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**EUROJURIS
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Das internationale Anwaltsnetzwerk.

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In advance by e-mail:

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NON-CONFIDENTIAL VERSION

Safe009R4 - Review concerning the possible extension of the definitive safeguard measure applicable to imports of certain steel products

Dear Madam/Sir,

in the above mentioned matter, EURANIMI – European Association of Non-Integrated Metal Importers & Distributors (hereinafter: EURANIMI) has retained our services to represent its interests vis-à-vis the European institutions and other interested parties involved in the above mentioned anti-dumping proceeding.

EURANIMI is a newly formed association, representing the interests of several importers, traders and processors of steel products which are directly concerned by the a.m. definitive safeguard measure. A list of the members of EURANIMI can be found at www.euranimi.eu/member/.

Our client notes that with Notice of Initiation of 26 February 2021 (OJ 2021/C66/50) the European Commission initiated a review concerning the possible extension of the safeguard measure applicable to imports of certain steel products (hereinafter: "Products concerned").

In its Notice of Initiation, the European Commission makes reference to a request by 12 Member States to examine pursuant to Article 19 of Regulation (EU) 2015/478 and Article 16 of Regulation (EU) 2015/755 whether the current safeguard measure should be extended in time. The request argues that the risk of trade diversion continues and that if the measure was 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. With regard to this request, the Commission considered that the information provided, including the sources and supporting evidence, constitutes sufficient basis to initiate an investigation

In that respect, we would like to share the following considerations with you:

1. Protection of fair trade

EURANIMI supports the objectives pursued by the EU with the introduction of the safeguard measure on imports of certain steel products. In particular, EURANIMI endorses the EU's approach to create a level playing field in the international trade of steel products and to protect the European steel industry from a surge of imports caused by the US Section 232 measures.

Therefore, as far as the general imposition of safeguard measures applicable to imports of 26 categories of steel products are concerned the basic objectives of the Commission, i.e.

- Maintenance of historical supply chains
- Compliance with WTO rules
- Protection of European market participants and
- Progressive Liberalization of safeguard measures

are supported by EURANIMI.

2. Change of circumstances

When assessing the need for an extension in time of the safeguard measure on certain steel products, however, one has to take into account the latest economic developments in the steel sector of the EU.

In particular, one has to underline that the European processing industry is currently recovering from the effects of the Corona pandemic and since Q4 of 2020, demand increased significantly, particularly in the mechanical engineering and automotive industries. The European mills, however, are not in a position to meet this demand and the import quotas are regularly exhausted for important steel products. This also applies to Q1 2021, as currently, according to the information of the German Customs Administration, the tariff quotas for 15 order numbers of Annex IV of Commission Implementing Regulation (EU) 2019/159 are exhausted¹ and the tariff quotas for 12 more order numbers are critical, i.e. > 90 % exhausted². As a result, prices for steel products have risen drastically in recent months (some prices have risen by up to 50 % since the beginning of the year) and delivery times for new orders have been extended by several months (in some cases not until Q4 2021!).

In addition to the long delivery times, today's global capacity bottlenecks for containers are leading to an irregular and no longer calculable supply of the European market, which is currently causing considerable difficulties for the automotive industry in particular. To make matters worse, anti-dumping duties apply to imports of many products from important supplier countries such as Brazil, Russia and China, making it impossible to import goods from these countries.

In view of this development - the end of which is not in sight - there is already currently a dramatic shortage in the supply of steel. Indeed, almost all members of EURANIMI report very serious difficulties in obtaining the quantities of steel products ordered by their customers. If this situation continues, therefore, has to fear that many EU downstream key industries like metalworking and metal articles industries, automotive and automotive

¹ Currently exhausted: Order numbers 09.8613, 09.8621, 09.8829, 09.8238, 09.8850, 09.8862, 09.8863, 09.8867, 09.8916, 09.8917, 09.8921, 09.8952, 09.8965, 09.8971 and 09.8980

² Currently critical: Order numbers 09.8615, 09.8803, 09.8816, 09.8871, 09.8902, 09.8906, 09.8911, 09.8913, 09.8918, 09.8927, 09.8948 and 09.8968.

suppliers, construction and mechanical engineering, as well as other industries would not be able to source the products they desperately need to continue production.

Against this background, EURANIMI considers it particularly important that the remaining possibilities for importing steel products are not further impeded by an unchanged extension of the safeguard measure pursuant to Commission Implementing Regulation (EU) 2019/159. If an extension of the safeguard measure were to be considered at all, EURANIMI believes that adjustments would have to be made in order to facilitate imports of urgently needed steel products and to ensure a supply which corresponds to the market demand.

Suggestions for adjustments are made in the following section.

3. Necessary adjustment of safeguard measure

From EURANIMI's point of view, the following adjustment of the safeguard measure introduced by Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 should be considered:

- First, it should also be noted that the current system of safeguard measures is extremely complex, which alone is an impediment for imports of steel products. The detailed control of imports through a quarterly allocation of import quotas for the most important supplier countries means that, in a view to the delivery times for imports of up to 4 months, it is almost impossible for importers to predict when placing an order whether or not an import duty will be due when the imports subsequently cross the border. Since the potential additional duties of 25 % are very high – and certainly higher than the profit margin of the importer, this risk discourages many importers from placing an order.
- In view of the shortage in supply highlighted above, significant increases in tariff quotas should be made for product groups for which the quotas are regularly exhausted - especially since the WTO prescribes an annual liberalisation of quotas anyway. In this respect, it would be extremely helpful if the country-specific quotas, which have not been used or have only been used to a very small extent in recent years, were to be dissolved and the released quantities distributed among the remaining quotas of the respective categories. A significant increase in tariff quotas is particularly necessary for the categories concerning flat product (categories 1-10) and for categories 14 (stainless bars), 21 (hollow sections) and 26 (other welded pipes), as these quotas there have been exhausted very often (also in Q1 2021). Finally, for category 9, the introduction of country-specific quotas for Thailand and Vietnam should be considered, as imports from these countries currently fall under the residual quota for "other countries", which is, however, regularly exhausted by imports from Indonesia.
- The products in category 26 of Annex I to Commission Implementing Regulation (EU) 2019/159 of 31 January 2019, i.e. "other welded pipes" relate to both stainless steel pipes and "other" pipes, i.e. pipes made of carbon steel.

This does not seem justified because these two product groups have completely different technical properties and are far apart in price. However, it is particularly problematic that the quota for imports of category 26 is regularly almost completely exhausted by imports of carbon steel pipes, as these pipes are cheaply produced and imported in very large quantities. As a result, there is regularly no quota left for the import of stainless steel pipes, so that the importers of these grades - and ultimately the European end consumer - have to pay additional duties of 25%. This does not seem justified - and in order to avoid this in the future, EURANIMI urgently suggests that category 26 – similarly to category 4 - be divided into two sub-categories and that separate tariff quotas be allocated for both stainless and "other" welded pipes.

- The allocation of the tariff-rate quotas on a first-come-first-served basis is very unpredictable, as there are often several months between the order of the goods abroad and their arrival at the European port of destination - especially as the goods often still have to be produced after the order. For the importer, there is therefore a risk that the tariff quota will be exhausted by the time of customs clearing, so that he will either have to pay 25% additional customs duty or store the goods in a customs warehouse until a new quota is opened. In order to achieve more security here, it would be desirable for tariff quotas to be allocated or corresponding reservations to be made already at the time of ordering. Furthermore, in order to preserve traditional trade flows, consideration should be given to privileging deliveries between companies with constant delivery quantities over many years and to creating an exemption for deliveries for large-volume projects in the EU.
- Finally, EURANIMI believes that consideration should be given to suspending the safeguard measures for a certain period after 30 June 2021, in order to verify during this time whether there is actually still a need for an extension of the safeguard measures. That such a suspension is possible is shown by the recent decision of the EU to suspend the additional duties imposed on imports of Jeans, peanut butter and Whiskey from the US acc. to Commission Implementing Regulation (EU) 2018/724 of 16 May 2018 for an initial period of 4 months. In EURANIMI's view, the same should also make sense for the safeguard measures in question here, especially if this could be combined with a possible suspension of the measures on steel imports to the US imposed by the USA pursuant to Sec. 232.

4. Conclusion:

EURANIMI underlines once again that the protection of fair trade is one of the most important tasks of the EU and in this respect, the introduction of safeguard measures may indeed be warranted.

However, EURANIMI also points out that there is currently an extreme shortage in supply, which could be exacerbated by a continuation of the safeguard measure and thus cause considerable damage. Against this background, EURANIMI considers it necessary to adjust the content of the safeguard measure - insofar as it is not possible to terminate or suspend these measures - in order to contribute in this way to the recovery of the Euro-

pean economy and to ensure that the economic consequences of the Corona crisis will be overcome as soon as possible.

A handwritten signature in black ink, appearing to be 'Lieber', with a stylized flourish at the end.

Tim Lieber
Rechtsanwalt

on behalf of EURANIMI – European Association of Non-Integrated Metal Importers & Distributors