

ด่วนที่สุด

ที่ พณ ๐๓๐๙.๐๙/ว ๕๗



ถึง ประธานสภาอุตสาหกรรมแห่งประเทศไทย

กรมการค้าต่างประเทศขอส่งประกาศเปิดการทบทวนความจำเป็นในการต่ออายุการใช้มาตรการปกป้องจากการนำเข้าสินค้าที่เพิ่มขึ้น (Safeguard Measure: SG) จากกรณีคณะกรรมการสิทธิการสหภาพยุโรป (European Commission) มีการใช้มาตรการ SG กับสินค้าเหล็กกล้า (certain steel products) รวม ๒๖ กลุ่มสินค้า โดยสามารถดาวน์โหลดเอกสารประกาศดังกล่าวโดยสแกน QR code ตามที่แนบ จึงเรียนมาเพื่อทราบและแจ้งให้สมาชิกทราบต่อไป



กองปกป้องและตอบโต้ทางการค้า

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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)

On 1 February 2019, the European Commission ('the Commission') imposed a definitive safeguard measure on certain steel products by Commission implementing Regulation (EU) 2019/159 ⁽¹⁾. The measure currently in force consists of a tariff-rate quota ("TRQ"), based on historical trade flows, which is applicable to imports into the Union of each of the 26 product categories comprising the product concerned. Where the relevant TRQ is exhausted, an additional duty of 25% is levied.

The safeguard measure was imposed for an initial period of three years, i.e. until 30 June 2021. It was prolonged until 30 June 2024 after a prolongation review investigation. ⁽²⁾

1. Request for an extension of the measures

On 12 January 2024, the Commission received a substantiated request by 14 Member States to examine pursuant to Article 19 of Regulation (EU) 2015/478 of the European Parliament and of the Council ⁽³⁾ and Article 16 of Regulation (EU) 2015/755 of the European Parliament and of the Council ⁽⁴⁾ whether the current safeguard measure should be extended.

The request contains sufficient evidence suggesting that the safeguard measure continues to be necessary to prevent or remedy serious injury and that Union producers are adjusting. In particular, the request contains information regarding the negative performance of certain key injury indicators and the existence of continuous significant import pressure from third countries. The request further provides elements pointing to the fact that global overcapacity remains at a very high level, that a relevant number of trade restrictive measures and trade defence measures by third countries continue being adopted, and that there are no elements suggesting that the US will be removing the Section 232 measures on steel. Thus, the risk of trade diversion continues. If the measures were lifted, the Union industry would face a flood of imports that would have a very negative impact on its economic performance. Moreover, the request includes examples pertaining to adjustments undertaken by the Union producers. The Commission considered that the information provided, including the sources and supporting evidence, constitute sufficient basis to initiate an investigation.

2. Scope and objective of the investigation

In accordance with Article 19 of Regulation (EU) 2015/478 and Article 16 of Regulation (EU) 2015/755, the duration of a safeguard measure may be extended. In order to establish whether such an extension is warranted, the Commission should carry out an investigation pursuant to Article 5 of Regulation (EU) 2015/478 and Article 3 of Regulation (EU) 2015/755 respectively.

In the course of the investigation, the Commission will focus its assessment, in the first place, on whether the safeguard measure continues to be necessary to prevent or remedy serious injury, whether there is evidence that Union producers are adjusting, and whether a prolongation would be in the Union interest. The investigation will also determine the appropriate duration of the extension (if any).

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.

⁽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; OJ L 225 I, 25.6.2021, p.1

⁽³⁾ 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.

⁽⁴⁾ 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.

With regard to this aspect of the investigation, and as it did in previous functioning review investigations, the Commission will focus on the following aspects:

A. Allocation and management of tariff-rate quotas

The Commission will analyse the evolution and patterns of the use of tariff-rate quotas ('TRQ') and the comments that parties may make in that respect. On that basis, it will determine whether any adjustment resulting from changed circumstances may be warranted in the Union interest.

B. Crowding out of traditional trade flows

The Commission intends to 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 TRQ in the last quarter of a period.

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

According to Article 18 of EU Regulation 2015/478 ⁽⁷⁾, no safeguard measure may be applied to a product originating in a developing country member of the WTO as long as that country's share of Union imports of the product concerned does not exceed 3 %, provided that developing country members of the WTO with less than a 3 % import share collectively account for not more than 9 % of total Union imports of the product concerned. In the review investigation, the Commission will thus review whether imports from a developing WTO Member exceeded the 3% threshold in the relevant period (namely, the year 2023) ⁽⁸⁾ and, if needed, update the list of developing countries that are WTO Members and that should be included in, or excluded from, the scope of the measure.

D. Level of liberalisation

The Commission will assess, based on the evidence submitted by interested parties, whether any adjustment to the level of liberalisation currently applicable, i.e. 4%, is justified.

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

The Commission will examine whether there are other elements which need to be considered. Interested parties are also invited to raise any other issues not falling under sections A-D above 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, *inter alia*, an adjustment to the level or allocation of the tariff-rate quotas in specific product categories. Interested parties wishing to raise additional issues are requested to provide sufficient evidence substantiating their submissions, as well as specific proposals on how to address any developments affecting a product category.

3. Product under investigation

The product under investigation consists of certain steel products as listed in Annex to this Notice.

4. Procedure

Having determined that there is sufficient evidence at its disposal, the Commission hereby initiates an investigation to determine whether to extend the duration the current safeguard measure on certain steel products, and whether certain adjustments to the measure would be justified in case of a prolongation.

⁽⁷⁾ OJ L83, 27.03.2015, p.16.

⁽⁸⁾ Full calendar year (complete data on imports will become available in the course of the investigation).

4.1. Questionnaire replies (Union producers only)

To carry out a proper assessment regarding the necessity to extend the duration of the current safeguard measure to prevent or remedy serious injury, the Commission deems it necessary to collect specific data from the Union industry. This data includes, inter alia, the performance of key economic and financial indicators for the years 2022-2023 ⁽⁷⁾.

Union producers are thus requested to fill in and submit, through their respective Union associations, the questionnaires. The deadline to submit the questionnaire replies is **4 March 2024**. A template of the relevant questionnaire is available at: <https://tron.trade.ec.europa.eu/investigations/case-view?caseId=2717>

4.2. Written submissions

In order to obtain all relevant information deemed necessary for the investigation, interested parties, i.e. parties that have an objective link between their activities and the product under investigation, are hereby invited to make their views known, submit information and provide supporting evidence to the Commission in writing. All written submissions are to be made via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>). The deadline to submit written submissions is **26 February 2024**. See Section 4.6 for further details.

Parties making a submission are requested to clearly state in their correspondence which of the below issue(s) is (are) concerned by their submission, and make their arguments under the following headings:

- a) Whether measures continue to be necessary to prevent and remedy serious injury, and why;
- b) Union interest considerations;
- c) Other

Regarding potential adjustments to the functioning of the measure, interested parties are requested to structure their submissions and state in their correspondence (i) which of the issue(s) listed in Section 2 (A-E) above, and (ii) which product category(ies) is (are) concerned by their submission.

For the sake of efficiency, and as it has done in previous review investigations, the Commission will automatically extend the status of interested party to all stakeholders that hold such status under the current safeguard measure. However, this provision will not apply to Powers of Attorney ('PoA').

For those companies, associations or third country governments that wish to participate in the proceeding triggered by the publication of this Notice through external legal representatives, presentation of a PoA specific to this proceeding is necessary.

Parties wishing to participate in the proceeding and which are currently not registered as interested parties to the case are invited to explain their interest and links with the case when making a submission via TRON.

4.3. Possibility to comment on other parties' submissions

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. In a rebuttal, interested parties should indicate specifically which party (-ies) comments they are rebutting, and follow the same above-mentioned headings' structure.

Such comments must reach the Commission **within 10 days from the moment the submissions mentioned in section 4.2 as well as questionnaire replies from Union producers are made available for inspection by interested parties in TRON**. The Commission will duly inform interested parties, via TRON, when this second stage of the written proceeding is triggered.

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.

⁽⁷⁾ The Commission will also assess the performance of the Union industry in these years with the information collected in previous investigations covering previous years.

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

4.4. Possibility to be heard by the Commission investigating services

All interested parties may request to be heard by the Commission investigation services. Any request to be heard must be made in writing within 15 days from the publication of this Notice in the Official Journal, and must specify the special reasons for the request, as well as a summary of what the interested party wishes to discuss at the hearing.

Interested parties are informed, however, that given the need to complete the investigation and make a determination by 30 June 2024 at the latest –see Section 5. below–, the likely high number of interested parties and the fact that these interested parties will be given the possibility to comment on other parties' submissions, which will ensure sufficient opportunities to defend and make their views known, the Commission intends to carry out the investigation in written form, without organising oral hearings unless interested parties can show that there is a special need to be heard orally.

4.5. 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 as a maximum**.

4.6. 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 'Sensitive' ⁽⁸⁾. Parties submitting information in the course of this investigation are invited to reason their request for confidential treatment.

Parties providing 'Sensitive' information are required to furnish non-confidential summaries of it pursuant to Article 8 of EU Regulation 2015/478 ⁽⁹⁾ and Article 5 of EU Regulation 2015/755 ⁽¹⁰⁾, which will be labelled 'For inspection by interested parties'. Those summaries should be sufficiently detailed to permit a reasonable understanding of the substance of the information submitted in confidence and must reach the Commission at the same time of the 'Sensitive' version.

If a party providing confidential information fails to show good cause for a confidential treatment request or does not furnish a non-confidential summary of it in the requested format and quality, the Commission may disregard such information 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 e-mail, interested parties express their agreement with the rules applicable to electronic submissions contained in the document "CORRESPONDENCE WITH THE EUROPEAN COMMISSION IN TRADE DEFENCE CASES" published on the website of the Directorate-General for Trade: <https://europa.eu/!7tHpY3>. The interested parties must indicate their name, address, telephone and a valid e-mail address and they should ensure that the provided e-mail address is a functioning official business email which is checked on a daily basis.

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

⁽⁹⁾ OJ L83, 27.03.2015, p.16.

⁽¹⁰⁾ OJ L123, 19.5.2015, p.33.

Once contact details are provided, the Commission will communicate with interested parties by TRON.tdi or email only, unless they explicitly request to receive all documents from the Commission by another means of communication or unless the nature of the document to be sent requires the use of a registered mail. For further rules and information concerning correspondence with the Commission including principles that apply to submissions via TRON.tdi, interested parties should consult the communication instructions with interested parties referred to above.

Commission address for correspondence:

European Commission
Directorate-General for Trade
Directorate G, unit G5
Office: CHAR 03/66
1049 Brussels
BELGIUM

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

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

5. Schedule of the investigation

The measure in place will lapse on 30 June 2024, unless there is a decision to extend it. In case of an extension, some technical adjustments to the functioning of the measure may be made. Therefore, any decision resulting from this proceeding should take place before that date.

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 4.1 to Section 4.2 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: https://policy.trade.ec.europa.eu/contacts/hearing-officer_en.

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 ⁽¹⁾.

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: <https://europa.eu/vr4g9W>.

⁽¹⁾ 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 L295, 21.11.2018, p.39.

ANNEX

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