

## V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON  
COMMERCIAL POLICY

## EUROPEAN COMMISSION

Notice of initiation concerning the review of the safeguard measures applicable to imports of  
certain steel products

(2019/C 169/08)

On 31 January 2019, the European Commission ('the Commission') imposed definitive safeguard measures on certain steel products and announced its intention to initiate *ex officio* a first review investigation no later than on 1 July 2019 (1).

**1. Existing measures**

The measures currently in force consist of a tariff-rate quota opened on imports into the Union of 26 steel product categories. They will remain in place until 30 June 2021.

For each of these product categories, except for product category 1 (Non Alloy and Other Alloy Hot Rolled Sheets and Strips), a part of each tariff-rate quota is allocated to specific countries (country-specific quotas) and freely available until the end of each of the three annual periods the measures last. For product category 1, and the remaining part of each tariff-rate quota (so-called residual tariff-rate quotas), the relevant annual quota is split into quarters and allocated on a first come first serve basis during each of these quarters. At the end of each quarter, the unused balances of the residual quota are automatically transferred to the next quarter. No unused balance at the end of the last quarter of an annual period is transferred to the next period. Where the relevant country-specific quota is exhausted for a given product category, imports from that country can be made under the remaining part of the residual tariff quota for the same product category but only during the last quarter of each annual period of application of the measures.

Where the relevant tariff-rate quota is exhausted or where imports of the product categories under measures do not benefit from the relevant tariff-rate quota, an additional duty of 25 % is levied on the net, free-at-Union-frontier price, before duty, of the imported product.

**2. Product under review**

The product under review consist of certain steel products which are listed in Annex I to this Notice.

**3. Grounds and scope of the review**

Recital (161) of the Commission Implementing Regulation imposing definitive safeguard measures sets out that the Commission, on the basis of the Union interest, may have to adjust the level or allocation of the tariff-rate quota in case of changes of circumstances during the period of imposition of the measures.

It was considered that these changed circumstances could, for example, materialise in the case of an overall increase or contraction in Union demand for some product categories that would require a reassessment of the level of the tariff-rate quota, the imposition of anti-dumping or anti-subsidy measures that may significantly affect future import developments, or even any development concerning the US Section 232 that may have a direct impact on the conclusions of this investigation, namely in terms of trade diversion.

(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).

The Commission is also in a position to review whether the existing operation of the measures could have detrimental effects in achieving the integration objectives pursued with preferential trading partners, such as substantially risking their stabilisation or economic development. Finally, the Commission also committed to review the need to update the list of developing countries excluded from the scope of the definitive measures based on their most recent import level.

On this basis, and considering the development of imports of steel products subject to safeguard measures and their corresponding quota usage since the introduction of the measures, the Commission intends to specifically investigate the following issues in order to examine whether there are changed circumstances justifying an adjustment in the level or the allocation of the existing tariff-rate quota:

**A. Level and allocation of tariff-rate quota for a number of specific product categories**

The Commission is monitoring on a daily basis the usage of the tariff-rate quota. On the basis of the usage until 4 April 2019, the Commission has observed that some of the country specific tariff-rate quota for certain product categories, as well as the corresponding residual tariff-rate quota for the last quarter, have been exhausted at an unusually fast pace (before two months of the five-month period had lapsed) as compared to the traditional level imports. In the case of country-specific tariff-rate quotas, Turkey has exhausted its quotas for categories 5, 13, 16, 17, and 25; Russia has exhausted its quotas in categories 13 and 16; while China has exhausted its quota in categories 4B and 15. In the case of residual tariff-rate quotas, some tariff-rate quotas were already exhausted or close to be exhausted<sup>(2)</sup> shortly after the opening of the residual quota on 1 April 2019. The Commission will therefore investigate the reasons explaining these developments, and determine whether they are the result of changed circumstances, such as substantially increased EU demand for these products or any other substantive reason proving that the existing level of the quota is inadequate, or whether they originate in stockpiling activities or trade diversion resulting from restrictive measures taken abroad.

**B. Crowding-out of traditional trade flows**

For certain product categories, the residual tariff-rate quota has been exhausted rapidly with imports from one or several countries, sometimes benefiting from country-specific tariff-rate quota, crowding out traditional import flows from other origins, thereby restricting customers' choice. This has for example been the case for product categories 4B, 13, and 16. The Commission will therefore investigate whether this fact has adversely affected the Union interest, in particular regarding the need to maintain traditional trade flows, and, where appropriate, decide potential remedies for this situation.

**C. Potential detrimental effects in achieving the integration objectives pursued with preferential trading partners**

The Commission will investigate whether the functioning of the existing steel safeguard measures has caused any substantial risks to the stabilization or economic development of certain preferential trading partners to an extent that is detrimental to the integration objectives of their Agreements with the EU.

**D. Update of the list of developing WTO member countries excluded from the scope of the measures based on their most recent level of imports**

Under EU Regulation (EU) 2015/478 (3), safeguard measures should not be applied on imports originating in a developing country WTO member as long as its share in the overall of imports of the product subject to measures does not exceed 3 %. Recital (192) of the Commission Implementing Regulation imposing definitive safeguard measures sets out that the Commission will carry out an assessment of the situation on a regular basis, and at least at the end of each year of imposition of measures. The Commission therefore intends to update the list of developing countries that are WTO members and that should be excluded from the scope of the measures.

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

Parties are also invited to raise other issues — for product categories other than those already mentioned above and to the extent that they concern lasting changes of circumstances as compared to the situation prevailing during the original investigation —, whose effects may need to be reviewed and may justify an adjustment to the level or allocation of the tariff-rate quota in specific product categories. Parties wishing to raise additional issues are requested to provide sufficient substantiating evidence in support of their claims.

<sup>(2)</sup> Unlike for categories 4B and 16, which were fully exhausted in the period February-March 2019, there was still a relevant volume of unused residual tariff-rate quota for category 13 in that period. Therefore, the quota usage in early April 2019 did not fully reflect the actual tariff-rate quota available. As stated in Article 1(4) of Regulation (EU) 2019/159, the unused volumes in one quarter will be effectively transferred to the next quarter with a delay of 20 working days (in early May 2019). This means that in early May 2019, there would be again tariff-rate quota available for this product category.

<sup>(3)</sup> OJ L 83, 27.3.2015, p. 16.

#### 4. Procedure

Having determined that there is sufficient evidence for the review of certain aspects of the existing steel safeguard measures, the Commission hereby initiates a review of the existing measures, limited to the scope of issues specified above.

##### 4.1. Written submissions

In order to obtain all relevant information deemed necessary for the investigation, interested parties are hereby invited to make their views known, submit information and provide supporting evidence to the Commission. This information and supporting evidence must reach the Commission within 15 days of the date of publication of this Notice in the *Official Journal of the European Union*. Parties making a submission are requested to clearly state in their correspondence which of the above review issue(s) is (are) concerned by their submission.

##### 4.2. Possibility to comment on other parties' submissions

In order to guarantee the rights of defence, interested parties should have the possibility to comment on the information submitted by other interested parties. When doing so, interested parties may only address the issues raised in the other interested parties' submissions and may not raise new issues.

Such comments must reach the Commission within 7 days from the moment the submissions mentioned in paragraph 4.1. are made available for inspection by interested parties.

Access to the file available for inspection for interested parties is made via TRON.tdi at the following address: <https://tron.trade.ec.europa.eu/tron/TDI>. Please follow the instructions on that page to get access.

The outlined timeframe is without prejudice to the Commission's right to request additional information from interested parties in duly justified cases.

Given the need to complete the review in a short timeframe — see Section 6 below — and the fact that interested parties will be given the possibility to comment on other parties' submissions, which will ensure sufficient opportunities to defend their interests, the Commission will not organise hearings for the purpose of this investigation.

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

As a rule, interested parties may only submit information within the timeframes specified in this Notice. Any extension to the time limits provided for in this Notice can only be requested in exceptional circumstances and will only be granted if duly justified. Duly justified exceptional extensions to the deadline to make submission will normally be limited to 3 additional days.

##### 4.4. Instructions for making written submissions and sending completed questionnaires and correspondence

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

All written submissions provided by interested parties for which confidential treatment is requested shall be labelled 'Limited' (4). Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing 'Limited' information are required to furnish non-confidential summaries of it pursuant to Article 8 of EU Regulation (EU) 2015/478 (5) and Article 5 of EU Regulation (EU) 2015/755 (6), which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence and must reach the Commission at the same time of the 'Limited' version.

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

(5) OJ L 83, 27.3.2015, p. 16.

(6) OJ L 123, 19.5.2015, p. 33.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information unless it can be satisfactorily demonstrated from appropriate sources that the information is correct.

Interested parties are invited to make all submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>) including scanned powers of attorney. By using TRON.tdi or email, interested parties express their agreement with the rules applicable to electronic submissions contained in the document 'CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES' published on the website of the Directorate-General for Trade: [http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc\\_148003.pdf](http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf)

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

Commission address for correspondence:

European Commission  
Directorate-General for Trade  
Directorate H, unit H5  
Office: CHAR 03/66  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

TRON.tdi: <https://webgate.ec.europa.eu/tron/tdi>  
Email: [TRADE-SAFE009-REVIEW@ec.europa.eu](mailto:TRADE-SAFE009-REVIEW@ec.europa.eu)

## 5. Schedule of the review

In order to avoid any uncertainty and undue disruption of the steel safeguard system currently in place, the current review shall be concluded in the shortest timeframe and, whenever possible, before 30 September 2019.

## 6. Non-Cooperation

In cases where any interested party does not provide the necessary information within the time limits, or significantly impedes the investigation, findings may be made on the basis of facts available, in accordance with Article 5 of Regulation (EU) 2015/478 and Article 3 of Regulation (EU) 2015/755. Where it is found that any interested party has supplied false or misleading information, the information may be disregarded and use may be made of facts available.

## 7. Hearing Officer

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

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

A request for an intervention of the Hearing Officer should be made in writing and should specify the reasons for the request. In principle, the timeframes set out in Section 5.1 to Section 5.3 of this Notice for submissions to the Commission apply *mutatis mutandis* to requests for intervention to the Hearing Officer. Where such requests are submitted outside the relevant timeframes, the Hearing Officer may also examine the reasons for such late requests, having due regard to the interests of good administration and the timely completion of the investigation.

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

#### **8. Processing of personal data**

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

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

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

## ANNEX

**List of product categories subject to definitive safeguard measures**

Product Number	Product category
1	Non Alloy and Other Alloy Hot Rolled Sheets and Strips
2	Non Alloy and Other Alloy Cold Rolled Sheets
3.A	Electrical Sheets (other than GOES)
3.B	
4.A	Metallic Coated Sheets
4.B	
5	Organic Coated Sheets
6	Tin Mill products
7	Non Alloy and Other Alloy Quarto Plates
8	Stainless Hot Rolled Sheets and Strips
9	Stainless Cold Rolled Sheets and Strips
10	Stainless Hot Rolled Quarto Plates
12	Non Alloy and Other Alloy Merchant Bars and Light Sections
13	Rebars
14	Stainless Bars and Light Sections
15	Stainless Wire Rod
16	Non Alloy and Other Alloy Wire Rod
17	Angles, Shapes and Sections of Iron or Non Alloy Steel
18	Sheet Piling
19	Railway Material

Product Number	Product category
20	Gas pipes
21	Hollow sections
22	Seamless Stainless Tubes and Pipes
24	Other Seamless Tubes
25	Large welded tubes
27	Non-alloy and other alloy cold finished bars
28	Non Alloy Wire