



**ANKARA DEMİR VE DEMİR DIŐI  
METALLER  
İHRACATÇILARI BİRLİĐİ**

**Sayı:** 21704200-TİM.OAİB.11.ARG3.2023/164-4443  
**Konu:** AB ÖNLEMLERİN ETKİSİZ KILINMASI BİLDİRİMİ

Ankara, 25/04/2023

Sayın Üyemiz,

T.C. Ticaret Bakanlığı İthalat Genel Müdürlüğü'nden alınan bir yazıda Avrupa Birliğince Endonezya menşeli bazı sıcak haddelenmiş paslanmaz çelik sac ve ruloların (7219.11, 7219.12, 7219.13, 7219.14, 7219.22, 7219.23, 7219.24, 7220.11, 7220.12 gümrük tarife pozisyonları) ithalatında uygulanan anti-damping vergilerinin Türkiye'den sevk edilen ithalatla etkisiz kılınması iddiasıyla Avrupa Komisyonu tarafından önlemin etkisiz kılınması soruşturmasının açıldığı bilgisi iletilmiştir.

Konuya ilişkin nihai karar Avrupa Birliği Resmi Gazetesinde yayımlanmıştır. Bir örneđi ekte yer alan karara göre Endonezya'ya uygulanan önlem ülkemizi de kapsayacak şekilde genişletilmiştir. Bu çerçevede bahse konu eşyanın Avrupa Birliğine ihracatında AB tarafından %17,3 oranında vergi uygulanacaktır.

Bilgilerini rica ederim.

Fatih YUMUŐ  
Genel Sekreter V.

Ek: 18.04.2023 tarihli AB Resmi Gazetesi

Ayrıntılı bilgi için: Halilcan Yılmaz - Uzman Yrd.

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**COMMISSION IMPLEMENTING REGULATION (EU) 2023/825****of 17 April 2023****extending the anti-dumping duty imposed by Implementing Regulation (EU) 2020/1408 on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia to imports of certain hot rolled stainless steel sheets and coils consigned from Türkiye, whether declared as originating in Türkiye or not**

THE EUROPEAN COMMISSION,

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

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union <sup>(1)</sup> ('the basic Regulation'), and in particular Article 13 thereof,

Whereas:

**1. PROCEDURE****1.1. Existing measures**

- (1) In October 2020, by Implementing Regulation (EU) 2020/1408 <sup>(2)</sup> the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils ('SSHR') originating in Indonesia, the People's Republic of China ('PRC') and Taiwan. The anti-dumping duties in force range between 9,2 % and 19 % for imports originating in the PRC, between 4,1 % and 7,5 % for imports originating in Taiwan and were set at 17,3 % for imports originating in Indonesia. The investigation that led to these duties ('the original investigation') was initiated in August 2019 <sup>(3)</sup>.

**1.2. Request**

- (2) On 17 June 2022, the Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures in force and to make imports of SSHR consigned from the Republic of Türkiye ('Türkiye'), whether declared as originating in Türkiye or not, subject to registration.
- (3) The request was lodged by the European Steel Association 'EUROFER' ('the applicant').
- (4) The request contained sufficient evidence of a change in the pattern of trade involving exports from Indonesia and Türkiye to the Union, which has taken place following the imposition of measures on SSHR. The data provided in the request showed a significant change in the pattern of trade including a significant increase in exports of stainless steel slabs, the main raw material for the production of SSHR, from Indonesia to Türkiye and a significant increase in exports of SSHR from Türkiye to the Union. This change appeared to stem from the consignment of SSHR from Türkiye to the Union, after having undergone assembly or completion operations in Türkiye. The evidence showed that such assembly or completion operations started at the time of the initiation of the anti-dumping investigation that led to the duties in force, and that there was insufficient due cause or economic justification other than the imposition of the duty for the practice in question.

<sup>(1)</sup> OJ L 176, 30.6.2016, p. 21.

<sup>(2)</sup> Commission Implementing Regulation (EU) 2020/1408 of 6 October 2020 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan (OJ L 325, 7.10.2020, p. 26).

<sup>(3)</sup> Notice of initiation of an anti-dumping proceeding concerning imports of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China, Taiwan and Indonesia (OJ C 269 I, 12.8.2019, p. 1).

- (5) Moreover, the request contained sufficient evidence showing that the stainless steel slabs originating in Indonesia constituted more than 60 % of the total value of the parts of SSHR, and that the value added to the parts during the assembly or the completion operations was lower than 25 % of the manufacturing cost.
- (6) Furthermore, the request contained sufficient evidence showing that the practice, process or work was undermining the remedial effects of the anti-dumping duties in force in terms of quantity and prices. Significant volumes of imports of SSHR appeared to have entered the Union market. In addition, there was sufficient evidence tending to show that imports of SSHR were made at injurious prices.
- (7) Finally, the request contained sufficient evidence that imports of SSHR were made at dumped prices in relation to the normal value previously established.

### 1.3. Product concerned and product under investigation

- (8) The product concerned by the possible circumvention is flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, classified on the date of entry into force of Implementing Regulation (EU) 2020/1408 under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12 and originating in Indonesia ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (9) The product under investigation is the same as that defined in the previous recital, currently falling under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12, but consigned from Türkiye, whether declared as originating in Türkiye or not (TARIC codes 7219 11 00 10, 7219 12 10 10, 7219 12 90 10, 7219 13 10 10, 7219 13 90 10, 7219 14 10 10, 7219 14 90 10, 7219 22 10 10, 7219 22 90 10, 7219 23 00 10, 7219 24 00 10, 7220 11 00 10, and 7220 12 00 10) ('the product under investigation').
- (10) The investigation showed that SSHR exported from Indonesia to the Union and SSHR consigned from Türkiye, whether originating in Türkiye or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.
- (11) Following disclosure, Marcegaglia Specialties S.P.A. ('Marcegaglia'), a European SSHR importer and user, claimed that all its Turkish SSHR imports made from Indonesian slabs were black SSHR coils for which there was almost no free market in the Union. The company distinguished between white SSHR and black SSHR within the product concerned. Black SSHR coils need to be pickled and annealed before further processing, limiting their use exclusively to re-rollers. Marcegaglia claimed that they are the only independent, non-vertically integrated, re-roller in the Union. Thus, since the product imported from Türkiye was limited to black SSHR coils, there was no competition with white SSHR manufactured and sold by Union producers on the free market.
- (12) The Commission recalled that the purpose of this investigation was to determine whether there was circumvention. There was no legal basis to revise the product scope of the measures in the context of this investigation. The product scope was established in the original investigation and all SSHR coils within the product definition were included. Specifically, in the original investigation it was concluded that black and white coils share the same basic physical and chemical characteristics, that they are interchangeable and fall within the product scope (\*). Therefore, the claim was rejected.
- (13) Following disclosure, Çolakoğlu Metalurji A.Ş. ('Çolakoğlu'), a Turkish exporting producer, and the Government of the Republic of Türkiye claimed that the Commission should have extended the scope of the investigation to include the processing of Indonesian stainless steel slabs into SSHR in the Union.

(\*) See recitals (44) to (46) of Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan (OJ L 110, 8.4.2020, p. 3), confirmed in recitals (20)–(28) and (31) of Commission Implementing Regulation (EU) 2020/1408.

- (14) As explained in recital (31), the Commission recalled that, while this practice was out of the scope of this investigation, it took note of the claim and will further analyse whether this practice, if confirmed, should require further action from the Commission.

#### 1.4. Initiation

- (15) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13(3) of the basic Regulation, the Commission initiated the investigation and made imports of SSHR consigned from Türkiye, whether declared as originating in Türkiye or not, subject to registration, by Commission Implementing Regulation (EU) 2022/1310<sup>(9)</sup> ('the initiating Regulation').

#### 1.5. Comments on initiation

- (16) Çolakoğlu argued that the initiation of the investigation was not justified due to a lack of sufficient evidence, and the investigation should therefore be terminated.
- (17) Çolakoğlu claimed that there is a lack of change in the pattern of trade since, in the absence of a decrease in imports of SSHR from Indonesia, the increase in imports of SSHR from Türkiye, in itself, which could not possibly substitute the imports from Indonesia, did not demonstrate the existence of a change in the pattern of trade.
- (18) It also argued that the practice, process or work taking place in Türkiye did not fall within any of the categories of the fourth subparagraph of Article 13(1) of the basic Regulation. In particular, there was no positive evidence that consignment of SSHR originating in Indonesia via Türkiye to the Union took place, neither evidence of reorganisation of the patterns and channels of sales. Moreover, the practice, process or work could not be qualified as a slight modification, as the product under investigation is a downstream product and, as such, a different product than its input materials or an assembly operation, in particular since the product under investigation and the stainless steel slabs are not classified under the same tariff headings.
- (19) Çolakoğlu claimed that there was an economic justification to invest in stainless steel making capacities given the demand for stainless steel products in Türkiye.
- (20) Çolakoğlu also argued the absence of injury and that the remedial effects were not being undermined since (i) with a market share of 1 %, the Turkish imports were not significant to undermine the remedial effect of the duty; and (ii) should the remedial effects of the duty be undermined, this would not be because of SSHR imports from Türkiye but rather because of the imports of SSHR from Indonesia, which continued after the imposition of the measures, and SSHR processed by the Union producers from steel slabs imported from Indonesia.
- (21) In addition, Çolakoğlu argued that extending the measures to Türkiye would be against the Union interest, as this would lead to a further increase of prices, which would ultimately affect negatively the end users and consumers.
- (22) Finally, Çolakoğlu claimed that Union producers performed the same operations, that is the processing of Indonesian stainless steel slabs into SSHR in the Union, even at a larger extent than the operations taking place in Türkiye. Therefore, it requested to terminate the investigation or, alternatively, to expand the scope of the investigation to include the processing of Indonesian stainless steel slabs into SSHR in the Union.
- (23) Similar comments were received from Marcegaglia, and from the Government of the Republic of Türkiye.

<sup>(9)</sup> Commission Implementing Regulation (EU) 2022/1310 of 26 July 2022 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2020/1408 on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia by imports of certain hot rolled stainless steel sheets and coils consigned from Turkey, whether declared as originating in Turkey or not, and making such imports subject to registration (OJ L 198, 27.7.2022, p. 8).

- (24) In addition, Marcegaglia claimed that the import of stainless steel slabs from Indonesia for further processing in Türkiye constituted an economically justified operation aimed at diversifying its sources of supply.
- (25) The Commission considered that the request contained sufficient evidence that a change in the pattern of trade involving exports from Indonesia and Türkiye to the Union took place following the initiation of the original investigation and the imposition of measures. Specifically, the request contained data showing a change in the pattern of trade involving a significant increase in exports of stainless steel slabs, the main raw material for the production of SSHR, from Indonesia to Türkiye and a significant increase in exports of SSHR from Türkiye to the Union.
- (26) Concerning the practice, process or work taking place in Türkiye, the Commission considered that the request contained sufficient evidence of the existence of assembly/completion operations, one of the practices specifically mentioned in Article 13(2) of the basic Regulation, in Türkiye, and that these operations were based on the use of stainless steel slabs, the main input material, from Indonesia. The tariff classification of the product under investigation and of its main input materials, or the change thereof, is irrelevant for determining whether an assembly/completion operation constitutes circumvention.
- (27) In addition, the request provided sufficient evidence regarding the apparent lack of economic justification other than the imposition of the duties, in particular as the operations led to an increase in the complexity of logistical operations costs and service fees. The claims made by Çolakoğlu and Marcegaglia were further analysed during the investigation and addressed in Section 2.4 below.
- (28) The Commission considered that the request also provided sufficient evidence suggesting that due to these practices, the remedial effects of the existing anti-dumping measures on SSHR were being undermined both in terms of quantity and prices. In particular, the request provided sufficient evidence that imports of SSHR were made at prices below the non-injurious price established in the original investigation. These claims, including the arguments concerning the share of Turkish imports, were further analysed during the investigation.
- (29) Concerning Union interest claims, the Commission recalled that the Union interest is not a consideration for initiations under Article 13 of the basic Regulation.
- (30) In view of the above, the Commission rejected the claims that the request did not contain sufficient evidence to warrant the initiation of the investigation.
- (31) Concerning Çolakoğlu's comments that imports of Indonesian slabs into the Union might be processed into SSHR within the Union, the Commission noted that this practice fell out of the scope of this investigation. Indeed, the initiation Regulation limited the investigation to imports of SSHR into the Union from Türkiye and the processing operations taking place in Türkiye. However, the Commission took note of the claim provided by Çolakoğlu, and will further analyse whether imports of stainless steel slabs from Indonesia into the Union could be an element of a distinct circumvention practices. The Commission started monitoring the imports of stainless steel slabs from Indonesia into the Union and, according to Eurostat, these imports ceased in October 2022.

#### 1.6. Rights of defence

- (32) Following disclosure, Çolakoğlu claimed that the Commission violated its right of defence pursuant to Article 6(7) of the basic Regulation, Article 296 TFEU as well as its right to sound administration in accordance with Article 41 of the Charter of the Fundamental Rights of the European Union, by failing to consider many of the arguments that were submitted in the course of the investigation. In particular, Çolakoğlu considered that its right to sound administration was violated because the Commission did not expand the scope of the investigation to include stainless steel slabs from Indonesia imported directly into the Union.

- (33) The Commission recalled that, on 30 January 2023, it disclosed to the interested parties the essential facts and considerations on the basis of which its conclusions were based. All parties were given 15 days to comment. All arguments made by Çolakoğlu and other interested parties were considered, but this does not mean that every single argument submitted needed to be addressed explicitly in the disclosure document. <sup>(6)</sup> The Commission needs to duly justify and explain in detail its findings and conclusions, as it did in the disclosure document. Following disclosure, Çolakoğlu submitted comments and was granted a hearing. The Commission duly considered all comments made, as specified below. With respect to the imports of Indonesian stainless steel slabs into the Union, the Commission recalled that it duly explained in the disclosure, mirrored in recital (31) above, the reasons why this alleged practice fell outside the scope of the investigation at hand. Also, contrary to what Çolakoğlu claimed, the Commission did not exercise any discretion as the initiation Regulation only allowed it to investigate other possible circumvention practices taking place outside the Union, in particular in Türkiye. Therefore, the Commission considered that Çolakoğlu's rights of defence were fully respected and rejected the claim.

#### 1.7. Investigation period and reporting period

- (34) The investigation period covered the period from 1 January 2018 to 30 June 2022 ('the investigation period' or 'IP'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures on the product concerned, and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the period from 1 July 2021 to 30 June 2022 ('the reporting period' or 'RP') in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

#### 1.8. Investigation

- (35) The Commission officially informed the authorities of Indonesia and Türkiye, the known exporting producers in those countries, the Union industry and the President of the EU- Türkiye Association Council of the initiation of the investigation.
- (36) In addition, the Commission asked the Mission of Türkiye to the European Union to provide it with the names and addresses of exporting producers and/or representative associations that could be interested in participating in the investigation in addition to the Turkish exporting producers, which had been identified in the request by the applicant.
- (37) Exemption claim forms for the producers/exporters in Türkiye, questionnaires for the producers/exporters in Indonesia, and for importers in the Union were made available on DG TRADE's website.
- (38) Five companies established in Türkiye submitted exemption claim forms. These were:
- Saritas Celik San.ve tic. A.S. ('Saritas')
  - Üças Paslanmaz Çelik iç ve tic. A.S. ('UCAS')
  - AST Turkey Metal Sanayi ve tic. A.S.. ('AST')
  - Poyraz Paslanmaz Sanayi ve dış ticaret Limited Sirk ('Poyraz')
  - Çolakoğlu Metalurji A.Ş. ('Çolakoğlu').
- (39) In addition, a Union importer and user, Marcegaglia, submitted a questionnaire reply.
- (40) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that the non-submission of all relevant information or the submission of incomplete, false or misleading information might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.
- (41) A hearing with Marcegaglia was held on 4 October 2022.

<sup>(6)</sup> See on this point judgement of 5 May 2021, *Acron v Commission*, T-45/19, ECLI:EU:T:2021:238, para. 95.

- (42) Following disclosure on 30 January 2023, hearings were held with Marcegaglia on 8 February 2023 and with Çolakoğlu on 10 February 2023.

## 2. RESULTS OF THE INVESTIGATION

### 2.1. General considerations

- (43) In accordance with Article 13(1) of the basic Regulation, the following elements should be analysed in order to assess possible circumvention:
- whether there was a change in the pattern of trade between the Indonesia, Türkiye and the Union,
  - if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures in force,
  - if there is evidence of injury or the remedial effects of the anti-dumping measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and
  - whether there is evidence of dumping in relation to the normal values previously established for the product concerned.
- (44) The request alleged the consignment of the product concerned from Türkiye to the Union after having undergone assembly/completion operations in Türkiye. In this regard, the Commission specifically analysed whether the criteria set out in Article 13(2) of the basic Regulation were met, in particular:
- whether the assembly/completion operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation and whether the parts concerned are from the country subject to measures, and
  - whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs.

### 2.2. Cooperation and status of exporting producers

- (45) As stated in recital (38), five companies established in Türkiye requested to be exempted from the measures, if extended to Türkiye.
- (46) Three of them, Saritas, UCAS and AST, were considered not to be exporting producers. Following the analysis of the information provided in their respective requests, the Commission concluded that, while the companies were involved in the purchase and resale of the product under investigation, they did not produce or manufacture it. The product under investigation was purchased from other entities, which were the actual producers. These companies, consequently, could not be classified as producers. Article 13(4) of the basic Regulation provides the possibility only for producers to apply for exemption from the extension of anti-dumping duties. This was echoed in recital (27) of the initiation Regulation, which explicitly specified that exemptions can be granted only to producers of the product under investigation in Türkiye. Since these companies were found not to be producers, they were therefore not entitled to apply for an exemption.
- (47) Regarding Poyraz, the Commission received a highly deficient reply with major parts of the exemption claim form questionnaire reply completely missing or incomplete. Following a deficiency letter, the company submitted a reply where the necessary information was still either highly deficient or missing. Therefore, the Commission informed the company that it intended to apply facts available in accordance with Article 18(1) of the basic Regulation when determining whether this company was a producer within the meaning of Article 13(4) of the basic Regulation. In

its reply, the company explained why it did not provide more complete information and invited the Commission to gather more data at their premises. The company did not submit any further information rectifying or completing the deficient parts of its questionnaire reply.

- (48) However incomplete, the reply confirmed that Poyraz was buying SSHR coils predominantly in Indonesia, and then reselling them (possibly cut and sized) partly on the Union market. Whilst, the company was unable to provide the Commission with the costs of the transformation, if any, or a detailed sales listing to the Union, it is clear from the reply that Poyraz was buying and reselling the product concerned. In that Poyraz could not be considered a producer within the meaning of Article 13(4) of the basic Regulation and thus could not benefit from an exemption. The request for exemption was therefore rejected.
- (49) Çolakoğlu cooperated during the entire investigation by submitting the exemption claim form and by providing replies to the deficiency letters sent to it. As a result, the overall level of cooperation from the Turkish exporting producers was relatively high, as Çolakoğlu's export volumes of SSHR to the Union accounted for [88 % to 93 %] of the total Turkish import volumes during the reporting period, as reported in the Eurostat import statistics.
- (50) The Commission carried out a verification visit at the premises of Çolakoğlu, pursuant to Article 16 of the basic Regulation. Çolakoğlu imported almost all its main input material (stainless steel slabs) from Indonesia.
- (51) The Union importer and user Marcegaglia also cooperated and provided information concerning the purchase of Indonesian stainless steel slabs, the subsequent processing in Türkiye and the imports of SSHR into the Union. Marcegaglia requested to be treated as an exporting producer. It justified its request based on the nature of its operations since it was engaged in the purchase of the slabs from Indonesia, had these slabs subsequently hot rolled under a tolling agreement with Çolakoğlu in Türkiye, and later imported the coils (SSHR) into the Union. Accordingly, Marcegaglia was the owner of the raw material (slabs) and of the final product (SSHR) during the entire operation, which was confirmed by the investigation. However, because the actual production/processing activities took place at the premises of Çolakoğlu (7) in Türkiye, the Commission concluded that Marcegaglia could not be considered as an exporting producer entitled to request an exemption.

### 2.3. Change in the pattern of trade

#### 2.3.1. Imports of SSHR

- (52) Table 1 below shows the development of imports of SSHR from Indonesia and Türkiye in the investigation period.

Table 1

#### Imports of SSHR to the Union in the investigation period (in tonnes)

	2018	2019	2020	2021	Reporting period
Indonesia	44 647	81 041	3 695	105 784	128 191
<i>Index (base = 2018)</i>	100	182	8	237	287
Türkiye	1 611	2 137	21 500	33 236	50 015
<i>Index (base = 2018)</i>	100	133	1 335	2 064	3 106

Source: Eurostat.

(7) See for a similar conclusion Commission Decision of 27 June 2012 terminating the anti-dumping proceeding concerning imports of certain concentrated soy protein products originating in the People's Republic of China (OJ L 168, 28.6.2012, p. 38), rec. (79).

- (53) Table 1 shows that the volume of imports of SSHR from Türkiye into the Union increased from 1 611 tonnes in 2018 to 50 015 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2019 to 2020, when the volume multiplied more than ten times, from 2 137 tonnes in 2019 to 21 500 tonnes in 2020. This increase coincided in time with the initiation of the original investigation, in August 2019, and the imposition of definitive measures in October 2020. From 2020 the volume of imports from Türkiye continued increasing strongly to reach 50 015 tonnes during the reporting period. Overall the volume of imports from Türkiye increased more than 30 times during the investigation period.
- (54) At the same time, the volume of imports of SSHR from Indonesia increased from 44 647 tonnes in 2018 to 128 191 tonnes in the reporting period. The volume of imports increased from 2018 to 2019 by 82 %. From 2018 to 2020, during the original investigation, the volume of imports of SSHR from Indonesia diminished significantly. In 2020 the volume of imports decreased to less than one twentieth of the volume of 2019. From 2021 to the reporting period the volume of imports of SSHR from Indonesia recovered and started increasing again (by more than 50 %) compared to the levels of 2019. Overall, the volume of imports of SSHR from Indonesia into the Union almost tripled during the investigation period, but that increase was, in relative terms, much less significant than the increase of imports from Türkiye.

### 2.3.2. Export volumes of stainless steel slabs from Indonesia to Türkiye

- (55) Table 2 below shows the development of the volume of imports of stainless steel slabs from Indonesia to Türkiye, based on the Turkish import statistics from the GTA database <sup>(8)</sup>.

Table 2

#### Imports of stainless steel slabs from Indonesia to Türkiye in the investigation period (in tonnes)

	2018	2019	2020	2021	Reporting period
Indonesia	0	6 368	14 172	60 684	40 513
Index (base = 2019)	0	100	223	953	636

Source: GTA.

- (56) The main input material for the production of SSHR is stainless steel slabs. This input material is then further processed, that is hot rolled, to produce SSHR. The evidence available to the Commission showed that the SSHR exported to the Union from Türkiye was produced mainly from stainless steel slabs.
- (57) Table 2 shows that the imports of stainless steel slabs from Indonesia to Türkiye substantially increased, from zero in 2018 to 40 513 tonnes in the reporting period. The imports from Indonesia represented around 99,9 % of the total volume of imports of stainless steel slabs to Türkiye each year in the period from 2019 until the reporting period. Moreover, the significant increase of imports of stainless steel slabs from Indonesia to Türkiye also coincided in time with the start of the supply by Çolakoğlu to its Union customer (Marcegaglia) from 2019 onwards, leading to an increased consumption of stainless steel slabs in Türkiye for the production of SSHR. Furthermore, the Commission established that the totality of imports of stainless steel slabs from Indonesia to Türkiye arrived at the premises of Çolakoğlu.
- (58) The significant increase in import volumes of stainless steel slabs from Indonesia to Türkiye indicated an increasing demand for such input materials in Türkiye, which could, to a large extent, be explained by the increase in the production and exports of SSHR from Türkiye during the reporting period. This was also corroborated by the information provided by Çolakoğlu.

<sup>(8)</sup> <https://www.gtis.com/gta/>.

- (59) Following disclosure, Çolakoğlu claimed that there was no change in the pattern of trade, given the increase of Indonesian imports and the lack of substitution of imports of Indonesian SSHR by imports of Turkish SSHR. It also claimed that, in the absence of import substitution, the Commission deviated from its usual practice in the establishment of existence of change in the pattern of trade.
- (60) The Commission noted that Article 13 of the basic Regulation does not require a full substitution of imports from the country subject to measures by imports from other sources in order to establish a change in the pattern of trade. Also, the conclusion of the Commission about the change in the pattern of trade did not deviate from Commission's usual practice, since in some previous cases the existence of a change in the pattern of trade was also established, despite an increase of imports from the country subject to the anti-dumping measures <sup>(9)</sup>.

### 2.3.3. Conclusion on the change in the pattern of trade

- (61) While imports of SSHR from Türkiye did not substitute imports from Indonesia, which also experienced an increase, the investigation established that the significant volumes of stainless steel slabs imported from Indonesia, were further processed into SSHR in Türkiye to be later exported to the Union. The increase of exports of SSHR from Türkiye to the Union seen in Table 1, together with the significant increase of exports of stainless steel slabs from Indonesia into Türkiye in the investigation period, as shown in Table 2, constituted a change in the pattern of trade between Indonesia, Türkiye and the Union within the meaning of Article 13(1) of the basic Regulation.

### 2.4. Practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping duty

- (62) The investigation revealed the existence of a tolling agreement between Marcegaglia and Çolakoğlu under which Marcegaglia purchased stainless steel slabs from Indonesia, shipped those to Türkiye in order to be further processed into SSHR by Çolakoğlu, to be later imported into the Union by Marcegaglia. This tolling agreement was negotiated at the end of 2018, prior to the initiation of the original investigation.
- (63) Table 3 shows the evolution of the Çolakoğlu exports of SSHR to the Union falling under the tolling agreement with Marcegaglia.

Table 3

#### SSHR exports of Çolakoğlu to the Union (in tonnes)

	2018	2019	2020	2021	RP
Çolakoğlu Exports of SSHR to the Union	0	5–10	10 000–15 000	25 000–30 000	40 000–50 000

Source: verified companies' data.

- (64) Table 3 shows that the exports of Çolakoğlu substantially increased, from zero in 2018 to over 40 000 tonnes in the reporting period.
- (65) The investigation also revealed that almost the entire exports of Çolakoğlu to the Union were made under the tolling agreement with Marcegaglia. Similarly, almost the totality of the slabs imported into Türkiye from Indonesia were further transformed into SSHR by Çolakoğlu under the tolling agreement established between both companies.

<sup>(9)</sup> See for example, Commission Implementing Regulation (EU) 2022/302 of 24 February 2022 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2020/492, as amended by Implementing Regulation (EU) 2020/776, on imports of certain woven and/or stitched glass fibre fabrics ('GFF') originating in the People's Republic of China ('the PRC') to imports of GFF consigned from Morocco, whether declared as originating in Morocco or not, and terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2020/492 on imports of GFF originating in Egypt by imports of GFF consigned from Morocco, whether declared as originating in Morocco or not (OJ L 46, 25.2.2022, p. 49), rec. (50)–(54).

- (66) Even though there might have been other reasons to set up the scheme than the measures in place, i.e. to ensure security of supply for Marcegaglia, and to supply the stainless steel market in Türkiye, other elements strongly point to a connection with the imposition of the duties:
- The tolling agreement, although negotiated prior to initiation of the original investigation, did not fully materialise before the initiation of the original investigation.
  - The practice under the tolling agreement substantially increased only after the start of the original investigation and significantly increased after the imposition of the definitive measures.
- (67) The Commission noted that the tolling agreement was set up with a view to supply the Union market and not the Turkish domestic market. In fact, Çolakoğlu sold less than 2 % of SSHR, produced from slabs imported from Indonesia, on the Turkish domestic market.
- (68) The Commission also analysed Marcegaglia's claim that the tolling agreement was set up to ensure security of supply, because demand increased significantly and could not be met by the Union industry. In this regard it was established that the assembly/completion operations in Türkiye started in significant volumes only after the initiation of the original investigation against Indonesia. The agreement did not merely concern securing a supply from Türkiye, but due to its tolling nature, focused specifically on basing that supply on stainless steel slabs from Indonesia – the country under measures. Moreover, the Indonesian producer of stainless steel slabs was also the supplier of SSHR. Normally, one does not move one step up the value chain of its vertically integrated supplier for reasons of security of supply. Unless, of course, the threat that is being addressed are potential measures affecting the lower step in that value chain – in this case the anti-dumping duty on imports of SSHR from Indonesia.
- (69) Following disclosure, Marcegaglia and Çolakoğlu claimed that their business relationship was not dependent on the existence of the anti-dumping duty against imports of SSHR from Indonesia. Both companies argued that the tolling agreement between Marcegaglia and Çolakoğlu was negotiated prior to the initiation of the original investigation, and that the two companies had a longstanding business relationship, which started more than 10 years ago. Their tolling agreement was part of a wider agreement, whereby Çolakoğlu would process both stainless steel products and carbon steel products.
- (70) The Commission noted that, even considering that Marcegaglia and Çolakoğlu had a business relationship for more than 10 years and allegedly their tolling agreement was part of a wider agreement, as also stated in recital (66) above, the practice subject to this investigation, i.e. to process stainless steel slabs from Indonesia into SSHR in Türkiye which subsequently was exported to the Union, did not fully materialise before the initiation of the original investigation. The practice increased after the start of the original investigation and further increased significantly after the imposition of the definitive measures. In other words, the start of the practice at stake, despite the longstanding relationship, coincided in time with the initiation of the original investigation and the later imposition of measures, and did not materialise at any earlier stage. Therefore, the Commission rejected this claim.
- (71) Çolakoğlu claimed that there was an economic justification linked to the existence of demand for Turkish SSHR, both in the EU and in Türkiye. This demand would justify the investments, made prior to the initiation of the original investigation, to develop production of SSHR in Türkiye.
- (72) The Commission noted at the outset that the practice that was found to be circumventing the anti-dumping duties in force was not the production of SSHR in Türkiye as such. The practice that was found to be circumventing was importing stainless steel slabs from Indonesia into Türkiye, rolling them into SSHR and selling them on the Union market. Therefore, whether the investments in the capacity development were economically justified was immaterial from the point of view of the Commission's findings of circumvention. Moreover, the Commission noted that, while Çolakoğlu developed the capacity to produce its own stainless steel slabs in Türkiye, this production was very limited. In fact, as stated in recital (91) below, slabs of Turkish origin accounted, in the reporting period, for less than 0,5 % of the slabs used by Çolakoğlu for the production of SSHR exported to the

Union. Therefore, irrespective of whether there were reasons for Çolakoğlu's investments on stainless steel production facilities other than to circumvent the measures, the investments in question were not used to supply SSHR to the Union produced from slabs of Turkish origin since almost all exports of Çolakoğlu were based on SSHR produced from Indonesian slabs during the reporting period. Therefore, the claim was rejected.

- (73) Following disclosure, Marcegaglia claimed that there was an economic justification given its business model, which was based on, first, the diversification of sources of supply and, second, on the need of flexibility to cope with the availability of SSHR in the market depending on the fluctuations of demand for downstream products. The fact that there was limited availability of black SSHR on the Union market, including from imports from third countries, allegedly justified Marcegaglia's strategy of purchasing stainless steel slabs from Indonesia to be processed into black SSHR through tolling agreements. Moreover, Marcegaglia argued that the Commission did not address the fact that Indonesia has the largest capacity of stainless steel slabs in the world and, unlike other countries, is willing to supply the quality and quantities of slabs needed by Marcegaglia. Allegedly other countries either focus on SSHR or have a strong demand of SSHR for downstream products.
- (74) The Commission noted that, while considering the business model as described above, this claim did not render the arguments set out above in recitals (66) to (68) invalid. In addition, Indonesian SSHR was available on the Union market following the payment of the anti-dumping duties, which was shown by the increase of imports from Indonesia. Furthermore, there was no evidence that the alleged fluctuations of the availability of downstream products would affect only the availability of SSHR, but not its immediate upstream input, the stainless steel slabs, resulting in abundancy of Indonesian slabs and scarcity of Indonesian SSHR. Moreover, the allegation that all other countries, except Indonesia, were unable or unwilling to supply sufficient quantities of quality slabs to Marcegaglia was not backed by any evidence. Therefore, this claim was rejected.
- (75) Following disclosure, Marcegaglia argued that the economic justification of the tolling agreement with Çolakoğlu was confirmed by the recent significant investments made by Marcegaglia. In January 2023 Marcegaglia acquired a steel mill in the United Kingdom. Marcegaglia claimed that this acquisition of a plant for the production of stainless steel slabs was driven by the need of securing a reliable and stable own source of supply of SSHR. However, since the acquired steel mill produces stainless steel slabs but does not have hot rolling facilities, Marcegaglia argued that in the future it would need the partnership of another plant in order to process the stainless steel slabs produced in the United Kingdom into SSHR, either in or outside the Union. In this respect, Çolakoğlu has proven to be a reliable and efficient partner which could potentially be used also for the processing of slabs produced in the United Kingdom into SSHR. Furthermore, Marcegaglia pointed out that, as it would soon be able to meet its demand of stainless steel slabs by means of the production of slabs in the United Kingdom, no further imports SSHR of slabs from Indonesia could be expected in the future.
- (76) The Commission considered that this recent development may very well result in a change of sources of supply of stainless steel slabs in the near future. However, this acquisition took place in January 2023, i.e. after the reporting period, and did not contain any guarantee as to whether or when the established circumvention practice would come to an end.
- (77) Concerning the alleged future change of circumstances the Commission noted that, after one year from the extension of the measures, either Marcegaglia or Çolakoğlu could request a review of the anti-circumvention measure under Article 11(3) of the basic Regulation, in case of the change being of a lasting nature. Indeed, such change could be linked to the purchase of stainless steel slabs produced in the United Kingdom replacing the purchase of stainless steel slabs from Indonesia, provided it can be demonstrated that such change would be of a lasting nature.
- (78) In light of all these elements, the Commission concluded that there was insufficient due cause or economic justification other than the imposition of the duty, for the completion operation by Çolakoğlu. The change in the pattern of trade was a result of the fact that the operation started and then substantially increased after the initiation of the original investigation.

## 2.5. Start or substantial increase of operations

- (79) Article 13(2)(a) of the basic Regulation requires the assembly or completion operation to have started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation, and the parts concerned to be mainly from the countries subject to anti-dumping measures.
- (80) As described in Section 2.4 above, Çolakoğlu substantially increased its export sales during the investigation period, and almost all purchases of the main input material, stainless steel slabs, were imported from Indonesia.
- (81) Therefore, the Commission concluded that the assembly or completion operation substantially increased since the initiation of the original investigation, as required by Article 13(2)(a) of the basic Regulation.

## 2.6. Value of parts and value added

- (82) Article 13(2)(b) of the basic Regulation states that, as far as assembly or completion operations are concerned, a condition to establish circumvention is that the parts from the countries subject to measures constitute 60 % or more of the total value of the parts of the assembled product and that the added value of the parts brought in, during the assembly or completion operation, is less than 25 % of the manufacturing cost.
- (83) Following disclosure, Çolakoğlu reiterated its claim that the practice, process or work does not fall within the meaning of Articles 13(1) and 13(2) of the basic Regulation since the product under investigation, SSHR, is a different product than its input material, stainless steel slabs. Slabs are classified under different tariff headings than SSHR as the processing operations are substantial and confer a non-preferential Turkish origin to SSHR. Also, Çolakoğlu argued that while rules of origin are regulated at WTO level, no agreement on circumvention has been reached at WTO level. Therefore, a decision to extend the existing measures to imports of SSHR from Türkiye would undermine the Union's position as a leading proponent of global trade convergence. Furthermore, the Çolakoğlu referred to the *Steel Wire Ropes and Cables (India)* case<sup>(10)</sup>, where the Commission took the view that the non-preferential origin rules were relevant in determining whether the anti-dumping duties applied or not.
- (84) The Commission considered that the tariff classification and the origin of the product under investigation and of its main input materials, or the change thereof, is irrelevant for determining whether an assembly/completion operation constitutes circumvention. The legal basis for an anti-circumvention investigation is Article 13 of the basic Regulation, and not customs legislation regarding origin. Indeed, the Court of Justice of the European Union has held that the sole purpose of a Regulation extending an anti-dumping duty is to ensure the effectiveness of that duty and to prevent its circumvention<sup>(11)</sup>. To assess possible circumvention, as described in recital (82), the Commission therefore analysed whether the criteria set out in Article 13(2)(b) of the basic Regulation were met. In particular whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs. Also, while the WTO Members explicitly acknowledged the problem of circumvention of anti-dumping measures<sup>(12)</sup>, there are no uniform rules on circumvention at WTO level that would render the Union rules in this respect incompatible. Finally, the Commission Decision referred to by Çolakoğlu did not concern the application of Article 13 as such, but rather the collection of anti-dumping duties in the case of non-compliance with the terms of an undertaking. Moreover, the case-law has clarified that the use of 'from' rather than 'originating in' in Article 13 of the basic Regulation implies that *'the EU legislature has deliberately chosen to distance itself from rules of origin under customs law and that, therefore, the concept of "from" [...] possesses an autonomous and distinct meaning from that of the concept of "origin" under customs law'*<sup>(13)</sup>. The claim was therefore rejected.

<sup>(10)</sup> 2006/38/EC Commission Decision of 22 December 2005 amending Commission Decision 1999/572/EC accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of steel wire ropes and cables originating, inter alia, in India (OJ L 22, 26.1.2006, p. 54), recitals (42)–(44).

<sup>(11)</sup> Judgment of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 96 and the case-law cited.

<sup>(12)</sup> Uruguay Round Agreement, Decision on Anti-Circumvention.

<sup>(13)</sup> Judgment of 12 September 2019, *Commission/Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 90.

### 2.6.1. Value of parts

- (85) The main input material to produce SSHR is stainless steel slabs. Almost 100 % of the stainless steel slabs processed by Çolakoğlu were imported from Indonesia. Through a hot rolling process carried out, which was a completion operation in Türkiye, these stainless steel slabs were further processed into SSHR. According to the submitted and verified information by Çolakoğlu, the stainless steel slabs, constituted almost 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic Regulation.
- (86) Following disclosure, Çolakoğlu reiterated its claim that manufacturing SSHR from stainless steel slabs does not constitute an 'assembly of parts by an assembly operation' within the meaning of Article 13(2) of the basic Regulation, since there is only one part in the production of SSHR. It also argued that reference to 'completion of operations' in Article 13(2) of the basic Regulation should be read in the context of value added after the assembly has been concluded. Therefore, and given that the operations carried out by Çolakoğlu did not qualify as an assembly operation, the conditions laid down in Articles 13(2)(a) and 13(2)(b) of the basic Regulation were not met, according to Çolakoğlu.
- (87) The Commission rejected these claims. The practice described in recital (82) was considered to be a completion operation that fell within the concept of assembly operations under Article 13(2) of the basic Regulation, as also referred to in recital (44). In addition, other elements were considered, as explained below.
- (88) The basic Regulation does not define the terms 'assembly operation' or 'completion operation'. However, the way Article 13(2) of the basic Regulation is constructed favours an interpretation of the term 'assembly operation' as, according to Article 13(2)(b), also meant to encapsulate explicitly 'completion operation'. It follows that 'assembly operation' within the meaning of Article 13(2) is meant to cover not only operations that consist of assembling parts of a composite article, but may also involve further processing, i.e. finishing of a product.
- (89) As noted in recital (84), the purpose of investigations conducted in accordance with Article 13 of the basic Regulation is to ensure the effectiveness of anti-dumping duties and to prevent their circumvention. Consequently, the purpose of Article 13(2) of the basic Regulation is to capture the practices, processes or works that use predominantly parts from the country that is subject to the measures and assemble or finish them by adding limited value to these parts.
- (90) Following disclosure, Çolakoğlu claimed that SSHR produced with slabs of Turkish origin fell outside the scope of the investigation. Therefore, the extension of the measures should only be related to SSHR produced from Indonesian slabs and not SSHR produced from slabs of Turkish origin. Çolakoğlu also claimed that origin could be checked by national customs authorities given the existence of a viable and practicable way to verify its Turkish origin. Specifically, the obtainment of a EUR.1 Certificate, which grants preferential origin, should provide assurance with sufficient guarantees that the SSHR to which it related were processed from slabs of Turkish origin.
- (91) Article 13(1) of the basic Regulation provides for extension of the duties to imports from third countries of the like product, if the conditions are met. Pursuant to Article 13(4), exemptions from the extension of the measures may be granted to producers of the product concerned that are found not to be engaged in circumvention practices. In its analysis, the Commission was bound to take into account all the sales to the Union of the product under investigation by the exporting producer in question, including those manufactured from slabs with Turkish origin, and not only the sales of the product manufactured with Indonesian slabs. In this respect, the investigation confirmed that Çolakoğlu exported to the Union SSHR manufactured predominantly with Indonesian slabs. Specifically, the investigation established that during the reporting period out of the [40 000 – 50 000] tonnes of SSHR exported by Çolakoğlu to the union only [20 – 200] tonnes were SSHR produced with slabs of Turkish origin, accounting at its maximum level for 0,5 % of the parts. Accordingly, the parts, stainless steel slabs, imported from Indonesia, accounted in the reporting period for more than 99,5 % of all parts used in the total production of SSHR. Consequently, the claim was rejected.

- (92) Following disclosure, Çolakoğlu argued that its rights of defence were breached, in particular to Article 6(7) of the basic Regulation and Article 296 TFEU because its initial exemption request concerned not only SSHR produced with Indonesian slabs but also, separately, SSHR produced with slabs of Turkish origin. This element was not addressed in the disclosure, according to Çolakoğlu.
- (93) As indicated in recital (85) above, under Article 13(1) of the basic Regulation, the extension concerns imports from third countries of the like product and Article 13(4) allows for exemptions for 'producers [...] that are found not to be engaged in circumvention practices'. The Commission stated in the disclosure document that for the purpose of the assessment of the 60 % criterion, it took into account all slabs processed by Çolakoğlu, and that almost 100 % of the stainless steel slabs processed by it were imported from Indonesia. Thus, those slabs constituted almost 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic Regulation. Based on this assessment, Çolakoğlu was found to be engaged in circumvention practices within the meaning of Article 13(4) of the basic Regulation and thus could not be granted an exemption pursuant to that provision. Furthermore, following disclosure, in recital (91) above, the Commission confirmed that SSHR produced from slabs with Turkish origin had to be taken into account in its analysis and could not be excluded from the scope of the investigation. Consequently, the Commission considered that Çolakoğlu's rights of defence were fully respected and rejected the claim.
- (94) The Commission therefore concluded that the 60 % criterion set out in Article 13(2)(b) of the basic Regulation was met.

#### 2.6.2. Value added

- (95) The average value added established during the reporting period was found to be lower than 5 %, that is far below the 25 % threshold set by Article 13(2)(b) of the basic Regulation. The Commission therefore concluded that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost, as required by Article 13(2)(b) of the basic Regulation for these operations to constitute circumvention.

#### 2.7. Undermining of the remedial effect of the anti-dumping duty

- (96) In accordance with Article 13(1) of the basic Regulation, the Commission examined whether the imports of the product under investigation, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (97) Based on the submitted and verified data of Çolakoğlu and Marcegaglia, Çolakoğlu exported 40 000 – 50 000 tonnes during the reporting period. At the same time, the free sales Union consumption was estimated by the applicant to be about 1 200 000 tonnes for the reporting period. Therefore, the market share of the imports from Türkiye represented around 4 % of the free sales Union consumption during the reporting period and more than 3 % of the free sales Union consumption established in the original investigation period. Furthermore, as the Commission established a substantive spare capacity in Çolakoğlu's hot-rolling mill, the company could substantially increase its export volumes in the future.
- (98) Regarding prices, the Commission compared the average non-injurious price, as established in the original investigation, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted to include post clearance costs. The Commission used Eurostat statistics since the transactions between Çolakoğlu and Marcegaglia were based on a tolling agreement, thus constituting a service fee and not reflecting a market price. This price comparison showed that the imports from Çolakoğlu undersold the Union prices by more than 13 %.
- (99) Following disclosure, Marcegaglia, Çolakoğlu and the Government of the Republic of Türkiye claimed that, given the increase of imports of Indonesian, the existing measures on Indonesian imports did not have any remedial effect that could potentially be undermined by imports from Türkiye, which were considerably lower in absolute terms.
- (100) Çolakoğlu also claimed that, should any imports be undermining the remedial effects, those would not be the SSHR Turkish imports, but rather the imports of slabs allegedly being processed into SSHR in the Union given its substantial higher volumes.

- (101) The Commission recalled that, while imports of slabs from Indonesia into the Union were indeed bigger in volume than SSHR from Turkey, this, however, did not alter the findings of the investigation that imports of SSHR from Turkey undermined the remedial effects of the measures, namely that these imports represented more than 4 % of the total Union consumption during the reporting period and undersold the Union prices by more than 13 %. Furthermore, the continuation of imports of Indonesian SSHR did not imply that the original measures were inefficient. Indeed, the purpose of the measures was not to remove imports, but rather to level the playing field. Imports of Indonesian SSHR into the Union continued and even increased, but are subject to a duty that is meant to remove the effects of injurious dumping.
- (102) As to the imports of Indonesian slabs into the Union, the Commission noted that whether there are other factors that might undermine the remedial effect of the measures was irrelevant for the findings in the case at hand. Furthermore, Article 13(1) of the basic Regulation does not require the Commission to analyse other factors, if any, that could additionally be undermining the remedial effects of the duty.
- (103) Following disclosure, Marcegaglia claimed that, giving its limited market, imports of black SSHR from Türkiye did not undermine the remedial effects of the measures in force against imports of Indonesian SSHR.
- (104) As stated in recital (12), the Commission noted that in the original investigation it was concluded that black and white coils share the same basic physical and chemical characteristics, they are in competition between each and fall within the product scope. The claim was, therefore, rejected.
- (105) In view of the above considerations, the Commission concluded that the existing measures were undermined in terms of quantities and prices by the imports from Türkiye, subject to this investigation.

### 2.8. Evidence of dumping

- (106) In accordance with Article 13(1) of the basic Regulation, the Commission also examined whether there was evidence of dumping in relation to the normal values previously established for the like product.
- (107) To this end, the Commission compared the average export prices from Türkiye, based on Eurostat statistics, to the normal values established during the original investigation, adjusted for the price increase of SSHR coils in Indonesia as reported in public databases<sup>(14)</sup>. The comparison of normal values and export prices showed that SSHR were exported at dumped prices during the reporting period.

## 3. MEASURES

- (108) Based on the above findings, the Commission concluded that the anti-dumping duty imposed on imports of SSHR originating in Indonesia was circumvented by imports of the product under investigation consigned from Türkiye by Çolakoğlu.
- (109) Given that the level of cooperation was high, as the reported export sales of Çolakoğlu represented [88 % to 93 %] of the total import volumes from Türkiye into the Union during the reporting period, and that no other Turkish producer within the meaning of Article 13(4) of the basic Regulation came forward requesting an exemption, the Commission concluded that the findings of circumvention practices in respect of Çolakoğlu were representative with respect to all imports from Türkiye.
- (110) Therefore, in accordance with Article 13(1) of the basic Regulation, the anti-dumping measures in force on imports of SSHR originating in Indonesia should be extended to imports of the product under investigation.

<sup>(14)</sup> The Commission took as references the increase in prices of SSHR coils in East Asia according to Metal Bulletin, largely covering prices of SSHR from Indonesia. The same price increase was confirmed by the GTA data of worldwide imports of SSHR from Indonesia.

- (111) Pursuant to Article 13(1), second paragraph of the basic Regulation, the measure to be extended should be the one established in Article 1(2) of Implementing Regulation (EU) 2020/1408, for ‘all other companies’, which is a definitive anti-dumping duty of 17,3 % applicable to the net, free-at-Union-frontier price, before customs duty.
- (112) Pursuant to Article 13(3) of the basic Regulation, which provides that any extended measure should apply to imports that entered the Union under registration imposed by the initiating Regulation, duties are to be collected on those registered imports of the product under investigation.

#### 4. REQUEST FOR EXEMPTION

- (113) As described above, Çolakoğlu was found to be involved in circumvention practices. Therefore, an exemption, pursuant to Article 13(4) of the basic Regulation, could not be granted to this company.
- (114) As mentioned in Section 2.2 above, Saritas, UCAS and AST were considered not to be exporting producers, and therefore not entitled to apply for an exemption. Similarly, given its deficient reply, the Commission was not able to establish whether Poyraz was a genuine producer and thus eligible for an exemption.
- (115) In view of the above none of the companies should be exempted from the extension of measures.

#### 5. DISCLOSURE

- (116) On 30 January 2023, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment. Comments were received from Çolakoğlu, Marcegaglia and the Government of the Republic of Türkiye and were duly considered.
- (117) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. The definitive anti-dumping duty imposed by Implementing Regulation (EU) 2020/1408, on imports of flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, originating in Indonesia, the People’s Republic of China and Taiwan, is hereby extended to imports of flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, currently classified under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12, consigned from Türkiye, whether declared as originating in Türkiye or not (TARIC codes 7219 11 00 10, 7219 12 10 10, 7219 12 90 10, 7219 13 10 10, 7219 13 90 10, 7219 14 10 10, 7219 14 90 10, 7219 22 10 10, 7219 22 90 10, 7219 23 00 10, 7219 24 00 10, 7220 11 00 10, and 7220 12 00 10).
2. The extended duty is the anti-dumping duty of 17,3 % applicable to ‘all other companies’ in Indonesia (TARIC additional code C999).
3. The duty extended by paragraphs 1 and 2 of this Article shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) 2022/1310.
4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

*Article 2*

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2022/1310, which is hereby repealed.

*Article 3*

The exemption requests submitted by Saritas Celik San.ve tic. A.S., Üças Paslanmaz Çelik iç ve tic. A.S., AST Turkey Metal Sanayi ve tic. A.S., Poyraz Paslanmaz Sanayi ve dış ticaret Limited Sirk and Çolakoğlu Metalurji A.Ş. are rejected.

*Article 4*

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission  
Directorate-General for Trade  
Directorate G Office:  
CHAR 04/39  
1049 Bruxelles/Brussel  
BELGIQUE/BELGIË

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission may authorise the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) 2020/1408, from the duty extended by Article 1.

*Article 5*

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.

Done at Brussels, 17 April 2023.

*For the Commission*  
*The President*  
Ursula VON DER LEYEN