

V

(Announcements)

PROCEDURES RELATING TO THE IMPLEMENTATION OF THE COMMON
COMMERCIAL POLICY

EUROPEAN COMMISSION

**Notice of Initiation concerning a review of the safeguard measure applicable to imports of certain
steel products**

(2021/C 509/10)

On 31 January 2019, the European Commission ('the Commission') imposed a definitive safeguard measure on certain steel products (the 'Definitive Safeguard Regulation') ⁽¹⁾. By Regulation (EU) 2021/1029, the Commission prolonged the steel safeguard measure ('the Prolongation Regulation') ⁽²⁾.

Recital (85) of the Prolongation Regulation sets out that the Commission would carry out functioning reviews to the measure to keep its operation adapted to market evolution and in line with the interest of all stakeholders. The Commission committed to concluding a functioning review investigation of the safeguard measure by 30 June 2022.

1. Product under review

The product under review is certain steel products. The product under review is composed of the 26 product categories included in the Annex to this Notice.

2. Scope of the review

The Commission intends to carry out this review in line with the following structure:

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, including to the regime for access to the residual TRQ in the last quarter of a period.

⁽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, 25.6.2021, p. 1).

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 ⁽³⁾, 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 2021) ⁽⁴⁾ 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 increase to the level of liberalisation currently applicable, i.e. 3 %, is justified by the evidence.

E. *Changes in the US Section 232 measures*

The Commission will examine, in line with recital (85) of the Prolongation Regulation, whether any changes to the US Section 232 measures have a significant impact on the unduly diverted trade flows generated by the US Section 232 measures.

F. *Other changes of circumstances that may require an adjustment to the level of 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-E 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. Procedure

In light of the above, the Commission hereby initiates a review of the existing steel safeguard measure applicable to imports of certain steel products, limited to the scope of issues specified in point 2 above.

3.1. 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 by 10 January 2022 (COB Brussels time).

Interested parties are requested to structure their submissions and state in their correspondence (i) which of the above review issue(s), and (ii) which product category(ies) is (are) concerned by their submission.

3.2. 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.

⁽³⁾ OJ L 83, 27.3.2015, p. 16.

⁽⁴⁾ Full calendar year (complete data on imports will become available in the course of the investigation).

Such comments must reach the Commission within 7 days from the moment the submissions mentioned in paragraph 3.1 are made available for inspection by interested parties. The Commission may also issue specific instructions on the structure of the rebuttals at a later stage in the proceeding. In such case, the Commission would inform interested parties via a Note to the file in Tron accordingly.

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, unless exceptional circumstances so require.

3.3. *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.

Interested parties are requested not to provide further information outside the periods set out in this Notice or in any further communication sent by the Commission. In order to properly conclude the investigation on time, any submission, rebuttal or any other written document which does not respect the deadlines specified by the Commission may be disregarded.

3.4. *Instructions for making written submissions 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' ⁽⁵⁾. 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 2015/478 ⁽⁶⁾ and Article 5 of EU Regulation 2015/755 ⁽⁷⁾, 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.

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.

Interested parties are strongly encouraged to make all written submissions and requests via TRON.tdi (<https://tron.trade.ec.europa.eu/tron/TDI>), including scanned powers of attorney where appropriate.

⁽⁵⁾ 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).

⁽⁶⁾ OJ L 83, 27.3.2015, p. 16.

⁽⁷⁾ OJ L 123, 19.5.2015, p. 33.

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: http://trade.ec.europa.eu/doclib/docs/2011/june/tradoc_148003.pdf.

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 that 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 G, unit G5
Office: CHAR 03/66
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

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

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

3.5. *Automatic extension of status of interested parties*

Like in the previous functioning reviews and in the review investigation prolonging the measure, the Commission has decided to automatically extend the status of interested parties to all those parties that have come forward and have been duly registered at some point during the proceeding that was initiated on 23 March 2018. Therefore, these parties do not need to make an additional request, as their access to TRON will be automatically granted.

On the other hand, any party not previously registered in TRON as interested party to the safeguard proceeding, and who wishes to take part in this investigation, is invited to register as interested party following the instructions in Section 3.4 above.

The Commission recalls that a company, industry association, third country government, etc that is not yet part of the case directory, and hence is not an interested party to the case, will acquire the procedural rights associated to this review investigation only from the moment they have duly registered as interested party in line with the instructions of Section 3.4.

4. **Schedule of the review**

The review investigation shall be concluded by 30 June 2022 at the latest.

5. **Non-Cooperation**

In cases where any interested party does not provide the necessary information that may have been requested by the Commission 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.

6. **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. Interested parties are invited to follow the timeframes set out in Section 3.1 to Section 3.3 of this Notice 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 Internet: <http://ec.europa.eu/trade/trade-policy-and-you/contacts/hearing-officer/>.

7. 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 ⁽⁸⁾.

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 Internet: <http://trade.ec.europa.eu/doclib/html/157639.htm>

⁽⁸⁾ 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
25A	Large welded tubes
25B	
26	Other welded pipes
27	Non-alloy and other alloy cold finished bars
28	Non Alloy Wire