to power. The Union came to an agreement with the United States on October 31, 2021 (“**U.S.-EU Joint Deal Statement**”) with respect to the application of U.S. Measures to exports from the EU, and which led the EU to no longer actively pursue its WTO dispute with the United States.
29. Namely, in pursuit of addressing non-market excess capacity and preserving their critical steel and aluminum industries, the US and the EU outlined several milestones in their agreement. These included ongoing cooperation through expanded coordination in trade remedies and customs matters, regular consultations to develop additional actions to address non-market excess capacity, and annual reviews of the operation of the arrangement. Additionally, negotiations on global steel and aluminum arrangements to restore market-oriented conditions and address carbon intensity were to be concluded within two years.
30. Even after the two-year period expired in October 2023, the Union remained silent. Rather than advancing towards the process of requesting a decision against the U.S. Measures, the EU has continued the cooperation and essentially abandoned its WTO claims. It is Serbia’s view that it would not be appropriate for the EU to rely on the continued presence of U.S. Measures as justification for extending its own Measures. Two reasons support that conclusion. First, the Union cannot be allowed to plead a market disturbance to which it essentially now acquiesces as a basis for its own safeguards action. Second, the Union adopted, through and in connection with the U.S.-EU Joint Deal Statement, a country specific approach to the steel market imbalance, rather than an *erga omnes* approach that characterizes safeguard proceedings. The Union cannot pursue both approaches at the same time.
31. The departure from the *erga omnes* approach, which is normally inherent in the nature of safeguard measures, reinforces the adequacy of other *country specific* trade remedies (i.e., anti-dumping and countervailing duties) to deal with any remaining trade imbalances.

3.2.3. Trade Defense Measures Are an Adequate Response

32. The expiry of the Measures will, however, not leave the EU Industry defenseless. In keeping with the Commission’s country specific approach, as displayed vis-à-vis the United States, the Union should focus on the measures that actually deal specifically with the concerns that underly the Request. This is even more true in circumstances where numerous anti-dumping

and countervailing duty measures are already in place as regards steel products and as regards the countries that the Request seems to be most concerned about.

33. To illustrate this point, at the end of 2022, the EU had implemented a total of 177 definitive trade defense measures, comprising 151 anti-dumping measures, 25 anti-subsidy measures, and 1 safeguard measure. This represents a notable increase of 14 measures compared to 2021. Additionally, there were 38 measures resulting from anti-circumvention investigations. The year 2022 also saw the initiation of 5 new investigations and 41 review investigations, a significant rise from the previous year's figures of 14 and 28, respectively.
34. And such trade defense measures adequately address the concerns voiced in the Request. For example, the Request in Point 37 refers to the exporters' interest in entering the EU market by way of unfair pricing conduct. However, such conduct can be adequately addressed within the framework of anti-dumping mechanisms, and there is no need (in effect no room) to address these concerns with the Measures are neither suitable (because they cannot differentiate by the level of dumping and treat everyone as if their intention was to engage in dumping) nor necessary for this purpose (because more targeted instruments are available).
35. In Point 57, the Request further insinuates that the Measures should remain in force to combat the circumvention of anti-dumping measures vis-a-vis certain countries that is alleged to occur by moving the production into other countries and exporting such products into the EU. Serbia begs to differ. Safeguard measures are simply not a suitable instrument to combat the circumvention of specific trade remedies. Rather, the basic anti-dumping and the basic anti-subsidy regulations contain various provisions that allow to combat circumvention. And it is those rules that must be applied in the first place, and then, if the new facilities indeed cannot be considered a form of circumvention, a new proceeding as regards the new facility in a new country of origin might be necessary to determine whether unfair, dumped prices are actually charged. But the administrative inconvenience of having to go through the proper procedures cannot be a reason that would justify the use of an inappropriate procedure, because it is seemingly easier to use (but would affect a large number of innocent bystanders). Moreover, to the extent the investment to move production capacity to a new location receives public support, the countervailing duty rules are available to deal with any resulting injury or threat of injury.
36. Finally, another inappropriate reason for maintaining the Measures is put forward in Point 85 of the Request, and that is high energy costs. First, safeguard proceedings are not meant to deal with the costs of certain inputs to a production process. They were agreed to deal with exceptional, unexpected increases in imports that are not the result of unfair trading practices. High energy costs play no direct role in steel market imbalances. Moreover, the EU addressed this issue in the Temporary Crisis and Transition Framework¹², allowing Member States to provide State aid to offset high energy prices. This framework has been extended for the third time and is set to remain in effect until the end of June 2024, and possibly beyond that date.
37. For the sake of legal certainty and legitimate expectations of market participants, any double regulation of the same conduct with different trade defense instruments must be avoided. Therefore, prolonging the Measures would entail using the wrong instrument, as other trade defense measures such as anti-dumping or countervailing duties would be better suited to achieve this goal. In fact, doing so would undermine the integrity of the trade defense framework.

¹² Communication from the Commission – Amendment to the Temporary Crisis and Transition Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia, C/2023/8045, section 2.4. Available at: <https://eur-lex.europa.eu/eli/C/2023/1188/oj>.

3.2.4. EU – WB6 Relations

38. What is more, RoS and the WB6 are an integral part of Europe, traditionally oriented to the EU as its most significant trading partner. According to Eurostat, WB6 experienced a deficit in trade with the EU of EUR 11.4 billion and EUR 10.6 billion during 2022 and 11 months of 2023, respectively. In the same period WB6 experienced a surplus in trade of the steel products with EU of EUR 457 million and EUR 66.8 million, respectively. This surplus was used to offset the total deficit the region has in trading with the EU.

Foreign trade exchange between WB6 and EU27				
in Billion EUR	FY 2021	FY 2022	11M 2022	11M 2023
EU27 import from WB region...				
Serbia	13,995	18,209	16,658	16,803
Albania	2,108	2,947	2,708	2,502
North Macedonia	5,676	6,952	6,422	6,237
Bosnia and Herzegovina	5,838	6,932	6,431	5,828
Kosovo*	252	283	262	269
Montenegro	373	1,291	1,187	751
	28,242	36,614	33,668	32,389
EU27 export to WB region...				
Serbia	18,296	24,516	22,490	21,432
Albania	3,735	4,414	4,055	3,892
North Macedonia	5,111	6,826	6,255	6,061
Bosnia and Herzegovina	6,842	8,719	8,033	8,083
Kosovo*	1,591	1,718	1,564	1,829
Montenegro	1,158	1,803	1,648	1,680
	36,733	47,996	44,045	42,976
WB6 suficit / (deficit)	(8,491)	(11,382)	(10,377)	(10,588)

Source: Eurostat

WB6 trade balance for steel products with EU27				
in TEUR	FY 2021	FY 2022	11M 2022	11M 2023
EU27 export to WB region...				
Serbia	440,129	432,869	403,208	404,854
Albania	82,455	78,866	70,698	76,767
North Macedonia	211,461	145,572	137,738	86,732
Bosnia and Herzegovina	252,077	307,041	288,364	270,295
Kosovo*	30,441	31,055	25,913	38,971
Montenegro	5,845	4,925	4,814	5,169
	1,022,407	1,000,329	930,736	882,788
% of total EU steel exports	3.7%	3.0%	3.0%	3.0%
EU27 import from WB region...				
Serbia	698,872	796,047	754,583	518,021
Albania	15,857	49,949	48,519	26,453
North Macedonia	400,810	465,349	443,085	336,582
Bosnia and Herzegovina	142,058	136,161	131,157	62,727
Kosovo*	4,355	8,842	8,482	5,634
Montenegro	1,355	1,264	1,264	190
	1,263,306	1,457,610	1,387,089	949,607
% of Total EU27 steel imports	4.0%	3.7%	3.6%	2.5%
WB6 suficit / (deficit)	240,898	457,281	456,353	66,818

Source: Eurostat

39. Continuation of the Measures would put continual strain on trade between WB6 and EU, which is contrary to the objectives of the SAA and the common interest of both parties.
40. By using country specific trade remedy measures the Union would also be able to respect the requirements of the SAA, which has the objective of supporting the region's transition into a functioning market economy within the EU framework. As Serbia has argued many times before, the Measures (and their extension) adversely affect Serbia's and WB6's competitiveness and limit trade between the EU and both Serbia and WB6.
41. Specifically, WB6 exports to the Union have not contributed to import surges or market pressure (and there is no indication that they would in the future), contrary to concerns raised in the Request regarding the exhaustion of tariff rate quotas and persistent import pressures.
42. Therefore, it is essential that the Commission takes into account the principles of the SAA. Article 41(1) of the SAA stipulates that in the event where safeguard measures are implemented, the Union must ensure that such measures cause minimal disruption to the Serbian economy. However, contrary to Article 41(1), the Measures have been in force for the past six years and have continued to considerably reduce the competitiveness of the Serbian and WB6's economy and trade.
43. As such, instead of supporting Serbia and WB6 in transitioning into a functional market economy, the Measures have reduced and keep reducing the competitiveness of the WB6' economy and trade. Extending this period by an additional two years would only worsen these negative effects on WB6's economy and reduce its ability to effectively compete on the market.
44. Given that the Union has abandoned the *erga omnes* approach vis-à-vis the U.S., it should now recognize that the Measures are an inadequate instrument, and that the anti-dumping and countervailing duty rules allow to move forward based on proceedings that are targeted to the situation in each country.

3.3. Adjustments Not in Line with 2015 Import Regulation and WTO Agreement

45. Both the 2015 Import Regulation and the WTO Agreement require as a prerequisite for any extension of safeguard measures that the protected industry is "adjusting". Such an adjustment must respond to the causes of the surge in imports and the reason why the industry in question could not adequately respond through market forces to the additional imports.
46. The alleged "adjustments", however, do not relate to these weaknesses of the EU Industry that became apparent in 2018, do not address the lack of competitiveness (other than perhaps by making large amounts of public money available to this industry).
47. Point 89 of the Request, suggests that the EU Industry has documented "*more forward-looking adjustments to reinforce competitiveness in the longer run, such as investments in new sustainable technologies (including environmental tech), production processes, and product innovation*". However, the specifics of the Request do not offer any basis for the broad claim.
48. Point 94 of the Request explains that the EU producers have advanced their decarbonization efforts and technological innovations. For instance, ThyssenKrupp is investing in low-CO₂

steel production and electric mobility initiatives, while ArcelorMittal Luxembourg's investment in a new EAF aims at energy efficiency and increased production capacity. Similarly, Liberty Ostrava and Liberty Galati have initiated green transformation programs.

49. However, the green transition, while laudable, has nothing to do with the EU Industry's weak competitive position in 2018 or any time thereafter. Rather, through strategic funding, EU companies such as ThyssenKrupp Steel Europe and various subsidiaries of ArcelorMittal have received significant State financial assistance to accelerate the decarbonization of steel production processes and drive technological advancements.
50. ThyssenKrupp Steel Europe was granted a combined aid package totaling EUR 2 billion, consisting of a direct grant of EUR 550 million and a conditional payment mechanism of EUR 1,450 million¹³. Similarly, ArcelorMittal subsidiaries across different locations, such as ArcelorMittal Hamburg GmbH¹⁴, ArcelorMittal España¹⁵, ArcelorMittal Belgium¹⁶, and ArcelorMittal France¹⁷, have also secured substantial financial support, with aid packages ranging from €55 million to €850 million per project.
51. Other than the green transition projects there is little evidence of "adjustments". The OECD report on steelmaking capacity¹⁸, indicates a potential increase in capacities of the EU by 4.3 million t until 2026. Total steelmaking capacity of the EU would increase to 217.9 million t upon realization of these projects. This is very close to the capacity of the EU before the introduction of the Measures (218.7 million t in 2017).
52. Simply put, the EU Industry is supported by a substantial amount of State aid measures. Those measures cannot be taken as evidence that the EU Industry is "adjusting" as required for the extension of the Measures in line with the 2015 Import Regulation and WTO Agreement.
53. Decarbonization efforts, which aim at reducing carbon footprints and sustainable growth, remain a positive trend, are laudable, but completely unrelated to the Measures and the "adjustment" need. These efforts, while in line with the Union's interest in terms of setting and achieving environmental goals, therefore do not constitute "adjustments" under the 2015 Import Regulation and WTO Agreement. And as such, cannot constitute a justification for extending the validity of the Measures.
54. In sharp contrast, companies located outside the EU often do not benefit from comparable levels of support, placing them at a considerable disadvantage in the global market. Therefore, subjecting these companies to additional trade policies would only worsen existing inequalities and impede their ability to compete effectively. It is crucial for trade policies to acknowledge the uneven playing field created by differing levels of State support and avoid imposing further obstacles on non-EU companies.

IV. CONSIDERATIONS SHOULD THE MEASURES NEVERTHELESS BE EXTENDED

55. Should the Commission decide to prolong the Measures, despite the above elaborated reasons against it, Serbia reiterates that the Commission must take into account the following:

¹³ Please see: https://ec.europa.eu/commission/presscorner/detail/en/IP_23_3928

¹⁴ Please see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_847

¹⁵ Please see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_849

¹⁶ Please see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3404

¹⁷ Please see: https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3925

- a. Allocation and management of tariff-rate quotas: Any potential adjustment should be made to protect importers and user industries while maintaining the principle of just allocation. This should be construed in a way to minimize the crowding out of traditional trade flows.
- b. Level of liberalization: The quota liberalization should be increased or at least maintained at the current level, which would be a welcome (and given the shortness of the remaining two-year period) necessary incentive for the EU Industry to increase its efforts and gradually adapt to the current market conditions.

V. CONCLUSION

56. In light of the circumstances that Serbia has outlined above, Serbia respectfully concludes that the Measures should not be extended beyond June 30, 2024. Only the rapid phase-out of the Measures would be in line with the Union's own rules and with the Union's obligations vis-à-vis Serbia and the other WB6 jurisdictions, under the SAA and WTO rules.
57. Conversely, should the Commission decide to maintain the validity of the Measures, Serbia requests that WB6 be excluded from the scope of the Measures, given (i) the prospects of its EU membership, (ii) that WB6 does not contribute to any sudden and increased quantities of imports into the internal market, (iii) that there are no market disturbances created by WB6, as well as to (iv) allow for its preparation for decarbonization process of the steel industry, being one of the most important environmental goals for the Union.

**NON-CONFIDENTIAL
FOR INSPECTION OF INTERESTED PARTIES**

**Comments by the Ministry of Economic Development of the Russian Federation
and the Ministry of Industry and Trade of the Russian Federation regarding
the review of the safeguard measures applicable to imports of certain steel products**

We refer to the European Commission's ('the Commission') Notice¹ C/2024/1460 of initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products.

The Ministry of Economic Development of the Russian Federation and the Ministry of Industry and Trade of the Russian Federation (hereinafter referred to as the Russian side) would like to note the following.

I. Lack of grounds for the application of the measure, before and after 30 June 2024

The application of the measure from its very start was inconsistent with the rules of the World Trade Organization (WTO). At the moment, the WTO-inconsistency of the measure remains. It was exaggerated by the reallocation of the quotas originally assigned to Russia in favor of other exporting countries ("Commission Implementing Regulation (EU) 2022/434 of 15 March 2022 amending Regulation (EU) 2019/159 imposing a definitive safeguard measure against imports of certain steel products") in light of the import ban on Russian products introduced in March 2022.

The reallocation was made to ensure that the import ban would not lead to a supply deficit on the EU market in the affected categories and that steel consumers in the EU could continue to obtain these volumes from other sources. Notably, in accordance with "Commission Implementing Regulation (EU) 2023/1301 of 26 June 2023 amending Commission Implementing Regulation (EU) 2019/159 imposing a definitive safeguard measure on imports of certain steel products", the European Commission concluded that if the measure were to be discontinued at this stage, the likely increase in import volumes could undermine the position of EU industry². This conclusion contradicts with the European Commission's desire to avoid a supply shortage in the EU market due to the import ban. The Russian Federation reiterates its view that the quota reallocation in question

¹ Notice of initiation concerning the possible extension in time and review of the safeguard measures applicable to imports of certain steel products (C/2024/1460, published on 9 February 2024).

² Section 4.4. Conclusion of the Commission implementing regulation.

made the measure incompatible with Articles 2.2, 5.1 and 5.2 of the Agreement for the following reasons:

- the safeguard measure is applied selectively, i.e. not applied to a product being imported “irrespective of its source”;
- Russian imports are effectively reduced below the average level of the three representative years preceding the imposition of the measure;
- current measure does not allot to Russia the share of the total quantity or value of imports based upon the proportions supplied by Russia previously.

In light of the aforesaid, the Russian side believes that the EU has no legal grounds for the application of the measure because of its WTO-inconsistencies, either before or after 30 June 2024.

II. The negative impact of the measure

“Request to the Commission to initiate a review to analyse whether the EU steel safeguard should be further extended” (‘Request’)³ states that the EU steel industry is in a particularly vulnerable state given the downturn in the EU economy, high energy prices, in parallel with the need to make massive investments to support decarbonization.

Moreover, according to the Request⁴ EU steel producers claim that high energy and raw material costs coupled with inflation have placed the EU steel industry in a cost-price squeeze. This is because, even with the energy price decline, energy costs in Europe are still higher compared to most third countries, in particular in relation to certain countries that continue to import Russian energy supplies. It increases production costs, also aggravated by the inflation of CO₂ emission costs in Europe, whether direct (ETS) or indirect (cost of decarbonisation). CO₂ prices in Europe reached almost 100 euros/t, following added pressure under the EU Emission Trading System. The high prices of energy and raw materials in the EU results in high production costs, giving a competitive advantage to external competitors⁵.

These circumstances mentioned by the EU industry indicate that its vulnerability was caused by the EU’s own policy, including the imposition of “sanctions” against Russia.

³ Recitals 4.

⁴ Recitals 67-69.

⁵ Recitals 73-74.

None of them have anything to do with eventual increased imports of steel products which are like or directly competitive to the ones produced by the EU industry. Thus, the request of the EU industry should be read as urging the European Commission to extend the safeguard measure and thereby to help the EU producers to address the difficulties caused by the EU's own policy.

However, that is not what the safeguard instruments have been designed for. Therefore, there are no grounds to extend the safeguard measures of the EU on steel products.

Conclusion

The Russian side would like to stress that EU safeguard measure has an exceptional adverse effect on fair international trade flows, distorts natural environment on European steel market, places a heavy burden on the steel consumers and should therefore be terminated immediately.



MOST URGENT

No. 0309/ **542**

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23 February B.E. 2567 (2024)

Dear Madam, Sir,

Subject: Notice of Initiation concerning a review of the safeguard measure applicable to imports of certain steel products (C/2024/1460) dated 9 February 2024

The Department of Foreign Trade (the "DFT") of the Ministry of Commerce of Thailand would like to take this opportunity to reaffirm the importance of Thailand's relationship with the European Union (the "EU"). The DFT also wishes to stress the significance of trade and investment flows between Thailand and the EU, especially in light of the 2013 Partnership and Cooperation Agreement and the trade negotiations held since their relaunch in March 2023.

The DFT has the honor of submitting its views in reference to the European Commission's ("Commission") review. The DFT supports the Commission's initiative to review the existing steel safeguard measures in order to keep their operation adapted to the evolution of the market and in line with the interests of all stakeholders.

At the outset, the DFT recalls that the safeguard mechanism is an extraordinary remedy, not a permanent "*solution*" against imports. Thus, applying a safeguard measure is subject to the time that is "*necessary*" to achieve the goals of protection and adjustment. In this regard, the Agreement on Safeguards (the "SGA") encourages the WTO Members to adopt safeguard measures *no longer than three years*.¹

According to Article 7.2 of the SGA, an extension of a safeguard measure is possible only if the following two conditions are fulfilled: (i) the safeguard measure continues to be "*necessary*" to prevent or remedy serious injury to the domestic industry or threat thereof, and (ii) there is evidence that the domestic industry is adjusting. The DFT submits that, in this

¹ SGA, Articles 7.4 and 8.3.

case, neither of the two requirements is fulfilled. To show this, the DFT refers to the observations made in the Extension Review Request.²

I. The EU safeguard measures do not continue to be "necessary" to prevent or remedy serious injury or threat thereof

The DFT considers that the safeguard measures are no longer "necessary" to prevent or remedy serious injury or threat thereof.

First, to prove the allegedly weak economic performance of the EU steel industry, the Extension Review Request lists some indicators related to "*chosen flat ('HRC') and long ('rebar') products*."³ However, the product scope of the present review is much broader and, in fact, comprises 28 product categories.⁴ The Extension Review Request, therefore, failed to provide evidence that the "*current economic situation of EU steel producers demonstrates their vulnerability to a surge of imports*."⁵

Second, the steel imports are no longer coming into the EU in "*such greatly increased quantities... as to cause... serious injury to the domestic industry*."⁶ According to the Extension Review Request, EU steel imports decreased by around 10% between 2021 and 2023.⁷ It follows that the EU steel safeguard has already achieved its desired effect, which is a decline in imports from third countries. The DFT notes that steel imports are no longer such that they can cause serious injury after almost six years of the safeguard measure's implementation. Therefore, the extension of the EU steel safeguard measures is no longer justifiable.

Third, even assuming that "*the EU steel industry is currently in a vulnerable state*,"⁸ the data in the Extension Review Request demonstrates that imports were not *the cause* of this "*vulnerable state*" and will not be so in the future.

In this respect, it is important to note the surge of new factors, other than imports, that may have a bearing on the situation of the Union industry. Specifically, as mentioned in the Extension Review Request:

² Request to the Commission to initiate a review to analyze whether the EU steel safeguard should be further extended enclosed to the Joint letter from Germany, Italy, France, Spain, Poland, Bulgaria, Belgium, Austria, Czech Republic, Slovak Republic, Luxembourg, Slovenia and Greece dated 12 January 2024.

³ Extension Review Request, para. 76.

⁴ Non alloy and other alloy hot rolled sheets and strips; non alloy and other alloy cold rolled sheets; electrical sheets (other than GOES); metallic coated sheets; organic coated sheets; tin mill products; non alloy and other alloy quarto plates; stainless hot rolled sheets and strips; stainless cold rolled sheets and strips; stainless hot rolled quarto plates; grain-oriented electrical sheet; non alloy and other alloy merchant bars and light sections; rebars; stainless bars and light sections; stainless wire rod; non alloy and other alloy wire rod; angles, shapes and sections of iron or non alloy steel; sheet piling; railway material; gas pipes; hollow sections; seamless stainless tubes and pipes; bearing tubes and pipes; other seamless tubes; large welded tubes; other welded pipes; non-alloy and other alloy cold finished bars; non alloy wire.

⁵ Extension Review Request, paras. 76-82.

⁶ SGA, Article 2.1.

⁷ See: Graph "*Total EU27 Steel Imports*", p. 20 of Extension Review Request. Total EU Imports 2021: 41.642; 2022: 38.745; 2023: 37.519.

⁸ Extension Review Request, para. 76.

- "[T]he rise in energy prices (mainly driven by the military conflict in [] Ukraine and the resulting rise in energy costs...) [...] squeezed EU producers' profits."⁹
- EUROFER's Economic and Steel Market Outlook also highlights the impact of "war-related disruptions, unprecedented rises in energy prices, production costs and inflation, all amid growing economic uncertainty."¹⁰

It follows that the alleged poor state of the Union industry is *not because of imports* but because of other factors such as "*unprecedented rises in energy prices, production costs and inflation.*"¹¹

Moreover, as demonstrated below, there can be no risk of a surge of imports to the EU in the future because (a) the alleged global excess capacity is largely limited to China, (b) there is no evidence that imports will increase, and (c) transportation costs have skyrocketed.

(a) Excess capacity is mainly limited to China

According to the Extension Review Request, excess capacities continue to grow worldwide and are "*bound to have serious detrimental effects on the EU steel industry.*"¹² However, this is a misleading simplification.

To support its allegation, the Extension Review Request refers to an OECD report from September 2023 stating that "*global capacity is projected to reach an all-time record level of 2500.2 MMT.*"¹³ The Extension Review Request fails to mention, however, that, as explained by the OECD, "*[a] major part of global excess capacity still sits in China.*"¹⁴ In fact, "*China would contribute a quarter of the total growth in 2023*"¹⁵ in steelmaking capacity development. Furthermore, "*Chinese companies [are] involved in 90% of ASEAN capacity expansion.*"¹⁶

If the Union industry is worried about those imports to which it refers, it should focus on imports from China. The EU does not have to address this country-specific issue with globally applicable safeguard measures.

⁹ Extension Review Request, para. 59.

¹⁰ EUROFER, Economic and Steel Market Outlook 2023/2024 Q4, October 2023, p. 2 (Annex 3).

¹¹ EUROFER, Economic and Steel Market Outlook 2023/2024 Q4, October 2023, p. 2 (Annex 3).

¹² Extension Review Request, para. 13.

¹³ Extension Review Request, para. 15.

¹⁴ OECD, Latest Developments in steelmaking capacity, 6 September 2023, p. 9 (Annex 1).

¹⁵ OECD, 94th Session of the Steel Committee, OECD Presentation on Latest Developments on Steelmaking Capacity, Paris, 25 September 2023, p. 5 (Annex 2).

¹⁶ OECD, 94th Session of the Steel Committee, OECD Presentation on Latest Developments on Steelmaking Capacity, Paris, 25 September 2023, p. 9 (Annex 2).

(b) There is no evidence that imports will increase in the future

As alluded to above, according to the most recent data provided in the Extension Review Request, from 2021 to 2023, the level of steel imports decreased by around 10%,¹⁷ and there is nothing to show that this will change in the future.

On this point, the DFT would like to object to statements made regarding the impact of further trade liberalization on imports. The Extension Review Request states that "*as soon as there is leeway to increase steel exports into the EU (e.g., higher TRQ), quotas are rapidly used up.*"¹⁸ In support of this suggestion, it relies on the example of the reallocation of the Russian and Belarussian TRQs among other third countries.

First, the fact that the Russian and Belarusian TRQs were fully replaced does not mean that this trend of "*rapidly using up TRQs*" would continue endlessly with further trade liberalization. As indicated in the Extension Review Request, the TRQs were not fully used up.¹⁹

Second, countries like Thailand are not concerned by this trend. There is no evidence to show that exporting countries that do not have excess capacity to the extent of China's would increase their imports into the EU if TRQs were to be increased.

The extension of the EU steel safeguard measure is, therefore, no longer justifiable.

(c) High transportation costs and weak ocean schedule reliability

The DFT submits that there can be no risk of a surge of imports to the EU because transportation costs have recently skyrocketed.

The Extension Review Request states that "*high transportation costs and weak ocean schedule reliability, which deterred imports to a certain extent during 2021 and early 2022, have now stabilized.*"²⁰ The DFT disagrees.

The DFT notes that the Extension Review Request fails to mention the major disruption to maritime trade caused by the attacks on ships in the Red Sea. These attacks have forced global shipping firms like Maersk and Hapag-Lloyd to pause their Red Sea cargo shipments, instead taking the longer southern Cape of Good Hope route. Xeneta, an ocean and air freight data firm, "*estimates that it costs carriers — companies like Maersk and Hapag-Lloyd — an extra \$1 million per vessel to make a round trip around the southern tip of Africa, with the vast majority of that figure accounted for by higher fuel costs. Carriers have consequently hiked the freight rates paid by companies to have their goods transported on their vessels and have*

¹⁷ See: Graph "Total EU27 Steel Imports", p. 20 of Extension Review Request. Total EU Imports 2021: 41.642; 2022: 38.745; 2023: 37.519.

¹⁸ Extension Review Request, para. 42.

¹⁹ Extension Review Request, para. 51: "*Even if TRQs for all product categories are not exhausted*"; "*while TRQs ay not have been entirely used up.*"

²⁰ Extension Review Request, para. 53.

also tacked on emergency surcharges."²¹ As a consequence, "[s]hipping [c]osts [f]rom China/East Asia [t]o [t]he [Mediterranean] [h]ave [s]kyrocketed."²²

The DFT would like to bring to the attention of the Commission that Thai exporters are particularly concerned by this situation. In fact, "*the ongoing crisis in the Red Sea has pushed up marine transportation costs fourfold for Thai exporters,*" from \$1,000 per container in November to \$3,000-\$5,000.²³ "*Additionally, there are other impacts, such as the return of congestion in some routes, causing delays. Ships from China to Europe are experiencing an average increase of 4 days.*"²⁴ These additional costs are bound to lead to increased product prices.

The Extension Review Request refers to DHL data to highlight the normalization of transportation costs. However, DHL's ocean freight market outlook for February 2024 states that "*high inflation levels remain, exceeding historical levels, driven by emerging supply chain risks, e.g., the situation in the Red Sea.*"²⁵ In fact, "*following the attacks in the Red Sea spot rates have seen a sharp and rapid increase, similar to the pattern observed during the pandemic.*"²⁶ Regarding ocean schedule reliability, "*December data shows a 5 ptp drop in global reliability, down to 56.8%.*"²⁷

In light of these observations, the DFT considers it clear that there is no longer a persistent risk of trade diversion to the EU.

II. No evidence that the industry is adjusting

The DFT disagrees with the allegation in the Extension Review Request that there is evidence of industrial adjustment. The Panel in *Ukraine – Passenger Cars (DS468)* highlighted that if a safeguard measure is to be extended, there must be "*progressive liberalization*" of the measure, which "*forces*" the domestic industry to adjust.²⁸ The DFT believes that despite the measure being in place for almost six years, there is still insufficient proof that the domestic industry is improving its competitiveness. In fact, the slow pace of

²¹ \$1 million in extra costs and weeks of delays. How the Red Sea crisis is upending global trade, CNN, 9 February 2024. Available at: <<https://edition.cnn.com/2024/02/08/business/red-sea-crisis-global-trade-explained/index.html>>.

²² *Inflation risk as Red Sea attacks send shipping costs sky high*, Euronews, 24 January 2024. Available at: <<https://www.euronews.com/business/2024/01/24/inflation-risk-as-red-sea-attacks-send-shipping-costs-sky-high>>.

²³ *Attacks on ships in the Red Sea quadruple shipping costs*, The Nation, 19 January 2024. Available at: <<https://www.nationthailand.com/thailand/general/40034827>>.

²⁴ *Attacks on ships in the Red Sea quadruple shipping costs*, The Nation, 19 January 2024. Available at: <<https://www.nationthailand.com/thailand/general/40034827>>.

²⁵ DHL Global Forwarding| OFR Market Update | February 2024, p. 3. Available at: <<https://www.dhl.com/content/dam/dhl/global/dhl-global-forwarding/documents/pdf/glo-dgf-ocean-market-update.pdf>>.

²⁶ DHL Global Forwarding| OFR Market Update | February 2024, p. 8. Available at: <<https://www.dhl.com/content/dam/dhl/global/dhl-global-forwarding/documents/pdf/glo-dgf-ocean-market-update.pdf>>.

²⁷ DHL Global Forwarding| OFR Market Update | February 2024, p. 7. Available at: <<https://www.dhl.com/content/dam/dhl/global/dhl-global-forwarding/documents/pdf/glo-dgf-ocean-market-update.pdf>>.

²⁸ Panel Report, *Ukraine – Passenger Cars (DS468)*, para. 7.362.

liberalization over time has not provided enough incentive to (*i.e.*, has not "*forced*") the Union industry to make adjustments.

The Extension Review Request states that "[s]ince June 2021, the EU industry has continued to adjust. These adjustments have been guided by restructuring, innovation, and decarbonization efforts."²⁹

In support of these allegations, the Extension Review Request lists several examples. These examples, however, merely testify to certain "*forward-looking*" efforts to become more carbon-neutral, *i.e.*, more competitive in the long term. While indeed laudable, none of the examples demonstrate that the industry has taken "*performance-enhancing measures*," *i.e.*, a short-to-middle-term adjustment due to alleged "*serious*" injury to the Union industry or threat thereof.

For instance, the Union industry could have taken performance-enhancing measures to save costs and optimize the value chain, such as closing less efficient or underutilized facilities. On the contrary, despite its affirmation of concerns related to growing global excess capacity, the Extension Review Request states that ArcelorMittal Luxembourg announced a EUR 67 million investment in 2023, which will result in an increase in steel production capacity in Luxembourg of almost 15%.³⁰ Therefore, the examples provided in the Extension Review Request do not show signs of an industry adjusting to become more efficient and competitive in the immediate future.

It is also important to note that a demonstration of industrial adjustment requires specific facts, figures, and documents instead of mere statements. The majority of figures listed in the Extension Review Request are CO² reduction targets. The Extension Review Request provides no figures pointing to a structural adjustment in terms of a reduction in capacity or an improvement in competitiveness to face import competition.

III. Conclusion

For the reasons set out above, Thailand respectfully requests the EU to terminate the present review without extending the existing safeguard measures. Maintaining the current measures undermines the nature of these measures, which have been understood by the Appellate Body as "*matters out of the ordinary*," "*matters of urgency*," or "*extraordinary remedies*."³¹

As a final remark, the DFT notes that the present safeguard measure has now been in existence for almost six years. In this regard, Article 8.1 of the SGA requires that the EU maintain a "*substantially equivalent level of concessions and other obligations*" between the EU and importing countries (including Thailand). The same provision allows affected importing countries to request "*any adequate means of trade compensation*." Furthermore, a joint reading of Articles 8.2 and 8.3 of the SGA makes it clear that if a safeguard measure exists for more than three years, and adequate trade compensation is not agreed upon, the affected importing countries can suspend "*substantially equivalent concessions or other obligations under GATT 1994*." In this connection, if the EU decides to extend the current safeguard

²⁹ Extension Review Request, para. 90.

³⁰ Extension Review Request, para. 94.

³¹ See, e.g., Appellate Body Report, *Argentina – Footwear (DS121)*, para. 93.

measures, Thailand will consider the possibility of having consultations with the EU to obtain adequate compensatory means in exchange for extending the safeguard measures on steel products.

The DFT would like to take this opportunity to thank the Commission for taking into consideration the views of the DFT concerning the abovementioned review investigation. We remain open to engaging in a bilateral discussion on this issue.

Yours sincerely,



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February 2024

SAFE009R7 – ACEIA COMMENTS

2024 REVIEW OF THE STEEL SAFEGUARD

Open Version





The European Commission
Directorate-General for Trade
Directorate H – Trade Defence
Rue de la Loi 200
1040 Brussels

Submitted via TRON.

SUBJECT: SAFE009R7 – 2024 REVIEW INVESTIGATION CONCERNING THE SAFEGUARD MEASURE ON CERTAIN STEEL PRODUCTS

Dear Mesdames, Dear Sirs,

The European Automobile Manufacturers' Association (ACEA) presents its assessment on the evolution of the steel market in Europe over the last year and its impact on automobile manufacturers.

European steel is essential for the EU automobile industry as ACEA members source approximately 90% of their steel domestically¹. At the same time, the EU automobile industry is also vital to European steel producers, as motor vehicle manufacturers account for 19% of the steel consumption in the Union, rising to as much as 42% for flat products². Steel is critical for the automobile industry as it has limited substitution possibilities, particularly in the production of certain categories of motor vehicle.

Manufacturing in the automobile sector favours geographical proximity in the steel supply chain as the industry operates just-in-time processes and prefers near-by sourcing also for reasons of logistics cost. The long lead times for delivery, the lack of a cost benefit in importing, potential or existing trade defence measures and a lengthy homologation process for new suppliers, explain why EU auto manufacturers only import such limited quantities. Timely and reliable supply of reasonably priced, high-quality steel is crucial for the uninterrupted manufacturing.

¹ Figure based on ACEA own-data from 2018 showing 94% of steel used in the automobile sector is from the EU.

² ["European Steel in Figures", 2020 edition by EUROFER, page 25.](#)



Nevertheless, limited imports of steel in our sector play an important role. When EU steel producers cannot supply the necessary quantities or specific products, mainly due to capacity constraints, then it is necessary to find alternative sources.

After the massive downturn in manufacturing activities in 2020 due to the COVID-19 crisis, production levels in the European automotive sector recovered partially in the last years, rising to just over 12 million passenger cars manufactured in 2023. This represented an 11% increase compared to 2022 and is largely attributable to better supply chain conditions. Nevertheless, this is still well below pre-pandemic production of between 14-15 million passenger car units in the 5 years immediately preceding the pandemic.

The European steel market has shown an easing of the record high price surge that began in the second half of 2020, continued throughout 2021 and well into 2022, reaching its peak in the months after the Russian invasion of Ukraine. At that time, automotive grades reached above €1,500 per tonne, roughly 2.5 to 3 times higher than of its historical average in pre-pandemic times.

Currently **prices** for HDG sheets are around €850 per tonne, still well above pre-pandemic norms. Weakening demand is attributed as the most significant cause of the decrease³, however it is not immediately apparent that this can be linked to the automotive industry based on ACEA's own figures of increased year-on-year manufacturing, despite some on-going supply chain issues.

The **supply** situation has improved significantly in comparison to the one which existed in the period 2021 / 2022. At the time, the acute supply-demand imbalance brought major difficulties for users to be able to secure sourcing of the necessary materials, steel producers declining order requests, long lead times of up to and above 20 weeks, along with the record high prices already mentioned; this situation has now eased. Mills are now actively seeking orders and lead times have returned to normal 8 to 12 week lead times, even if prices remain well above historical norms.

While the market situation remains unpredictable, the decision of EU steel producers to shut down several mills across the continent should lead to a tightening of supply and a re-balancing of supply and demand conditions compared to the last months.

³ https://www.eurofer.eu/assets/publications/economic-market-outlook/economic-and-steel-market-outlook-2022-2023-fourth-quarter/EUROFER_ECONOMIC_REPORT_Q4_2022-23_final.pdf



Demand for steel imports has also dropped significantly. This is due in part to a decrease in general demand on the European side and also to the relatively high value of the US Dollar against the Euro which makes imports less attractive.

Conclusion

While the supply situation has improved significantly since the acute difficulties experienced in 2021 and 2022, prices for automotive grades of steel remain well above historical norms. ACEA believe that this is, in part, directly attributable to the steel safeguard.

ACEA remains of the belief that the safeguard measures on steel imports are not necessary and go against the Union's interest by hurting its own manufacturing industry. The safeguard should be removed in June 2024.



ABOUT THE EU AUTOMOBILE INDUSTRY

- 14.6 million Europeans work in the auto industry (directly and indirectly), accounting for 6.7% of all EU jobs
- 11.5% of EU manufacturing jobs – some 3.7 million – are in the automotive sector
- Motor vehicles are responsible for €398.4 billion of tax revenue for governments across key European markets
- The automobile industry generates a trade surplus of €74 billion for the European Union
- The turnover generated by the auto industry represents more than 8% of the EU's GDP
- Investing €62 billion in R&D per year, automotive is Europe's largest private contributor to innovation, accounting for 33% of the EU total

REPRESENTING EUROPE'S 15 MAJOR CAR, VAN, TRUCK AND BUS MANUFACTURERS

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26 February 2024

CLEPA, the association of the automotive suppliers' industry in Europe, is pleased to be able to contribute to the written procedure of the Steel Safeguards review procedure. CLEPA represents over 3.000 companies supplying state-of-the-art components and innovative technology for safe, smart and sustainable mobility, investing over €30 billion yearly in research and development. Automotive suppliers in Europe directly employ 1.7 million people across the EU on top of the 1.2 million people employed by vehicle and body manufacturers.

Automotive forms the European steel industry's second biggest end market, responsible for 17% of the total demand for European steel over 2022¹. The steel industry depends on a healthy automotive industry, but 56% of suppliers operate at profitability levels that are not sufficient to sustain investment². CLEPA advises the European Commission to take the deteriorating resilience of downstream industries into account when reviewing the option to extend the safeguard instrument beyond June 2024.

Automotive suppliers rely on specialized steel and typically only import steel, if no sufficient capacity is available for the needed grade or if prices would undermine competitive production of components within the EU.

Market forecast

LMC Automotive³ estimated end of January that light vehicle production across the EU reached 14.3 million vehicles over 2023 across the EU, up 12% compared to 2022. For 2024, LMC Automotive forecasts further growth of 1%.

Category 14

Unfortunately, specialized valve steel is grouped together with generic valve steel used in the construction sector in category 14. While the construction industry faces no global competition, the automotive industry does. Valve steel is an absolute niche product with very high technical requirements regarding tolerance, purity, or freedom from defects. As a result, valve steel has only a marginal share of volume in the group of stainless steel covered under product category 14 (based on the quarterly contingent for HS code 7222 2031 of 31.333 t, the estimated volume for valve steel is ~0,8%). It is therefore critical that valve steel is no longer grouped together with steel dedicated to the construction industry.

Efficiency improvements in internal combustion engines to reduce fuel consumption will impact the demand for valve steel. Higher pressure and temperature in the engine require better steel qualities for valves, resulting in the need to switch to more advanced steel grades. At the same time, electrification will not lead to structurally higher demand, limiting the chance that the EU steel industry will invest in additional capacities.

Non-Alloy and Other Alloy Merchant Bars and Light Sections (Category 12)

Automotive suppliers import specialist long steel from category 12 for the manufacturing of crankshaft, pignons, gearshafts, connecting rods, components for ground rail and bearings. Category

¹ https://www.eurofer.eu/assets/publications/brochures-booklets-and-factsheets/european-steel-in-figures-2023/FINAL_EUROFER_Steel-in-Figures_2023.pdf

² <https://clepa.eu/mediaroom/automotive-suppliers-are-slightly-more-profitable-but-necessary-investments-still-at-risk/>

³ LMC Automotive, November 2022

12, however, mixes special steel long products destined to mechanical applications such as engine parts , bearings etc.. with products used in the building sector where metallurgical requirements are far less demanding. Imports from the construction sector therefore regularly crowd out demand from the automotive sector. CLEPA has earlier recommended to move construction specific steel to categories 13 (rebars) and 17 (Angles, Shapes and Sections of Iron or Non Alloy Steel).

Category 4B

Exhausted quote posed suppliers several times for challenges in the past. Unfortunately, CLEPA was not able to obtain insight on this point within the timeframe of the investigation.