Commission Implementing Regulation (EU) 2020/105 of 23 January 2020 making imports of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China and Indonesia subject to registration

COMMISSION IMPLEMENTING REGULATION (EU) 2020/105

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union[(1)] ('the basic Regulation'), and in particular Article 24(5) thereof,

After informing the Member States,

Whereas:

(1) On 10 October 2019, the European Commission ('the Commission') announced, by a notice published in the *Official Journal of the European Union*[(2)] ('the notice of initiation'), the initiation of an anti-subsidy proceeding ('the proceeding') with regard to imports into the Union of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China ('the PRC') and Indonesia following a complaint lodged on 26 August 2019 by Eurofer, the European Steel Association ('the complainant') on behalf of four Union producers representing the entirety of Union production of certain hot rolled stainless steel sheets and coils.

(2) On 12 August 2019, the Commission had already announced the initiation of an anti-dumping proceeding with regard to imports into the Union of the same product originating in the PRC, Taiwan and Indonesia[(3)] ('the parallel anti-dumping proceeding') pursuant to Article 5 of Regulation (EU) 2016/1036 of the European Parliament and of the Council[(4)] ('the basic anti-dumping Regulation').

1. PRODUCT CONCERNED AND LIKE PRODUCT

(3) The product subject to registration ('the product concerned') is flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm. These products are currently falling under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12. These HS codes are given for information only.

2. REQUEST

(4) The complainant already requested in its complaint the registration of imports. On 31 October 2019, the complainant submitted a separate registration request, with regard to the imports which are subject to this proceeding pursuant to Article 24(5) of the basic Regulation. The complainant requested that imports of the product concerned be made subject to registration so that measures may subsequently be applied against those imports from the date of such registration. Further communication in support of this request was submitted on 22 November and 10 December 2019.

(5) On 14 November 2019, Marcegaglia Specialties ('Marcegaglia'), a user of the product concerned, which is cooperating with the anti-subsidy proceeding, submitted comments in relation to the complainant's request for registration of imports.

3. GROUNDS FOR REGISTRATION

(6) According to Article 24(5) of the basic Regulation, the Commission may direct the customs authorities to take the appropriate steps to register imports, so that measures may subsequently be applied against those imports from the date of such registration. Imports may be made subject to registration following a request from the Union industry, which contains sufficient evidence to justify such action.

(7) According to the complainant registration is justified as the product concerned originating in the PRC and Indonesia is being subsidised. It argued that significant injury to the Union industry is being caused by an acceleration of low-priced imports which will undermine the remedial effect of potential definitive duties by allowing stockpiling.

(8) The Commission examined the request in the light of Article 16(4) of the basic Regulation. The Commission verified whether there are critical circumstances where, for the subsidised product in question, injury which is difficult to repair is caused by massive imports in a relatively short period of a product benefitting from countervailable subsidies and whether it is deemed necessary to assess countervailing duties retroactively on those imports in order to preclude the recurrence of such injury.

3.1. Subsidisation of the product concerned

(9) The Commission has at its disposal sufficient evidence that imports of the product concerned from the PRC and Indonesia are being subsidised.

(10) With regard to the PRC, the alleged subsidy practices consist, namely, of direct transfer of funds, government revenue forgone or not collected, and government provision of goods or services for less than adequate remuneration. This includes, for example, preferential loans and provision of credit lines by State-owned banks, export credits subsidy programmes, export guarantees and insurances and grant programmes; tax reductions for High and New Technology Enterprises, tax offset for research and development, accelerated depreciation of equipment used by High-Tech enterprises for High-Tech development and production, dividend exemption between qualified resident enterprises, withholding tax reduction for dividends from foreign-invested Chinese enterprises to their non-Chinese parent companies, land use tax exemptions and

export tax rebate; and government provision of land and power for less than adequate remuneration.

(11) With regard to Indonesia, the alleged subsidy practices consist, namely, of direct transfer of funds, government revenue forgone or not collected and government provision of goods or services for less than adequate remuneration. This includes, for example, preferential policy loans and tax benefits under Indonesian laws and import duty exemption on the import of raw materials and production equipment.

(12) It is alleged that those measures are subsidies since they involve a financial contribution from the Government of the PRC, the Government of Indonesia or other regional and local governments (including public bodies) and confer a benefit to the exporting producers of the product concerned. They are alleged to be contingent upon export performance and/or the use of domestic over imported goods and/or are limited to certain sectors and/or types of enterprises and/or locations, and are therefore specific and countervailable.

(13) The evidence of subsidisation was made available in the open version of the complaint and was further analysed in the memorandum on sufficiency of evidence.

(14) Therefore, the available evidence at this stage tends to indicate that the exports of the product concerned are benefiting from countervailable subsidies.

3.2. **The existence of massive imports in a relatively short period**

(15) In the complaint and the subsequent submissions related to the request for registration, the evidence regarding the volume of imports shows a massive increase of imports in absolute terms and in terms of market share in the period between 2015 and June 2019. Specifically, the evidence provided in the complaint shows that Chinese and Indonesian exporters have very strongly increased the volume of sales of the product concerned to the Union, resulting in a sharp increase of market share to 28,7 % in the second half of 2018.

(16) An analysis of the evolution of imports for the full period considered and post initiation, i.e. adding Surveillance 2 data covering the specific product concerned to the complaint data, does not suggest that the massive increase in imports has come to a halt:

Import volumes from the countries concerned (tonnes)

Origin	2016	2017	2018	Investigation Period (IP)	Monthly average IP	Monthly average post-initiation [a]

a October 2019-November 2019.

Source:

— 2016-2018: complaint
— IP and post IP: Surveillance 2 database.

Import volumes from the countries concerned (tonnes)						
PRC	194 963	263 858	250 626	220 705	18 392	26 338
Indonesia	105	17	44 863	107 107	8 926	4 270
Countries Concerned	195 068	263 874	295 489	327 812	27 318	30 607

a October 2019-November 2019.

Source:

— 2016-2018: complaint
— IP and post IP: Surveillance 2 database.

(17) On the basis of these statistical data, the Commission found that the massive imports from the countries concerned were confirmed even in the two months from the initiation of the investigation, i.e. during October and November 2019, with the monthly average volume of imports during these months 12 % above the high level yet observed in the investigation period. The statistical data available to the Commission after the initiation of the investigation shows an increasing trend of import volumes coming from the countries concerned. These increases, together with respective market shares of both exporting countries throughout the period considered, amount to massive imports in in a relatively short period of time, within the meaning of Article 16(4) of the basic Regulation.

3.3. **Injury, which is difficult to repair, is caused by these imports**

(18) Furthermore, the Commission has at its disposal sufficient evidence that the exporters' subsidy practices are causing material injury to the Union industry. The volume and prices of the imports of the product concerned have had a negative impact on the quantities sold and level of the prices charged in the Union market and the market share held by the Union industry. This is resulting in substantial adverse effects on the overall performance and the financial situation of the Union industry. The evidence concerning the injury factors set out in Article 8(4) of the basic Regulation consists of data contained in the complaint and the subsequent submissions regarding registration and it is supported by publicly available data from Eurostat. The complaint, inter alia, showed that the Union industry's sales to unrelated parties had decreased by 6 % from 2015 to 2018, that its market share in that period had gone down by 4,3 % and that profitability in 2018 was low and less than half of the profitability achieved in 2017. Moreover, profitability had dramatically decreased during 2018 and was only 2,2 % during the second half of that year. The complaint also demonstrated that employment had gone down by 3 % since 2015.

(19) Furthermore, in its request for registration, the complainant pointed at the fact that the swiftly deteriorating situation of the Union industry observed in the complaint during the second half of 2018 continued in the first half of 2019, with a further decrease in production levels and increased undercutting by the imports. In its request for registration, the complainant also provided evidence showing that the situation had