Commission Implementing Regulation (EU) 2018/1013 of 17 July 2018 imposing provisional safeguard measures with regard to imports of certain steel products

COMMISSION IMPLEMENTING REGULATION (EU) 2018/1013

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THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2015/478 of the European Parliament and of the Council of 11 March 2015[(1)], and in particular Articles 5 and 7 thereof,

Having regard to Regulation (EU) 2015/755 of the European Parliament and of the Council of 11 March 2015[(2)], and in particular Articles 3 and 4 thereof,

After having consulted the Committee on Safeguards established under Article 3(3) of Regulation (EU) 2015/478 and Article 22(3) of Regulation (EU) 2015/755 respectively,

Whereas:

I. BACKGROUND

(1) On 26 March 2018, the Commission published a Notice of Initiation of a safeguard investigation concerning imports of 26 steel product categories (2018/C 111/10)[(3)] in the *Official Journal of the European Union*. The Commission decided to initiate the investigation in the light of sufficient evidence that imports of those products might cause or threaten to cause serious injury to the Union producers concerned.

(2) On 28 June, the Commission also published a Notice by which the investigation was extended to two additional product categories[(4)].

(3) The information available to the Commission from the steel prior-surveillance mechanism in place[(5)] and from Union industry sources showed that an increasing trend of imports of these product categories and the prevailing menacing economic and trade conditions, including the situation of the Union steel industry, justified an in-depth examination.

(4) Furthermore, due to the measures against imports of steel adopted by the United States of America ('U.S.') under Section 232 of the Trade Expansion Act of 1962 ('Section 232'), there was a high risk of further increase of imports resulting from trade diversion.

(5) These circumstances, in a context of persistent worldwide overcapacities, may jeopardise the Union steel industry, which is still vulnerable to a likely imminent increase of imports and recovering from the damage caused by unfair trade practices,

as the substantial number of trade defence measures taken worldwide on steel products in the recent past prove.

(6) On 11 April 2018, the Commission issued a 'Note to the File' containing key import statistics and available injury indicators. In relation to this 'Note to the File', the Commission received 41 submissions from third countries, national associations and individual steel companies

(7) Several interested parties have claimed that the Commission failed to disclose the evidence on which the initiation of the safeguard investigation was based in an adequate and timely manner. It was claimed that by failing to do this, interested parties were not allowed to fully exercise their rights of defence. More precisely, several interested parties claimed that the 'Note to the File' made available on 11 April 2018 did not contain data on Union sales, Union exports, Union consumption, or total Union production.

(8) Contrary to these claims, the 'Note to the File' did contain data on Union sales, Union consumption, and total Union production. Furthermore, the Commission considers that, in addition, the main elements and evidence available were adequately summarised both in the Notice of Initiation that was published in the *Official Journal of the European Union* and the notification of the investigation to the WTO pursuant to Article 12.1(a) of the WTO Safeguard Agreement.

(9) The Commission therefore considers that it has fulfilled its legal obligations to adequately protect the rights of defence of interested parties. In any event, interested parties still have the opportunity to exercise their rights during the remainder of the investigation.

(10) In order to obtain the information necessary to carry out an in-depth assessment, the Commission sent questionnaires to known EU producers and to any exporting producer, importer, and user of the products under investigation that so requested within the deadlines stipulated in the Notice of Initiation. These parties, like third countries, were also invited to make any relevant submissions. The Commission has received 222 replies to questionnaires and 74 submissions.

II. PRODUCT CONCERNED AND LIKE OR DIRECTLY COMPETING PRODUCT

(11) The Commission initiated the safeguard investigation on 26 steel product categories imported into the EU, and on 28 June its scope was extended by 2 additional product categories by means of a notice amending the Notice of Initiation[6]. The 28 product categories ('the product concerned' or the 'product categories concerned') are all covered by the steel surveillance mechanism introduced by the Commission in May 2016. They are also subject to the US tariff measures under Section 232. The product categories concerned, together with the CN codes under which these products are currently classified, are listed in Annex I.

(12) In this preliminary assessment, the Commission finds that the 28 product categories produced by the Union producers (hereinafter 'the like product' or 'the

like product categories') are like or directly competing with the product categories concerned. Both the Union-produced and the imported products concerned have the same basic physical, technical and chemical characteristics; they have the same uses, and price and quality information on them is readily available; they are also sold via similar or identical sales channels to customer who purchase or may purchase them from both domestic as well as alternatively from foreign exporters. Accordingly, there is strong competition between the product categories concerned and those produced by the Union producers under the corresponding categories.

(13) The Commission has also found in this preliminary analysis that there is an important interrelation and strong competition between products classified in different product categories and also between products at different production stages within certain categories as some of the categories contain the main raw or input material to produce other products in other product categories.

(14) Some examples illustrate this interrelation and competition within and between product categories. For instance, hot rolled wide strips are produced from slabs and rolled into coils or produced flat on quarto mills. By cutting the strip to length, sheets are produced. Narrow strip is produced either directly or by slitting hot-rolled wide strip. Hot rolled flat products are also used in the manufacture of pipes and tubes for the petrochemical industry and cold rolled flat products are subsequently used by welded tube manufacturers. A large part of the hot rolled wide strip that is produced is further processed to produce cold rolled strip, which is thinner and has a superior surface finish. A significant proportion of the cold rolled products are metallically coated, with tin or chrome for the can industry or with zinc[7].

(15) Many producers in the Union are active in the production of most the above mentioned products. For example, Arcelor Mittal not only produces hot rolled and cold rolled sheets and strips but also coats several steel products and produces plates. Similarly, companies like Voest Alpine and Tata Steel produce hot rolled and cold rolled sheets and strips and also coated steel products made of these products.

(16) Furthermore, as a consequence, given this level of interrelation, competitive pressure can easily be shifted from one product to the other. For instance, if trade defence measures are imposed on one product, e.g. steel coils, that product may be further transformed in the same country and exported under a different form to avoid the additional measures and still compete with domestic products. It is also not excluded that third countries import some of these products at low cost and transform them before re-exporting them to the Union.

(17) Because of these interrelations and interconnections, and given the fact that – as will be explained below – the potential trade diversion resulting from the U.S. Section 232 measures applies to all product categories on account that these measures are applied horizontally to all steel products, without distinction of their shape, size of composition, the analysis for the purpose of the provisional determination has been carried out both globally for all 28 product categories, as the product concerned

(i.e. steel in various shapes and forms) and also at individual level for each product category[8].

III. THE UNION PRODUCERS

(18) Most of the Union's producers are members of the European Confederation of the Iron and Steel Industry ('Eurofer') or, to the extent the products are pipes and tubes, members of European Steel Tube Association ('ESTA'). These two industry associations represent more than 95 % of Union steel production. Their members are located in almost all Member States.

(19) On behalf of their members, these industry associations have informed the Commission that they support the opening of the safeguard investigation, as well as the adoption of measures to also address the trade diversion resulting from the Section 232 measures that seriously disrupts the steel market which has not yet fully recovered from the steel crisis.

IV. INCREASE IN IMPORTS

(20) Based on the information from Eurostat, the prior steel surveillance mechanism, as well as information submitted by the Union industry, the Commission has carried out a preliminary analysis of the increase in imports of the products concerned over the period 2013-2017. The Commission has also examined the evolution of imports during the first quarter of 2018 in order to confirm the recent increase in imports.

(21) The total imports of the products concerned have developed as follows:

	2013	**2014**	**2015**	**2016**	**2017**
imports (000 tonnes)	18 861	22 437	27 164	29 778	30 573
index 2013 = 100	*100*	*119*	*144*	*158*	*162*
market shares	12,7 %	14,4 %	16,9 %	17,9 %	18,0 %

Source: Eurostat

(22) In overall terms, imports of the 28 product categories concerned, taken altogether, increased in absolute terms by 62 % over the period 2013-2017. The increase of imports was especially marked until 2016. Subsequently, imports continued to increase and remained at a very high level.

(23) Imports for the vast majority of the individual product categories covered by the investigation also showed an increase in absolute terms over the last five years. For example, the imports of the largest categories in terms of imports (product categories 1, 4, and 7) have increased by 45 %, 168 %, and 78 % respectively.

(24) There was however not an increase for 5 product categories, namely products 10, 11, 19, 24, and 27. The Commission therefore considers that these product categories should at this stage be excluded from the scope of the provisional measures. The Commission, nevertheless, reserves the right to include these 5 product categories in the scope of the definitive measures and to this effect will continue monitoring the imports within these categories. The evolution of imports for each product category is presented in Annex II.

(25) In addition to the exclusion, at this stage, of the abovementioned product categories, the Commission has also considered the exclusion of certain countries from the scope of the measures in line with the conclusions in recital (121). Accordingly, the Commission has excluded the imports of these product categories from these aforementioned countries from the rest of its preliminary analysis and reviewed the imports' evolution.

(26) On this basis, the imports of the products concerned by this preliminary determination have developed as follows:

	2013	**2014**	**2015**	**2016**	**2017**
imports (000 tonnes)	17 367	20 764	25 556	28 174	29 122
index 2013 = 100	*100*	*120*	*147*	*162*	*168*
market shares	12,1 %	13,8 %	16,5 %	17,5 %	17,8 %

Source: Eurostat

(27) Imports increased in absolute terms by 68 % during the period 2013-2017, with market shares increasing from 12,1 % to 17,80 %. The most significant increase took place in the period 2013-2016, but imports continued to increase and remained at a high level in 2017.

(28) The trend of increasing imports continues in 2018. When comparing the first quarter of 2018 with the first quarter of 2017, the overall import increase amounts to 10 %. For 9 product categories, the increase is more than 20 % and for one of those categories (category 13) the increase is more than 100 %. Moreover, this increase took place even before the Section 232 measures entered into force.

(29) The Commission therefore concludes that there has been a sudden, steep, and significant increase of imports in absolute terms for 23 product categories. In addition, the increase of imports continues in the first quarter of 2018 and it is expected to be even more significant in view of the expected trade diversion from the Section 232 measures.

V. UNFORESEEN DEVELOPMENTS