

Submission filed on behalf of

EURANIMI

in the framework of the anti-circumvention investigations
concerning imports of stainless-steel cold-rolled flat
products consigned from Taiwan, Türkiye and Vietnam
(R797/R798)

OPEN FOR INSPECTION

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1. INTRODUCTION

1. On behalf of our client, the European Association of Non-Integrated Metal Importers & Distributors (**EURANIMI**), we hereby submit our initial written comments on Implementing Regulation (EU) 2023/1631¹, Implementing Regulation (EU) 2023/1632² and the anti-circumvention review requests (**R797 Request** and **R798 Request**) submitted by EUROFER (the **Applicant**) on 30 June 2023.

2. On 30 September 2020, the European Commission (**Commission**) initiated an anti-dumping investigation into imports of stainless steel cold-rolled flat products (**SSCR** or the **product concerned**) originating in India and Indonesia.³ Definitive anti-dumping duties were imposed by the Commission on 17 November 2021.⁴ On 17 February 2021, the Commission initiated an anti-subsidy investigation⁵ into SSCR from both of these countries, and imposed countervailing duties on 16 March 2022.⁶ The ongoing investigations into possible circumvention of these duties via Taiwan, Türkiye and Vietnam were initiated on 14 August 2023. The Investigation Period (**IP**) for these investigations is 1 January 2020 to 30 June 2023 and the Review Period (**RP**) is 1 July 2022 to 30 June 2023.

¹ Commission Implementing Regulation (EU) 2023/1631 of 11 August 2023 initiating an investigation concerning possible circumvention of the countervailing measures imposed by Implementing Regulation (EU) 2022/433 on imports of stainless steel cold-rolled flat products originating in Indonesia, by imports of stainless steel cold-rolled flat products consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, and making imports of stainless steel cold-rolled flat products consigned from Taiwan, Türkiye and Vietnam subject to registration, OJ L 202, 14.8.2023, p. 10.

² Commission Implementing Regulation (EU) 2023/1632 of 11 August 2023 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2021/2012 on imports of stainless steel cold-rolled flat products originating in Indonesia, by imports of stainless steel cold-rolled flat products consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, and making imports of stainless steel cold-rolled flat products consigned from Taiwan, Türkiye and Vietnam subject to registration, OJ L 202, 14.8.2023, p. 16.

³ Notice of initiation of an anti-dumping proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ C 322, 30.09.2020, p. 17.

⁴ Commission Implementing Regulation (EU) 2021/2012 of 17 November 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 410, 18.11.2021, p.153.

⁵ Notice of initiation of an anti-subsidy proceeding concerning imports of stainless steel cold-rolled flat products originating in India and Indonesia OJ C 57, 17.2.2021, p. 16

⁶ Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and Indonesia and amending Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 88, 16.03.2022, p. 24.

3. EURANIMI is a Brussels-based European association representing a large number of mill-independent European importers of stainless-steel products.⁷ The members of EURANIMI are active in the European Union (**EU**) as stockholding distributors, service centres, processors, or traders and are directly concerned by these two circumvention investigations.

4. Although most of EURANIMI members are not themselves “users” but rather “distributors”, they nevertheless act as the importing arm of a very large number of SME-users in the EU who rely on their experience and the well-organised commercial structure of the EU distribution to provide them right on time with the necessary quantities of stainless steel materials in the required qualities, shapes and sizes thereby often reducing lead times, costly stock financing and cumbersome warehousing. Without the efficiency of the network of members represented by EURANIMI, the overwhelming majority of SME downstream industries would be simply unable to compete with the ever-growing influx of finished products coming from Far East Asian countries.

5. Due to the many pitfalls along the import route, only a very small number of SME-users in the EU import their stainless steel directly from non-EU mills. All the others, which represent the vast majority in a large yet fragmented group of downstream industries, are rarely given the opportunity to make themselves known either directly or even through their own national associations. Frequently, this is because they would not necessarily perceive sufficiently in time the important significance of trade investigations. For the above reasons, EURANIMI believes that it expresses the opinion not only of its own members, but also of the entire downstream chain including their customers, the EU SME-user industries.

6. EURANIMI submits that the necessary conditions of Article 13 of 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 EU (the **Basic AD Regulation**)⁸ and Article 23 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the EU (the **Basic AS Regulation**)⁹ have not been fulfilled. Therefore, no circumvention of the anti-dumping duties, nor the countervailing duties on Indonesian SSCR, has occurred and both investigations should thus be terminated without any extension of the existing measures.

⁷ For more information on EURANIMI, please visit euranimi.eu.

⁸ 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, OJ L 176, 30.6.2016, p. 21 (codified version).

⁹ Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union, OJ L 176, 30.6.2016, p. 55 (codified version).

7. In the present submission, EURANIMI will mainly refer to the anti-circumvention investigation relating to the anti-dumping measures imposed on imports of SSCR. However, the comments below equally apply *mutatis mutandis* to the anti-circumvention investigation of the countervailing duties since the relevant provisions on circumvention are virtually identical in both investigations.

8. In particular, EURANIMI submits that:

- there is no change in the pattern of trade.
- there is sufficient due cause and economic justification for the practice, process or work taking place in Taiwan, Türkiye and Vietnam.
- producing SSCR from slabs or SSHR is a substantial modification and does not constitute an assembly operation within the meaning of Article 13(2) of the Basic AD Regulation.
- there is no evidence of injury or that the remedial effects of the anti-dumping duties on Indonesian SSCR are undermined.

2. THERE IS NO CHANGE IN THE PATTERN OF TRADE

9. EURANIMI notes that in order to establish the existence of a change in the pattern of trade, the Commission should consider whether imports into the EU of SSCR from Indonesia that are subject to the anti-dumping measures at issue have decreased at around the same time as imports of SSCR from Taiwan, Türkiye and Vietnam have increased¹⁰ and whether there is a marked switch that coincides with the entry into force of the anti-dumping measures.¹¹ Without such a trend, it cannot be determined that SSCR from Taiwan, Türkiye and Vietnam is being imported into the EU to the detriment of imports of SSCR from Indonesia.

¹⁰ See, Certain aluminium foil (China), OJ L 40, 17.2.2017, p. 51, para. 40; Hand pallet trucks and their essential parts (China), OJ L 214, 9.8.2016, p. 1, para. 36; Crystalline silicon photovoltaic modules and key components (i.e. cells) (China), OJ L 37, 12.2.2016, p. 76, paras. 37 and 58; Silicon (China), OJ L 13, 19.1.2007, p. 1, para. 18; Certain ring binder mechanisms (China), OJ L 7, 12.1.2006, p. 1, para. 17; Integrated electronic compact fluorescent lamps (China), OJ L 145, 9.6.2005, p. 1, para. 40.

¹¹ See Case C-21/13, *Simon, Evers & Co. GmbH v. Hauptzollamt Hamburg-Hafen*, EU:C:2014:2154, para. 52; see also Certain seamless pipes and tubes of stainless steel (China), OJ L 299, 16.11.2017, p. 1, paras. 36-38; Crystalline silicon photovoltaic modules and key components (i.e. cells) (China), OJ L 37, 12.2.2016, p. 76, para. 37; Molybdenum wire (China), OJ L 243, 12.9.2013, p. 2, paras. 40-41; Steel ropes and cables (China), OJ L 117, 11.5.2010, p. 1; Certain footwear with uppers of leather (China), OJ L 117, 1.5.2008, p. 1, paras. 30-32; Certain malleable cast iron tube or pipe fittings (Brazil), OJ L 149, 17.6.2003, p. 1, para. 19; Certain tube and pipe fittings of iron or steel (China), OJ L 94, 14.4.2000, p. 1, paras. 14-15.

10. The Applicant claims that there is such a trend relying on the concept of so-called “indirect imports”. By relying on this misleading concept, the Applicant tries to convince the Commission that indirect imports of SSCR have significantly increased since the initiation of the anti-dumping investigation, whilst direct SSCR imports from Indonesia decreased, to convey a perception that there is circumvention occurring. The Applicant also argues that imports of SSCR into the EU from Taiwan, Türkiye and Vietnam are made from SSCR inputs, slabs or SSHR of Indonesian origin which has only undergone a limited processing operation in these countries.

11. EURANIMI contests these arguments and contends that the prerequisite conditions for the existence of circumvention are not fulfilled in the present case. The Applicant’s detailed arguments with respect to Taiwan, Türkiye and Vietnam are addressed below in Sections 2.1, 2.2 and 2.3 respectively. However, EURANIMI would like to make two preliminary comments:

- First, when relying upon and interpreting the import statistics, data covering the first four months following the imposition of measures by the Commission should be disregarded. This is because - especially for this type of product - it takes at least four months for the effects of the anti-dumping duties to be felt on the market, bearing in mind the lead times for orders to be negotiated, produced and transported. As the Commission decided on 19 October 2021 not to impose provisional anti-subsidy measures on SSCR, it was only with the Commission’s imposition of definitive measures on 16 March 2022 that countervailing duties were imposed. Therefore, EURANIMI submits that the combined effect of both the anti-dumping and countervailing duties on SSCR from Indonesia and India can only be studied from July 2022.
- Second, the annual import statistics, when adapted to the most recent year, that is the RP, show a very different picture to the one painted by the Applicant.

2.1 Taiwan

12. The Applicant alleges that there has been a “massive increase” in imports of the SSCR into the EU, and particularly so-called “indirect imports”.¹² It is argued that imports of SSCR increased by 35% during the period between 2019 and 2022 and that there has been an increase of 86% of “indirect imports” over this same period.¹³

¹² R797 Request, para. 53 ; R798 Request, para. 53.

¹³ R797 Request, para. 55 ; R798 Request, para. 55.

13. At the outset, EURANIMI would like to stress that the import figures identified by the Applicant as “indirect” imports are largely fictitious because they rely on an artificial selection of steel products that does not fully represent the product concerned in the initial anti-dumping and anti-subsidy investigations. The official import statistics for the product concerned (all the Combined Nomenclature (**CN**) codes identified by the Commission), which are also those used by the Commission in the original proceedings, are totally clear and straightforward: they show a picture that is very different to the one that the Applicant is deviously attempting to exploit.

Imports of the product concerned into the EU	Taiwan		Rest of the world	
	Quantity in tonnes	% change from previous year	Quantity in tonnes	% change from previous year
July 2019 -June 2020	165,628	-6%	876,318	-2%
July 2020 -June 2021	176,340	6%	826,909	-6%
July 2021 -June 2022	259,614	47%	1,217,020	47%
July 2022 -June 2023	186,871	-28%	834,379	-31%

Source: Eurostat

14. The statistics for the RP show a decrease of 28% in imports of the product concerned into the EU from Taiwan compared to the previous year, clearly confirming a complete and total absence of any deviation of the pattern of trade, let alone any circumvention during this period.

15. Imports of the products concerned increased in between 2021 and 2022, but these statistics match precisely the evolution of imports from the rest of the world. This indicates that the alleged changes in the pattern of trade are the result of factors other than circumvention. EURANIMI submits that they are likely the result of market responses to the economic turmoil caused by COVID and the war in Ukraine. EURANIMI members can confirm that during these crises, many EU mills either rejected new orders or limited their own sale output for other reasons (e.g., preferring to gamble on a shortage-led price increase). Some EU mills even cancelled existing orders which resulted in EU demand not being satisfied at all by EU producers.

2.2 Türkiye

16. The Applicant argues that imports of SSCR from Türkiye have increased by 42% during the period between 2019 and 2022. It is also argued that indirect imports from Türkiye have “*increased exponentially since the opening of the investigation*”.¹⁴

¹⁴ R797 Request, para. 66 ; R798 Request, para. 65.

17. EURANIMI contests this claim. EURANIMI submits that, like with Taiwan, the import statistics from Türkiye must be determined only with respect to the product concerned. A comparison between imports during the RP and imports in previous years reveals no circumvention.

18. As shown in the table below, imports of the product concerned into the EU from Türkiye actually decreased by 9% during the RP compared to imports in the previous year. This indicates that no circumvention occurred during the RP.

Imports of the product concerned into the EU	Türkiye	
	Quantity in tonnes	% change
July 2021 -June 2022	115,374	-9%
July 2022 -June 2023	105,045	

Source: Eurostat

2.3 Vietnam

19. The Applicant argues that imports of SSCR from Vietnam have increased by 135% during the period between 2019 and 2022.¹⁵ They also argue that indirect imports from Vietnam “skyrocketed” in 2022.

20. EURANIMI contests these assertions. Although EURANIMI agrees that there has been an increase, this increase is minor in comparison with total EU consumption and cannot replace or substitute the imports from Indonesia. Indeed, even by comparing imports during the RP compared to the previous year, imports increased by less than 35K tonnes, i.e. barely 1% of total EU consumption! Furthermore, as detailed in section 3 below, there are other factors which can explain this increase other than the circumvention of anti-dumping duties.

Imports of the product concerned into the EU	Vietnam	
	Quantity in tonnes	% change from previous year
July 2019 -June 2020	37,765	-
July 2020 -June 2021	45,373	20%
July 2021 -June 2022	62,692	38%
July 2022 -June 2023	96,268	54%

Source: Eurostat

¹⁵ R797 Request, para.70 ; R798 Request, para. 69.

21. The increase in imports that occurred from 2020 to 2021 should be explained by the fact that the volume of imports in 2020 were very low. In 2020, due to the pandemic, the market and the imports had slowed down. On the other hand, around the end of 2021 and in 2022, the post-pandemic recovery has been very strong. Therefore, the imports increased due to a very strong upturn in EU demand. It is noteworthy that, during this period, imports of SSCR from China (which are subject to duties of 25%) have also increased dramatically. The fact that imports from a country subject to significant duties increased so considerably shows that the demand in the EU was very strong and could not be met with EU production resulting in a dramatic increase of imports from across the globe.

2.4 Conclusion

22. The import statistics pertaining to the three countries targeted by the two anti-circumvention investigations show, beyond any possible doubt, that there has been no change in the pattern of trade that could indicate the existence of circumvention. The Applicant is misleadingly trying to justify an alleged change in the pattern of trade by resorting to so-called “indirect” imports of other products based on assumptions that are void of the slightest ounce of evidence. Apart from the fact that this dubious methodology does not find any justification whatsoever in Article 13 of the Basic AD Regulation. It constitutes a very serious deviation from the purpose of the trade rules and puts upside down the fundamental principles of legal certainty and transparency that – in the interest of all parties - must remain at the core of the EU’s trade practice.

3. THERE IS SUFFICIENT DUE CAUSE AND ECONOMIC JUSTIFICATION

23. For a finding of circumvention, the change in the pattern of trade must be the result of a practice, process or work for which there is insufficient due cause or economic justification other than to avoid the payment of the anti-dumping and countervailing duties. In other words, in order to find circumvention, the Commission must establish that there is no plausible alternative explanation for the change in the pattern of trade and the circumvention practices. In practice, this entails ascertaining whether there are factors which might preclude the establishment of a causal link between the change in the pattern of trade and the circumvention practices.¹⁶ The Commission will also need to undertake a cost-benefit analysis.¹⁷

¹⁶ Joined Cases C-247/15 P, C-253/15 P and C-259/15 P, *Maxcom Ltd v. Chin Haur Indonesia*, EU:C:2017:61, para. 59; Joined Cases C-248/15 P, C-254/15 P and C-260/15 P, *Maxcom v. City Cycle Industries*, EU:C:2017:62, para. 102.

¹⁷ *E.g.*, Council Implementing Regulation (EU) No 501/2013 of 29 May 2013 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) No 990/2011 on imports of bicycles originating in the People’s Republic of China to imports of bicycles consigned from Indonesia, Malaysia, Sri Lanka and Tunisia, whether declared as originating in Indonesia, Malaysia, Sri Lanka and Tunisia or not, OJ L 153, 5.6.2013, p.1, para 92.

24. The Applicant submits that there is “no economically sound reason”¹⁸ for the alleged increase in imports of SSCR from the countries concerned as well as the use in these countries of inputs from Indonesia. EURANIMI contests this assertion on three main grounds.

25. First, imports in 2020 were generally low due to the pandemic. However, demand during the pandemic recovery period in 2021 and 2022 was very strong which was not matched by EU supply. In order not to further interrupt downstream activities, importing distributors and SSCR users temporarily sought partial relief from this SSCR shortage in the EU by using materials imported from other countries, including the countries concerned. Without these imports, the disruption in the manufacturing industries using SSCR (such as the appliance, automotive, food processing, medical equipment sectors) would have been extremely high. Therefore, any alleged increase in imports can first be explained with the natural recovery following the COVID period. This is very apparent when looking at the increase in imports from China during 2021 and 2022, despite these imports being subject to anti-dumping duties.¹⁹

Imports of the product concerned into the EU	China	
	Quantity in tonnes	% change from previous year
July 2019 -June 2020	13,446	-
July 2020 -June 2021	16,109	20%
July 2021 -June 2022	205,047	1173%
July 2022 -June 2023	145,136	-29%

Source: Eurostat

26. Second, EURANIMI argues that the trend towards using slabs from Indonesia is a longstanding one that predates the initiation of the original anti-dumping investigation and the anti-subsidy investigation. The reason why many countries had already preferred using Indonesian slabs (already before 2019) is simply because they are generally considered to be more cost efficient than domestic suppliers (newer production lines, etc) or internal melting. In fact, there are now only three countries that are known to be able to guarantee a competitive and stable supply of SSHR (namely Korea, China and Indonesia) and only Indonesia can guarantee a competitive and stable supply of slabs. SSCR producers in the countries concerned therefore have limited choice in their suppliers.

¹⁸ R797 Request, para. 97; R798 Request, para.96.

¹⁹ Commission Implementing Regulation (EU) 2021/1483 of 15 September 2021 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People’s Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 327, 16.9.2021, p. 1.

27. Third, EURANIMI contests the table prepared by the Applicant showing EU consumption and market shares.²⁰ The Applicant states that the imports from the concerned countries have grown substantially. However, this statement and the table mentioned wrongly only include so-called “indirect” imports which are irrelevant and – incidentally – disprove all the data previously determined by the Commission. For instance, this increases artificially total EU consumption: total EU consumption determined by the Commission itself in the original proceedings was 3,442,541 tonnes,²¹ compared to the figure alleged in the Application at para 112: 3,628,501 tonnes. Likewise, market shares are also distorted.

28. They also do not showcase the whole picture. For instance, at the end of 2021 a big fire occurred at one rerolling plant in Italy (Marcegaglia) and a quite substantial amount of SSCR was lost. In the EU, the availability of stainless steel from domestic EU producers was also very limited.

29. Thus, there are clear reasons, such as the shortages and the scarcity of the SSCR from the domestic producers that are totally unrelated to the imposition of the anti-dumping duties which explain the increased use of Indonesian inputs and the temporary increase in imports from Taiwan, Türkiye and Vietnam during part of the IP. These considerations alone should lead to the conclusion that the allegation that there is insufficient due cause and economic justification, as required by Article 13(1) of the Basic AD Regulation and Article 23 of the Basic AS Regulation, is unsubstantiated in the present case.

4. PRODUCING SSCR FROM SLABS OR SSHR IS A SUBSTANTIAL MODIFICATION AND DOES NOT CONSTITUTE AN ASSEMBLY OPERATION WITHIN THE MEANING OF ARTICLE 13(2) OF THE BASIC AD REGULATION OR A SLIGHT MODIFICATION WITHIN THE MEANING OF ARTICLE 13(1) OF THE BASIC AD REGULATION AND ARTICLE 23(3) OF THE BASIC AS REGULATION

30. Article 13(1)(d) sets out that, “*in the circumstances indicated in paragraph 2, the assembly of parts by an assembly operation in the Union or a third country*” can constitute a “*practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty*”, which is one of the preconditions of finding circumvention. In addition, Article 13(2)(b) states that an assembly operation can only exist where:

²⁰ R797 Request, table below para. 112; R798 Request, table below para. 111.

²¹ Commission implementing Regulation imposing a provisional duty on imports of stainless steel cold-rolled flat products originating in India and Indonesia OJ L 188, 28.5.2021, p. 61, para. 91.

“the parts constitute 60 % or more of the total value of the parts of the assembled product, except that in no case shall circumvention be considered to be taking place where the value added to the parts brought in, during the assembly or completion operation, is greater than 25 % of the manufacturing cost”

31. Article 13(1) of the Basic AD Regulation defines a “*slight modification*” as a “*modification which does not alter the essential characteristics [of a product]*”. In other words, a slightly modified product must have the same basic physical, chemical and technical characteristics as the initial product.²²

32. The Applicant considers that the production of SSCR from Indonesian stainless steel slabs and SSHR constitutes a slight modification of Indonesian stainless steel inputs falling within the assembly or completion operations that constitute circumvention within the meaning of Article 13(1)(d) and (2) of the Basic AD Regulation.²³ In support of its claim, the Applicant relies on a recent finding of the Commission in an anti-circumvention case involving SSHR.²⁴

33. EURANIMI submits that the Commission’s interpretation in that case extends the scope of Article 13(1)(d) of the Basic AD Regulation beyond its intended purpose, as it is EURANIMI’s view that the term “completion of operations” should be read in the context of the 25% value-added test. Furthermore, EURANIMI understands that Commission’s interpretation of the term “assembly operation” in this anti-circumvention case involving SSHR, which the Applicant relies upon to support its claims, is currently being reviewed by the General Court.²⁵

34. EURANIMI notes that the notion of “assembly operation” is not further defined in the Basic AD Regulation. However, the Cambridge English Dictionary defines the concept of “assembly” operation as “*the process of putting together the parts of machine or structure*”.²⁶ EURANIMI submits that the process of creating SSCR from SSHR is more than a mere “assembly operation”. The operation of processing SSCR from SSHR is not limited to putting together or bringing the slabs or SSHR parts together in a single structure. It does not merely involve the putting together of parts of a machine or structure but actually it fully and permanently transforms the product.

²² Case T-385/11, BP Products North America v Council, ECLI:EU:T:2014:7, para. 137.

²³ R797 Request, para. 79; R798 Request, para. 76.

²⁴ 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, OJ L 103, 18.4.2023, p. 12.

²⁵ See the Applications in cases T-378/23 and T-379/23, accessible [here](#) and [here](#).

²⁶ Cambridge English Dictionary [website], <https://dictionary.cambridge.org/dictionary/english/assembly>, accessed 16 September 2023.

35. In light of the above, it is also clear that the operation of transforming the SSHR to SSCR via cold rolling constitutes a substantial modification. This operation is not a slight modification of SSHR. It goes beyond simply changing the thickness and visual aspects of the product, because it irreversibly alters the product's mechanical properties. Therefore, it cannot be considered as a "slight modification" within the meaning of Article 13(1)(a) of the Basic AD Regulation and Article 23(3)(a) of the Basic AS Regulation.

36. The Commission has previously recognised the fact that cold reduction substantially transforms the product, stating that:

*"the cold forming performed in India substantially transforms the product and irreversibly alters its essential characteristics. During the process the product changes its dimensions and its physical, mechanical and metallurgical properties."*²⁷

and:

*"the cold processing represents a substantial transformation of the product and that there is due cause and economic justification other than the avoidance of the duty for any change in the pattern of trade between the PRC, India and the Union"*²⁸

²⁷ Commission Implementing Regulation (EU) 2017/2093 of 15 November 2017 terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and terminating the registration of such imports imposed by Commission Implementing Regulation (EU) 2017/272, OJ L 299, 16.11.2017, p.1, para. 33.

²⁸ Commission Implementing Regulation (EU) 2017/2093 of 15 November 2017 terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Council Implementing Regulation (EU) No 1331/2011 on imports of certain seamless pipes and tubes of stainless steel originating in the People's Republic of China by imports consigned from India, whether declared as originating in India or not, and terminating the registration of such imports imposed by Commission Implementing Regulation (EU) 2017/272, OJ L 299, 16.11.2017, p.1, para. 84.

37. Additionally, EURANIMI respectfully brings to the Commission's attention the fact that it took the Applicant two full pages pages in its circumvention review requests to describe the production process of SSCR (which involves at least five transformative stages: 1) melting, 2) hot-rolling, 3) hot annealing and pickling, 4) cold-rolling and 5) cold annealing and pickling). The sheer length of the Applicant's own explanation demonstrates that slabs and SSHR are undeniably different products than SSCR. Indeed, slabs, SSHR and SSCR constitute distinct types of products. Processing of a raw material into a finished product, is clearly more than a slight modification or an assembly operation, as it creates a new and different product. Moreover, the fact that these transformations confer a new non-preferential origin manifestly supports EURANIMI's argument that this is not just a minor assembly operation nor a slight modification.

38. In view of the above, it is EURANIMI's submission that producing SSCR from slabs or SSHR constitutes a substantial modification of the product and does not constitute an assembly operation within the meaning of Article 13(2) of the Basic AD regulation or a slight modification within the meaning of Article 13(1) of the Basic AD regulation and Article 23(3) of the Basic AS regulation.

5. **THERE IS NO EVIDENCE OF INJURY OR THAT THE REMEDIAL EFFECTS OF THE ANTI-DUMPING DUTIES AND COUNTERVAILING DUTIES ON INDONESIAN SSCR ARE UNDERMINED**

39. EURAMINI notes that any finding of circumvention must be supported by evidence of injury or that the remedial effects of the duty are being undermined in terms of the prices and/or quantities of the like product before the circumvention is deemed to exist. In its practice, the Commission usually limits its assessment to whether the imported product has, in terms of quantities and/or prices, undermined the remedial effect of the measure in force. A significant change in the pattern of trade in terms of import volumes can in itself lead to the conclusion that the remedial effects of the duty are being undermined in terms of quantities.²⁹ When determining whether the remedial effects of the duty have been undermined in terms of prices, the Commission will look for evidence of undercutting or underselling.³⁰

²⁹ *E.g.*, Commission Implementing Regulation (EU) 2016/185 of 11 February 2016 extending the definitive anti-dumping duty imposed by Council Regulation (EU) No 1238/2013 on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China to imports of crystalline silicon photovoltaic modules and key components (i.e. cells) consigned from Malaysia and Taiwan, whether declared as originating in Malaysia and in Taiwan or not, OJ L 37, 12.2.2016, p. 76, para .74.

³⁰ *E.g.*, Council Regulation (EC) No 1650/2006 of 7 November 2006 extending the definitive anti-dumping duty imposed by Regulation (EC) No 769/2002 on imports of coumarin originating in the People's Republic of China to imports of coumarin consigned from Indonesia or Malaysia, whether declared as originating in Indonesia or Malaysia or not, OJ L 311, 10.11.2006, p.1, paras. 27 and 30.

40. EURANIMI submits that, as noted above in section 2, there has been no marked or significant change in the pattern of trade. Furthermore, an assessment of the EU industry's performance during 2021 and 2022 reveals that imports of SSCR from Taiwan, Türkiye and Vietnam have not undermined the remedial effect of the anti-dumping duties. Indeed, publicly accessible information shows that in 2021 and 2022 EU producers made significant profits and, in some cases, even generated their highest ever levels of profits.

- **Acerinox group:** according to an Acerinox communication, their 2022 results were “*the best since its foundation in 1970*”.³¹ Its net profits in 2022 and 2021 were EUR 556 million and EUR 572 million respectively. This compares to EUR 49 million³² and negative EUR 60³³ million during the pandemic years of 2020 and 2019. These results are also more than double their pre-pandemic net profits of EUR 237.0 million in 2018.³⁴
- **Outokumpu:** according to Outokumpu's own financial statements release, 2022 was a “*historic year*” resulting in “*record earnings and a net debt free balance sheet*”.³⁵ In 2022, Outokumpu recorded net profits of EUR 1,086 million, more than double their profits of EUR 526 million in 2021. It also contrasts sharply with their net losses of EUR 116 million³⁶ and EUR 75 million³⁷ in 2020 and 2019 respectively. The 2022 net profits are also 8.4 times higher than their pre-pandemic net profits in 2018 of EUR 130 million.³⁸
- **Aperam:** in 2022, Aperam recorded net profits of EUR 626 million.³⁹ Whilst these results are lower than their profits in 2021, they are still significantly higher than their pandemic profits of EUR 175 million in 2020 and EUR 148 million in 2019.⁴⁰ They are also more than double their pre-pandemic net profits in 2018 of EUR 286 million.⁴¹

³¹ Acerinox Communication, “Acerinox achieves the best results in its history in 2022, with EBITDA of EUR 1,276 million”, accessible [here](#).

³² Acerinox, Annual Report 2020, accessible [here](#).

³³ Acerinox, Annual Report 2019, accessible [here](#).

³⁴ Acerinox, Annual Report 2018, accessible [here](#).

³⁵ Outokumpu Financial statements release, “Outokumpu financial statements release 2022: A historic year for Outokumpu – record earnings and a net debt free balance sheet”, accessible [here](#).

³⁶ Outokumpu, 2020 Annual Report, accessible [here](#).

³⁷ Outokumpu, 2019 Annual Report, accessible [here](#).

³⁸ Outokumpu, 2018 Annual Report, accessible [here](#).

³⁹ Aperam News, “Aperam publishes its Q4 & Full Year 2022 results”, accessible [here](#).

⁴⁰ Aperam, 2020 Annual Report, accessible [here](#).

⁴¹ Aperam, 2018 Annual Report, accessible [here](#).

41. Finally, EURANIMI submits that imports of SSCR are already capped by the EU's steel safeguard measures (tariff rate quotas) since 2018⁴² which, in combination with the applicable anti-dumping and countervailing measures,⁴³ already offer more than sufficient protection to the EU's domestic SSCR production.

6. CONCLUSION

42. EURANIMI submits that there is insufficient evidence to conclude that the conditions of Article 13 of the Basic AD Regulation are fulfilled. In particular, there is no change in the pattern of trade stemming from a practice not justified by any reason other than the imposition of the duties. Furthermore, producing SSCR from SSHR constitutes a substantial transformation. Additionally, there is no assembly operation in the sense of Article 13(2) of the Basic AD Regulation. Likewise, there is no evidence that the remedial effects of the duties have been undermined.

43. EURANIMI also wishes to express its deepest concern about the potential negative effects that any extension of the anti-dumping and countervailing measures would have on SSCR users and the downstream value-added industry, which is still viable in spite of increasing imports of finished products and should receive due consideration. EURANIMI is concerned that imposing yet another measure on stainless steel products will risk causing another shortage in the EU industry and will drive prices higher. During 2021 and the first half of 2022, prices on the EU market were higher than all other markets due to the previous shortage. EURANIMI can attest to the difficulties faced by importing distributors and SSCR users during this shortage.

44. Furthermore, the legal uncertainty that has been generated by the mere initiation of the anti-circumvention investigations is already immense. In particular, the uncertainties created around the definition of what constitutes sufficient process in the context of the production process of SSCR, has already caused confusion for businesses and led a number of SMEs to reorientate their operations.

⁴² Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products, OJ L 225/ 25.06.2021, p.1.

⁴³ Commission Implementing Regulation (EU) 2021/2012 of 17 November 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 410, 18.11.2021, p.153; Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and Indonesia and amending Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 88, 16.03.2022, p.24; Commission Implementing Regulation (EU) 2021/1483 of 15 September 2021 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 327, 16.9.2021, p. 1.

45. Moreover, there are already a plethora of EU instruments affecting the supply of SSCR products on the EU market. In terms of trade remedies, there are already duties measures affecting SSCR imports from Taiwan, China, Indonesia and India⁴⁴ as well as the steel safeguard measures.⁴⁵ In addition, the EU sanctions against Russia and Belarus prohibit⁴⁶ the import into the EU of SSCR from these countries. From 30 September 2023, it will also be prohibited to import SSCR incorporating Russian inputs into the EU.⁴⁷ Furthermore, the EU's Carbon Border Adjustment Mechanism (**CBAM**)⁴⁸ will further affect steel prices. Especially in times of high energy prices, EURANIMI is deeply concerned about the potential impact that any extension of trade defence measures on imports of SSCR from Türkiye, Taiwan and Vietnam will have on its members and the entire downstream industry, in particular the automotive industry.

46. EURANIMI underscores that it is not against the principle of using trade remedies to correct violations of trade law in appropriate circumstances. In a similar vein, and with a view to ensuring the principle of legal certainty, EURANIMI supports the use of mill test certificates as suggested by the Applicant.⁴⁹

47. In the light of all the above, EURANIMI respectfully submits that the investigations R797 and R798 should be terminated forthwith.

⁴⁴ Commission Implementing Regulation (EU) 2021/2012 of 17 November 2021 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 410, 18.11.2021, p.153; Commission Implementing Regulation (EU) 2022/433 of 15 March 2022 imposing definitive countervailing duties on imports of stainless steel cold-rolled flat products originating in India and Indonesia and amending Implementing Regulation (EU) 2021/2012 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of stainless steel cold-rolled flat products originating in India and Indonesia, OJ L 88, 16.03.2022, p.24; Commission Implementing Regulation (EU) 2021/1483 of 15 September 2021 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council, OJ L 327, 16.9.2021, p. 1.

⁴⁵ Commission Implementing Regulation (EU) 2021/1029 of 24 June 2021 amending Commission Implementing Regulation (EU) 2019/159 to prolong the safeguard measure on imports of certain steel products, OJ L 225I 25.06.2021, p.1.

⁴⁶ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (as amended), OJ L 229, 31.07.2014, p.1; Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (as amended), OJ L 134 20.5.2006, p. 1.

⁴⁷ Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine (as amended), OJ L 229, 31.07.2014, p. 1, Article 3g.

⁴⁸ Regulation (EU) 2023/956 of the European Parliament and of the Council of 10 May 2023 establishing a carbon border adjustment mechanism, OJ L 130, 16.05.2023, p. 52.

⁴⁹ R797 Request, paras. 132-136; R798 Request, paras. 132-136.