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►B **COMMISSION IMPLEMENTING REGULATION (EU) No 1331/2014**

of 15 December 2014

making imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan subject to registration

(OJ L 359, 16.12.2014, p. 90)

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making imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan subject to registration

THE EUROPEAN COMMISSION,

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

Having regard to Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community [1] ('the basic anti-dumping Regulation'), and in particular Article 14(5) thereof,

Having regard to Council Regulation (EC) No 597/2009 of 11 June 2009 on protection against subsidised imports from countries not members of the European Community [2] ('the basic anti-subsidy Regulation'), and in particular Article 24(5) thereof,

After informing the Member States,

Whereas:

(1) On 26 June 2014, the European Commission ('the Commission') announced by a notice published in the *Official Journal of the European Union* [3], the initiation of an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in the People's Republic of China ('China') and Taiwan following a complaint lodged on 13 May 2014 by EUROFER ('the complainant') on behalf of producers representing more than 25 % of the total Union production of stainless steel cold-rolled flat products.

(2) On 14 August 2014, the Commission announced by a notice published in the *Official Journal of the European Union* [4], the initiation of an anti-subsidy proceeding concerning imports of stainless steel cold-rolled flat products originating in China following a complaint lodged on 1 July 2014 by EUROFER on behalf of producers representing more than 25 % of the total Union production of stainless steel cold-rolled flat products.

A. PRODUCT CONCERNED

(3) The product subject to the registration is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced),

[1] OJ L 343, 22.12.2009, p. 51.
[2] OJ L 188, 18.7.2009, p. 93.
[3] OJ C 196, 26.6.2014, p. 9.
[4] OJ C 267, 14.8.2014, p. 17.

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currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89, and originating in China and Taiwan ('the product concerned').

B. **REQUEST**

(4) The registration requests pursuant to Article 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy Regulation were made by the complainant on 25 and 29 September 2014 respectively. The complainant requested that imports of the product concerned are made subject to registration so that measures may subsequently be applied against those imports from the date of such registration.

C. **GROUNDS FOR THE REGISTRATION**

(5) According to Article 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy 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. Imports may be made subject to registration following a request from the Union industry which contains sufficient evidence to justify such action.

(6) The complainant claimed that registration is justified as the product concerned was being dumped and subsidised. Significant injury to the Union industry, which is difficult to repair, was being caused by the low-priced imports.

(7) As regards dumping, the Commission has at its disposal sufficient prima facie evidence that imports of the product concerned are being dumped. For China, the complainant provided evidence on the normal value based on total cost of production plus a reasonable amount for selling, general and administrative expenses and for profits, based on the choice of the USA as analogue country. For Taiwan, the complainant provided evidence on the normal value based on a constructed normal value (manufacturing costs, selling, general and administrative costs — SG&A — and profit).

(8) The evidence of dumping is based on a comparison of the normal values thus established with the export price (at ex-works level) of the product concerned when sold for export to the Union. As a whole, and given the extent of the dumping margins alleged, this evidence provides sufficient support at this stage that the exporters in both China and Taiwan practice dumping.

(9) As regards subsidisation, the Commission has at its disposal sufficient prima facie evidence that imports of the product concerned from China are being subsidised. The alleged subsidies consist, inter alia, of:

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— Direct transfer of funds and potential direct transfer of funds or liabilities, for example policy loans to the stainless steel cold rolled flat products industry.

— Equity programmes: for example debt-for-equity swaps, equity infusion, unpaid dividends for SOEs.

— Grant programmes: for example China World Top Brand Programme, Famous Brands Programmes/sub-central government programmes to promote famous export brands (for example Chongqing; Hubei; Ma'anshan: Wuhan famous brands and Shandong Province Top Brands Programme), programmes to rebate anti-dumping legal fees, the State Key Technology Project Fund, export assistance grants.

— Regional programmes: for example the Northeast Revitalization Programme, export interest subsidies, export loans, grants under the Science and Technology Programme of Jiangsu Province, Liaoning Province Grants — Five Point One Line Programme, subsidies provided in the Tianjin Binhai New Area (TBNA) and the Tianjin Economic and Technological Development Area: Science and Technology Fund.

— Government revenue that is otherwise due is forgone or not collected (for example loans and interest forgiveness for SOEs).

— Income and other direct taxes programmes, for example:

  — income tax credit for the purchase of domestically manufactured production equipment,

  — preferential tax policies for companies that are recognised as high and new technology enterprises,

  — tax policies for the deduction of research and development expenses,

  — income tax concessions for enterprises engaged in comprehensive resource utilisation (‘special raw materials’),

  — tax credit concerning the purchase of special equipment,

  — preferential income tax policy for enterprises in the northeast region,

  — various local tax discounts such as those of the Shandong province, the Chongqing City, the Guangxi Region Zhuang and the tax privileges to develop central and western regions,

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— dividend exemption between qualified resident enterprises,

— indirect tax and tariff exemption programmes, for example: import tariff and VAT exemptions for foreign invested enterprises (FIEs) and certain domestic enterprises using imported equipment in encouraged industries,

— VAT refunds for FIEs purchasing domestically produced equipment,

— tax concessions for central and western regions,

— VAT deduction on fixed assets in the central region.

— Regional programmes: for example subsidies provided in the Tianjin Binhai New Area (TBNA) and the Tianjin Economic and Technological Development Area.

— Provision of goods or services for less than adequate remuneration, for example the provision of stainless steel cold rolled flat products raw materials (such as ferrochrome, nickel and nickel pig iron, molybdenum and stainless steel scrap) for less than adequate remuneration.

— Provision of inputs for less than adequate remuneration, for example stainless steel hot rolled and slabs, land use rights, water and electricity, provision of electricity and water in the Jiangsu Province.

(10) It is alleged that the above schemes are subsidies since they involve a financial contribution from the government of China or other regional governments (including public bodies) and confer a benefit to the recipients. 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.

(11) Given the above, the evidence provides sufficient support at this stage that the exports of the product concerned are benefiting from countervailable subsidies.

(12) As regards injury, the request provides sufficient evidence of critical circumstances, where for the product concerned injury, which is difficult to repair, is caused by massive imports benefiting from countervailable subsidies in a relatively short period of time. Evidence of such circumstances includes the significant increase of imports in a short period of time (January-July 2014) amounting to approx. 90 % for the two countries combined.

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(13) Furthermore, the Commission has at its disposal sufficient prima facie evidence that the exporters' dumping and subsidy practices are causing material injury to the Union industry. In the complaints and the subsequent submissions related to the requests for registration, the evidence regarding the price and volume of imports shows a massive increase of imports in absolute terms and in terms of market share in the period between 2010 and 2013, and a further increase of approx. 115 % for China and 66 % for Taiwan in 2014. The volume and prices 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 3(5) of the basic anti-dumping Regulation and Article 8(4) of the basic anti-subsidy Regulation consists of data contained in the complaints and the subsequent submissions regarding registration, supported by publicly available data from Eurostat.

(14) The Commission also has at its disposal sufficient prima facie evidence, contained in the anti-dumping complaint and the subsequent correspondence, that the importers were aware, or should have been aware, that the exporters' dumping practices are injurious or are likely to be injurious to the Union industry. Chinese and Taiwanese imports were already subject to an anti-dumping investigation in the Union in 2008-09. In the Commission Decision terminating the investigation ([1]), it was established that Chinese and Taiwanese prices undercut Union industry prices, the appearance of injurious dumping could not be excluded. Also, imports into the Union of the product concerned were made subject to monitoring, inter alia, for the purpose of the initiation of a new proceeding. In addition, Brazil, Taiwan, Thailand and Vietnam have subsequently imposed anti-dumping duties against Chinese exports of the product under investigation. Finally, given the extent of the dumping that may be occurring, it is reasonable to assume that the importers would be aware, or should be aware, of the situation.

(15) As regards dumping, the Commission has at its disposal sufficient prima facie evidence that such injury is being caused or would be caused by a further substantial rise in these imports. In light of the timing, the volume of the dumped imports and other circumstances (such as the growing level of stocks or reduced capacity utilisation) would be likely to seriously undermine the remedial effect of any definitive duties, unless such duties would be applied retroactively. In addition, in view of the initiation of the current proceedings, it is reasonable to assume that the imports of the product concerned may further increase prior to the adoption of provisional measures, if any, and inventories may be rapidly built up by the importers.

([1]) OJ L 98, 17.4.2009, p. 42, recital 18.

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D. **PROCEDURE**

(16) In view of the above, the Commission has concluded that the complainant provided sufficient prima facie evidence to justify making imports of the product concerned subject to registration in accordance with Article 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy Regulation.

(17) All interested parties are invited to make their views known in writing and to provide supporting evidence. Furthermore, the Commission may hear interested parties, provided that they make a request in writing and show that there are particular reasons why they should be heard.

E. **REGISTRATION**

(18) Pursuant to Article 14(5) of the basic anti-dumping Regulation and Article 24(5) of the basic anti-subsidy Regulation imports of the product concerned should be made subject to registration for the purpose of ensuring that, should the investigations result in findings leading to the imposition of anti-dumping and/or countervailing duties, those duties can, if the necessary conditions are fulfilled, be levied retroactively on the registered imports in accordance with Article 10(4) of the basic anti-dumping Regulation and Article 16(4) of the basic anti-subsidy Regulation.

(19) The amount of any future liability would emanate from the combined findings of the anti-dumping and the anti-subsidy investigations respectively.

(20) The complainant requesting the initiation of an anti-dumping investigation estimates an average dumping margin of around 10 %-25 % for China and Taiwan and underselling margins of 40 %-50 % for China and 20 %-40 % for Taiwan for the product concerned. The estimated amount of possible future liability is set at the level of dumping estimated on the basis of the anti-dumping complaint, i.e. 10 %-25 % *ad valorem* on the CIF import value of the product concerned.

(21) The complainant requesting the initiation of an anti-subsidy investigation estimates the level of subsidisation as significant without providing a precise quantification of the subsidisation margin. It estimates and average underselling margin of 40 %-50 % for the product concerned for China. The estimated amount of possible future liability is set at the level of subsidisation estimated on the basis of the anti-subsidy complaint, i.e. 40 %-50 % *ad valorem* on the CIF import value of the product concerned.

F. **PROCESSING OF PERSONAL DATA**

(22) Any personal data collected in the context of this registration will be treated in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on

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the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data [1],

HAS ADOPTED THIS REGULATION:

Article 1

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1. The Customs authorities are hereby directed, pursuant to Article 24(5) Regulation (EC) No 597/2009 to take the appropriate steps to register the imports into the Union of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling within CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81 and 7220 20 89, and originating in the People's Republic of China.

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2. All interested parties are invited to make their views known in writing, to provide supporting evidence or to request to be heard within 20 days from the date of publication of this Regulation.

Article 2

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

[1] OJ L 8, 12.1.2001, p. 1.