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European Commission  
Directorate-General for Trade  
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15 March 2024

By TRON.tdi

Dear Case Team,

## Cases R797 and R798:SSCR from Taiwan, Türkiye and Vietnam – Comments on General Definitive Disclosure

1. On behalf of our client, the European Association of Non-Integrated Metal Importers & Distributors (“**EURANIMI**”), we hereby submit comments on the General Disclosure Documents (“**GDDS**”) in the anti-circumvention investigations concerning the anti-dumping duties (“**AD GDD**”) and countervailing measures (“**AS GDD**”) on imports of certain cold rolled stainless steel sheets and coils (“**SSCR**”) originating in Indonesia via Taiwan, Türkiye and Vietnam (cases R797 and R798 respectively).

2. On 14 August 2023, the Commission initiated investigations into potential circumvention of the definitive anti-dumping duties imposed on 17 November 2021<sup>1</sup> and the countervailing measures imposed on 16 March 2022<sup>2</sup> on SSCR originating in Indonesia and India.<sup>3</sup> On 20 September 2023, EURANIMI submitted written comments on the initiation of the anti-circumvention investigations. EURANIMI was also heard by the Commission on 12 October 2023. On 13 October 2023, EURANIMI filed a post-hearing submission with the presentation slides from the hearing as well as an annex containing testimonials from SSCR end-users. The Commission issued the GDDs in both investigations on 5 March 2024.

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<sup>1</sup> 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.

<sup>2</sup> 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.

<sup>3</sup> 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

3. EURANIMI and its members are relatively reassured that the potentially devastating impact of these two investigations on EU importers and users of SSCR has been, to a certain degree, mitigated by the number of exemptions granted by the Commission to cooperating producers. However, EURANIMI would like to express its deepest concerns about certain aspects of the Commission's findings in this case. In particular, EURANIMI is concerned about the Commission's interpretations of the term "assembly operations" in Article 13(2) of the Basic AD Regulation<sup>4</sup> (Section 1). EURANIMI also wishes to draw the Commission's attention to some of the factual inaccuracies and inconsistencies in the GDDs that it finds particularly disturbing (Section 2).

## 1. DEFINITION OF THE TERM "ASSEMBLY OPERATION"

4. As explained in our previous submissions, for circumvention to exist under both the Basic AD Regulation and the Basic AS Regulation,<sup>5</sup> there must be a change in the pattern of trade which stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty.<sup>6</sup> The Basic AD Regulation, but not the Basic AS Regulation, specifies that "the assembly of parts by an assembly operation in the Union" can constitute such a "practice, process or work".<sup>7</sup> Article 13(2) of the Basic AD Regulation then sets out a so-called "assembly test" elaborating three conditions that must be met for an assembly operation to be considered as circumvention. The second of these conditions (Article 13(2)(b)) refers in passing to the "assembly or completion operation".

5. In its General disclosure documents, the Commission considered that since the list of practices, processes or works in Article 23(3) of the basic AS Regulation is a non-exhaustive list, it can cover other non-listed circumvention practices such as "assembly/completion operations".<sup>8</sup> In particular, the Commission considered in the GDDs that the process of producing SSCR from slabs or stainless steel hot-rolled coils ("**SSHR**"), as described in section 5.3.2 of the Applicant's request, is a "completion assembly falling within the concept of assembly operations".<sup>9</sup> Furthermore, it took the view that the term "assembly operation" covers "instances in which semi-finished inputs are further processed into a finished product".<sup>10</sup> In support of this conclusion, the Commission relied heavily on two previous investigations where the Commission claims that it reached a similar conclusion.<sup>11</sup>

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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. 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.

<sup>4</sup> 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. 2.

<sup>5</sup> 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.

<sup>6</sup> Basic AD Regulation, Article 13(1); Basic AS Regulation, Article 23(3).

<sup>7</sup> Basic AD Regulation, Article 13(1)(d).

<sup>8</sup> AS GDD, para. 17.

<sup>9</sup> AD GDD, para. 19; AS GDD, para. 19.

<sup>10</sup> AD GDD, para. 20; AS GDD, para. 20.

<sup>11</sup> Commission Implementing Regulation (EU) 2022/1478 of 6 September 2022 extending the definitive countervailing duty imposed by Implementing Regulation (EU) 2020/776, on imports of certain woven and/or stitched glass fibre fabrics originating in the People's Republic of China and Egypt to imports of certain woven and/or stitched glass fibre fabrics consigned from Turkey, whether declared as originating in Turkey or not, OJ L 233, 8.9.2022, p. 18; 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

6. Against this background, the Commission concluded that the reference to “completion operation” in Article 13(2)(b) must mean that it is included in the overall concept of “assembly operation” and that therefore “assembly operation” may involve “instances in which semi-finished inputs are further processed into a finished product”.<sup>12</sup> By taking this extraordinary position, the Commission not only fails to explain why the context necessitates such a conclusion, but goes against the ordinary meaning of the term as the process of putting parts together.<sup>13</sup> Moreover, such a broad interpretation leads to logical difficulties in classifying processes as either completion or assembly operations, as the Commission itself appears to recognise.<sup>14</sup> In addition, EURANIMI would like to point out that there is a clear and undisputed difference between the example of slitting referenced by the Commission,<sup>15</sup> which only changes the dimensions of the product, and the processes of cold rolling and/or hot rolling which changes all the essential physical, mechanical and metallurgical properties of the product.

7. Moreover, in its consideration of previous decisional practice, the Commission completely ignores the totally opposite conclusions it reached in the 2017 anti-circumvention investigation into certain seamless pipes and tubes of stainless steel.<sup>16</sup> In that case, the Commission recognised that cold forming (also referred to as cold processing or cold rolling ) substantially transforms the product and irreversibly alters its essential characteristics because during the process the product changes its dimensions and its physical, mechanical and metallurgical properties.<sup>17</sup> In that investigation, the Commission analysed the operations of the producers in the third country suspected of circumvention as a whole, rather than just their sales to the EU to establish whether their business model had changed.<sup>18</sup> The Commission terminated that investigation, without reaching any conclusion that cold forming would constitute an assembly or completion operation. That regulation unambiguously confirms the position defended by EURANIMI that where a process substantially transforms the product and irreversibly alters its essential characteristics, it cannot be considered as an assembly or completion operation.

8. EURANIMI fully understands and appreciates the Commission’s concern that the effectiveness of trade protective measures must be ensured by preventing their circumvention.<sup>19</sup> However, EURANIMI cautions against any overly broad interpretation of the term “assembly operation” which could end up depriving the rest of the provisions of the Basic AD Regulation of their intended effect. EURANIMI submits that where a product has been substantially transformed such that the essential characteristics of the product have been altered, for example the process of producing SSCR from slabs or SSHR, the appropriate tool to address concerns of unfair trade is a new anti-dumping/anti-subsidy investigation. This will ensure that a full injury analysis and assessment of union interest is carried out with respect to the new product as intended by the Basic AD and AS Regulations.

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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.

<sup>12</sup> AD GDD, para. 20; AS GDD, para. 20.

<sup>13</sup> The Cambridge English Dictionary online defines the concept of “assembly” operation as “*the process of putting together the parts of machine or structure*”.<sup>13</sup> See website [here](#) (accessed 8 March 2024).

<sup>14</sup> AD GDD, para. 21; AS GDD, para. 21.

<sup>15</sup> AD GDD, para. 22; AS GDD, para. 22.

<sup>16</sup> 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 (“**Implementing Regulation (EU) 2017/2093**”).

<sup>17</sup> Implementing Regulation (EU) 2017/2093, recitals 33 and 84.

<sup>18</sup> Implementing Regulation (EU) 2017/2093, recital 78.

<sup>19</sup> AD GDD, para. 23; AS GDD, para 23.

## 2. FACTUAL INNACURACIES AND INCONSISTENCIES

9. There are several factual inaccuracies and inconsistencies in the GDDs. For example, EURANIMI would like to draw the Commission's attention to the following:

- (i) In the GDDs, the Commission claims that no evidence was provided supporting the argument that there is a scarcity of SSCR from Union suppliers.<sup>20</sup> This statement is factually incorrect. EURANIMI members provided evidence of the scarcity at the hearing of 12 October 2023 and on the following day it submitted 23 letters from SSCR end-users testifying to this scarcity.
- (ii) In the GDDs, the Commission stated that "imports from Vietnam did not undersell Union prices".<sup>21</sup> However, the Commission later stated that there was underselling by Yongjin (Vietnam) of 23-43%.<sup>22</sup>

## 3. CONCLUSION

10. EURANIMI respectfully requests the Commission to reconsider its interpretation of the term "assembly operation" in the GDDs and revise the GDDs to remove factual inaccuracies and inconsistencies. EURANIMI remains at the Commission's disposal for any clarification or additional information which might be required.

Yours sincerely,

VBB on behalf of EURANIMI

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<sup>20</sup> AD GDD, para. 25; AS GDD, para. 25.

<sup>21</sup> AD GDD, para. 105; AS GDD, para. 106.

<sup>22</sup> AD GDD, para. 137; AS GDD, para 147.