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Our Ref AD 670

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EUROPEAN COMMISSION

Directorate G -Trade Defence Investigations IV

Relations with third countries on Trade Defence matters

Subject: AD670 anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia – Comments by EURANIMI with regard to imposition of provisional duties under Commission Implementing Regulation (EU) 2021/854 of 27 May 2021 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia¹ (hereinafter the "Provisional Regulation")

Dear Investigating Team,

1. Introduction

On 28 May 2021 the European Commission decided to impose provisional anti-dumping duties through Commission Implementing Regulation (EU) 2021/854 of 27 May 2021 imposing a provisional anti-dumping duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia².

With the present submission, the European Association of Non-Integrated Steel, Stainless Steel and Metal Importers, Distributors, Traders and Processors (hereinafter "EURANIMI") submits its observations to the Provisional Disclosure/Regulation which should be taken into consideration prior to reaching the stage of definitive disclosure and potential imposition of definitive antidumping duties.

¹ OJ L 188, 28.5.2021, p. 61–89

² OJ L 188, 28.5.2021, p. 61–89

The present observations are timely and on time considering the prorogation of the deadline obtained until 15.01.2021 to file the above mentioned observations.

2. Comments concerning injury and causation

At the outset, it is worth mentioning that the market for cold-rolled stainless steel products is actually controlled by 4 companies represented by the complainant (Acerinox Europa SAU, Aperam Stainless Europe, Outokumpu Oyj, Acciai Speciali Terni S.p.A) which can be defined as "integrated producers" as they have all the processing stages of such products within them: a) the casting from which the slab is obtained; b) hot rolling necessary to obtain hot rolled coil; c) cold rolling to obtain cold rolled coils.

- **No cumulation of the imports at issue from India and Indonesia is possible: absence of the relevant requirements set forth in the Basic Regulation.**

As it is apparent from recital (96) of the Provisional Regulation, contrary to what the Commission states, the volume of imports market share for India and Indonesia was low if compared to the market quota of EU industry. Indeed, India amounted to only 3,4% of imports while Indonesia for 2,8%. With specific regard to imports during the IP India's imports expressed in tonnes volumes were much lower than India's imports in years 2017 and 2018 and substantially similar to imports from India in year 2019. See to that extent Recital (100) with Table 2

reported below. Also the relevant market share and quota of India in the EU remained substantially stable over the years.

The import quotas of the product concerned from India are limited by the safeguard measures: India has a country quota while Indonesia falls within the “third countries” quota. Any extra-quota quantities are subject to duty of 25% ad valorem.

Imports from the countries concerned over the period concerned developed as follows:

Table 2

Import volumes (tonnes) and market share

	2017	2018	2019	IP
<i>India</i>	<i>114 865</i>	<i>120 729</i>	<i>105 359</i>	<i>108 885</i>
<i>Index</i>	<i>100</i>	<i>105</i>	<i>92</i>	<i>95</i>
<i>Market share</i>	<i>3,0 %</i>	<i>3,2 %</i>	<i>3,1 %</i>	<i>3,4 %</i>
<i>Index</i>	<i>100</i>	<i>110</i>	<i>103</i>	<i>114</i>
<i>Indonesia</i>	<i>13 830</i>	<i>34 648</i>	<i>72 739</i>	<i>89 131</i>
<i>Index</i>	<i>100</i>	<i>251</i>	<i>526</i>	<i>644</i>
<i>Market share</i>	<i>0,4 %</i>	<i>0,9 %</i>	<i>2,1 %</i>	<i>2,8 %</i>
<i>Index</i>	<i>100</i>	<i>261</i>	<i>592</i>	<i>778</i>
<i>Total countries concerned</i>	<i>128 695</i>	<i>155 377</i>	<i>178 098</i>	<i>198 016</i>
<i>Index</i>	<i>100</i>	<i>121</i>	<i>138</i>	<i>154</i>
<i>Market share</i>	<i>3,3 %</i>	<i>4,2 %</i>	<i>5,2 %</i>	<i>6,2 %</i>

<i>Index</i>	<i>100</i>	<i>126</i>	<i>156</i>	<i>186</i>
<i>Source: Eurostat</i>				

The above impacts on the appropriateness and lawfulness by the Commission in applying Article 3(4) of the Basic Regulation. In order to be applicable and consider together in a cumulative manner imports from more than one country such provisions requires inter alia that it must first be determined that:

(....)

b) a cumulative assessment of the effects of imports is appropriate in light of the condition of competition between imported products and like products.

In Recital (97) the Commission takes the view that the conditions of competition between the dumped imports from each of the two countries concerned and between them and the Union like product were similar. Indeed, SSCR originating in India and Indonesia competed with each other when imported for sale on the Union market, and with the like product produced by the Union industry, as all of them are sold to similar categories of customers. Apart from such brief statement, however, no analysis of the condition of competition of the products of the countries at issue is present. The above statement cannot be considered a serious analysis of the condition of competitions of the products at issue on the EU market.

With regard to the above, Euranimi would like to be disclosed with:

- The theoretical models, of course in a non-confidential version, and/or the methodology used to assess the conditions of competition in the EU market of the products and countries at issue
- Know if the Directorate General of Competition as well as the services in charge of economic analysis by the European Commission have been consulted concerning such matter. If they have not so far, Euranimi invites the services in charge to proceed with such consultation without delay.

In conclusion the cumulative application of Article 3(4) of the Basic Regulation is inapposite here because:

- Imports from India were stable and even decreased during the IP;
- The analysis of the conditions of competition that need to be performed by the European Commission in order to be able to apply such provision and the cumulative assessment of import is totally missing or at least highly deficient from a technical point of view.

The Commission's states that the "condition of competition between the dumped imports of the two countries concerned and between them and the Union like products were similar". No analysis, data, let alone market analysis methodology is present to support such view. We are facing a statement based on no evidence. The Commission bases such finding also on the alleged fact that all products at issue would be sold to similar categories of customers. This however basically means nothing.

The DG TRADE's services have omitted to perform at least a basic market substitution analysis concerning the products at issue and also a basic supply substitution analysis is completely missing. The reader does not understand what methodology, if any, has been applied to reach the above findings.

In conclusion concerning such matter, both the limited and stable over the years market share of imports from India in the EU as well as the absence of a proper analysis of the conditions of competition between India and Indonesia's products at issue on the EU market render inapplicable Article 3(4) of the Basic Regulation in order to allow for a cumulative analysis of such products.

Euranimi therefore invites the Commission's services to assess individually concerning India and Indonesia's imports the relevant injury indicators.

- **The market share of EU industry increased during the IP**

As Recital (114) and Table 5 related to sales volume and market share show, during the EU industry market share has increased by 2.1% in the IP if compared to year 2017. Such market share quota is almost the same of the one of year 2018 and substantially similar to the one of year 2019. This is clearly an indicator of absence of injury rather than of injury.

This proves that a potential increase in the market share of India and Indonesia even if assessed cumulatively (which we have seen the above should not be the case), had no impact on the market share of the Union

industry as it was taken from other third countries without damaging the market share of the Union industry.

3. The shortage of raw materials

Euranimi shares the view of the cooperating party LSI Lamiere Speciali Inox about the shortage of SSCR, whose insufficient production and supply in the EU is heavily impacting in that price have severely increased up to 300 EUR per ton between June and January 2021³.

Users of SSCR are faced in a uncoherent situation of shortage of raw materials, on the one hand, due to the insufficient EU production and supply, and on the other hand caused by the being in place of an arsenal of protective barriers to imports in form of antidumping duties on SSCR from China and Taiwan as well as safeguards measures as above recalled.

As EU users caught by the pandemic crisis, while in a first moment there has been a utilization of available stocks, afterwards we have been faced with a change in the price conditions that had been previously agreed by contract, and this exactly due to a shortage of raw materials coupled with an untenable prolongation of the lead times. Currently, by ordering today, european manufacturers have delivery availability for the first quarter of 2022, while indian and indonesian

³ As described by numerous newspapers. See, between many others: Gazzetta di Parma, 15 March 2021; Il Sole24Ore, 25 March 2021; Siderweb 30 April 2021; Siderweb 3 June 2021; www.hellenicshippingnews.com 7 April 2021 (**Annexes 1- 5**).

manufacturers deliver in november 2021, considering already about 45 days of shipping. consequently, european time to market is about 8 months; indian and indonesian time to market is 3 months, plus shipping.

It is clear that European production capacity is not able to sustain demand.

The impact of such a shortage affects a number of key industries such as the automotive, the building, the machinery, and the food sectors.

4. Various

From the data relating to profitability, cash flow, investments and return on investments shown in table 10 of the Provisional Regulation it is quite clear that, unlike what the Commission claims, there is no injury suffered by the Union Industry caused by the importation of the products concerned from India and Indonesia. The decline in profitability during the IP is exclusively attributable to the pandemic caused by Covid 19. It seems that in the Provisional Regulation the Commission has omitted to verify for how long and for what kind of products under investigation the complainant and EU producers in EU countries had to remain closed or to substantially reduce production in order to apply anti-COVID 19 health related legislation. The above of course may have had a great impact on all data, including profitability, by EU industry related to the IP.

The Commission has also omitted to verify and assess properly the effects of the Covid 19 pandemic concerning the above and in general the injury (and dumping investigation) at issue. We invite the Commission to perform such analysis at its

earliest convenience. In particular one will have to take into account that the temporal element related to the pandemic impact on the economies at issue is of importance in that the worst moments of the pandemic during the IP in the EU, India and Indonesia were during different times. Once this done, the relevant data will have to be adapted to such analysis.

At the same time, there has been no important modification of other important economic indicators such as employment. The level of stocks of European producers, on the other hand, decreased. In addition, there appears to have been a slight decrease in Union domestic sales. This decline, however, is attributable to the decline in domestic consumption due to the overall market contraction.

Your truly,

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