

Sayı: 17812098-TİM.AKİB.GSK.SAN.2024/240-2588
Konu: AB Önlemlerin Etkisiz Kılınması Soruşturmaları

Mersin, 23/05/2024

Sayın Üyemiz,

T.C. Ticaret Bakanlığı İthalat Genel Müdürlüğü'nden alınan bir yazıda, Avrupa Komisyonu Ticaret Genel Müdürlüğü (Komisyon) tarafından Endonezya menşeli soğuk haddelenmiş paslanmaz yassı çelik (7219.31.00, 7219.32.10, 7219.32.90, 7219.33.10, 7219.33.90, 7219.34.10, 7219.34.90, 7219.35.10, 7219.35.90, 7219.90.20, 7219.90.80, 7220.20.21, 7220.20.29, 7220.20.41, 7220.20.49, 7220.20.81, 7220.20.89, 7220.90.20, 7220.90.80 gümrük tarife pozisyonu altında yer alan) ithalatında uygulanan anti-damping önlemi ve sübvansiyona karşı telafi edici önlemin, bu ürünlerin Tayvan ve Vietnam'ın yanı sıra ülkemizden sevk edilmesi suretiyle, muhtemel etkisiz kılınması ile ilgili olarak Avrupa Birliği (AB) tarafından yürütülen soruşturmalar kapsamında nihai kararların 7 Mayıs 2024 tarihli AB Resmi Gazetesi'nde yayımlandığı bildirilmektedir.

Devamla, bahse konu anti-damping önlemine yönelik soruşturmaya ait nihai kararın incelenmesinden, ülkemiz tarafından mezkur dampinge karşı önlemin etkisiz kılınmadığına hükmedildiği belirtilmektedir.

Diğer yandan, bahse konu sübvansiyona karşı telafi edici önleme yönelik soruşturmaya ait nihai kararın incelenmesinden bir firmamızca mezkur sübvansiyona karşı telafi edici önlemin etkisiz kıldıldığı, muafiyet talebinde bulunan diğer bir firmamız tarafından ise mezkur önlemin etkisiz kılınmadığına hükmedildiği belirtilmektedir. Bu çerçevede, bahse konu önlemin, anılan bir firmamız hariç tutulmak üzere, ülkemizden sevk edilen soğuk haddelenmiş paslanmaz yassı çelik ürünlerine (Türkiye menşeli olarak beyan edilsin veya edilmesin) genişletilmesine karar verildiği ifade edilmektedir. Bu kapsamda, AB tarafından anılan ürünlerde ülkemize uygulanacak telafi edici vergi oranının %20,5 olarak belirlendiği belirtilmektedir.

Ayrıca mezkur kararın incelenmesinden, bahse konu muafiyetin uygulanabilmesinin, ithalatçının;

- Önlem konusu ürünü doğrudan ihracatçı üretici firmamızdan satın alması durumunda ihracatçı üreticinin beyanını içeren bir ticari faturanın ve nihai kararın birinci ekinde yer alan doğrudan ihracat satışı için üretici beyanını ibraz etmesi,
- Türkiye'de yerleşik olup olmadığına bakılmaksızın bir tacirden satın alması durumunda üreticiden tüccara veya diğer aracı tüzel kişiye imalatçı beyanını içeren bir ticari faturanın ve nihai kararın ikinci ekinde yer alan dolaylı ihracat satışı için imalatçı beyanının ve tacirden veya diğer aracı tüzel kişiden ithalatçıya kesilen bir ticari faturanın AB üye ülkelerinin gümrüklerine ibraz etmesi şartına bağlandığı belirtilmektedir.

Bilgilerini rica ederim.



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Mersin, 23/05/2024

Dr. Osman ERŞAHAN
Genel Sekreter Yrd.

Ekler:

- 1- Nihai Karar - Dampinge Karşı Önlem
- 2- Nihai Karar - Telafî Edici Vergi Önlemi





2024/1267

7.5.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1267**of 6 May 2024**

extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2021/2012 on imports of stainless steel cold-rolled flat products originating in Indonesia to imports of stainless steel cold-rolled flat products consigned from Taiwan and Vietnam, whether declared as originating in Taiwan and Vietnam or not, and terminating the investigation concerning the possible circumvention of anti-dumping measures imposed by that Regulation by imports of stainless steel cold-rolled flat products 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⁽¹⁾ ('the basic AD Regulation'), and in particular Article 13 thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and existing measures**

- (1) In 2021, by Implementing Regulation (EU) 2021/2012⁽²⁾, the European Commission imposed a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products ('SSCR') originating in, inter alia, Indonesia following an anti-dumping investigation ('the original anti-dumping investigation'). The measures took the form of an *ad valorem* duty ranging between 10,2 and 20,2 %, with a residual duty of 20,2 % for all non-cooperating Indonesian companies ('the original measures').
- (2) In 2022, the European Commission imposed definitive countervailing duties ranging between 0 % and 21,4 % on imports of SSCR originating in, inter alia, Indonesia, by Implementing Regulation (EU) 2022/433⁽³⁾ ('the subsidy regulation'). To avoid making SSCR from Indonesia subject to both anti-dumping and countervailing duties for the purpose of dealing with one and the same situation, the subsidy regulation reduced the dumping duties by the subsidy amounts found in relation to export contingent subsidies, in accordance with Article 24(1) of Regulation (EU) 2016/1037 of the European Parliament and of the Council⁽⁴⁾ ('the basic AS Regulation'). The original dumping measures were thus adjusted downwards and ranged from 9,3 % to 20,2 %, with a residual duty of 19,3 %.

⁽¹⁾ OJ L 176, 30.6.2016, p. 21.

⁽²⁾ 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).

⁽³⁾ 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, 16.3.2022, p. 24).

⁽⁴⁾ 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).

1.2. Request

- (3) The Commission received a request pursuant to Articles 13(3) and 14(5) of the basic AD Regulation to investigate the possible circumvention of the anti-dumping measures imposed on imports of SSCR originating in Indonesia by imports of SSCR consigned from Taiwan, Türkiye and Vietnam, whether declared in Taiwan, Türkiye and Vietnam or not, and to make such imports subject to registration ('the request').
- (4) The request was lodged on 3 July 2023 by the European Steel Association – 'EUROFER' ('the applicant').
- (5) The request contained sufficient evidence of a change in the pattern of trade involving exports from Indonesia, Taiwan, Türkiye and Vietnam to the Union that had taken place following the imposition of measures on SSCR from Indonesia. This change appeared to stem from the consignment of SSCR from Taiwan, Türkiye and Vietnam ('the countries concerned') to the Union after having undergone assembly/completion operations in these countries. The request also contained sufficient evidence showing that such assembly/completion operations constituted circumvention, as Indonesian parts accounted for more than 60 % of the total value of the assembled/completed product in the countries concerned, while the value added during the assembly/completion operation was lower than 25 % of the manufacturing cost.
- (6) Furthermore, the request contained sufficient evidence that the practice described above was undermining the remedial effects of the existing anti-dumping measures in terms of quantities and prices. In addition, there was sufficient evidence that the prices of SSCR consigned from Taiwan, Türkiye and Vietnam were dumped in relation to the normal value established in the original anti-dumping investigation for SSCR.

1.3. Product concerned and product under investigation

- (7) The product concerned by possible circumvention is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), classified on the date of entry into force of Implementing Regulation (EU) 2021/2012 under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in Indonesia ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (8) The product under investigation is the same as that defined in the previous recital, but consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, currently falling under the same CN codes as the product concerned (TARIC codes 7219310010, 7219321010, 7219329010, 7219331010, 7219339010, 7219341010, 7219349010, 7219351010, 7219359010, 7219902010, 7219908010, 7220202110, 7220202910, 7220204110, 7220204910, 7220208110, 7220208910, 7220902010 and 7220908010) ('the product under investigation').
- (9) The investigation showed that SSCR exported from Indonesia to the Union and SSCR consigned from Taiwan, Türkiye and Vietnam, whether originating in Taiwan, Türkiye and Vietnam or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 1(4) of the basic AD Regulation.

1.4. Initiation

- (10) Having determined, after informing the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13(3) of the basic AD Regulation, the Commission initiated an investigation by Commission Implementing Regulation (EU) 2023/1632 ⁽⁵⁾ ('the initiating Regulation') on 15 August 2023 and made imports of SSCR consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, subject to registration, in accordance with Article 14(5) of the basic AD Regulation.

1.5. Comments on initiation

- (11) After initiation, the Commission received comments from four interested parties: Posco Assan TST Celik Sanayi A.Ş. ('Posco Assan'), Posco VST Co., Ltd ('Posco VST'), Yongjin Metal Technology (Vietnam) Company Limited ('Yongjin') and the European Association of Non-Integrated Metal Importers & Distributors ('EURANIMI').
- (12) Posco Assan, Posco VST and Yongjin provided general comments on initiation, as well as company specific comments in the context of this investigation. In view of the findings set out in section 4 below, these comments by Posco Assan and Posco VST have become moot and were therefore not addressed in this Regulation. The comments by Yongjin were addressed in section 5.2.3.
- (13) Posco Assan, Posco VST and EURANIMI also commented on the change in the pattern of trade and the lack of evidence that the remedial effects of the original duties were being undermined. In addition, Posco Assan, Posco VST, Yongjin and EURANIMI all provided similar comments related to the application of the circumvention rules on assembly/completion operations applied to SSCR and the existence of sufficient due cause or economic justification. Finally, Posco Assan and Posco VST referred to the existing steel safeguard measures already restricting imports from the targeted countries.
- (14) First, the companies argued that, in contrast to the allegations in the request, there was no change in the pattern of trade. To show this, the parties provided data from different periods. EURANIMI used data from July 2019 to June 2023, while Posco Assan and Posco VST used data from several longer or shorter periods, comparing either 2020, or the period July 2021-June 2022 to the reporting period, or comparing the first semester of 2022 to the first semester of 2023.
- (15) However, the applicant based its request on the period 1 January 2019-31 December 2022. This period included the time before the initiation of the original anti-dumping investigation (on 30 September 2020) and after the imposition of the anti-dumping duties, both of which have to be analysed and compared in order to determine whether a 'change in a 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' ⁽⁶⁾ occurred. The applicant showed that during that period, there was a change in the pattern of trade. That such conclusion may change depending on which periods one adds or removes from the analysis, does not detract from the fact that the applicant provided sufficient evidence that there was a change in the pattern of trade within the meaning of Article 13(1) of the basic AD Regulation ⁽⁷⁾.

⁽⁵⁾ 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).

⁽⁶⁾ Article 13(1) of the basic AD Regulation.

⁽⁷⁾ See section 5.1 of the request for initiation, available in the open file.

- (16) Second, with regard to the undermining of the remedial effect of the duties, Posco Assan and Posco VST claimed that this did not exist since there was no change in the pattern of trade, nor a massive or rapid increase of imports from the countries concerned. In addition, the companies pointed towards China as a possible cause for injury or undermining of the remedial effects, as Chinese imports into the Union had increased much more than the imports from the three countries concerned. EURANIMI, as well as Trinox after disclosure, claimed that there was no undermining of the remedial effects since the Union industry had made significant profits in 2021 and 2022.
- (17) The basic AD Regulation provides that for circumvention to exist, there must be (inter alia) 'evidence of injury or that the remedial effects of the duty are being undermined in terms of prices and/or quantities of the like product'. The applicant had demonstrated in its request, that there was a significant increase in imports from the three countries concerned at low prices, representing a non-negligible share of Union consumption⁽⁸⁾. The fact that even more imports are coming in from China, or that the Union industry was profitable during the past few years, does not alter this conclusion. The Commission therefore rejected these claims.
- (18) Third, all four parties commented on the concept of assembly operations, as set out in Article 13(2) of the basic AD Regulation, and argued that this concept did not apply to the operations in the countries concerned regarding the production of SSCR. According to the parties, the transformation of slabs or stainless steel hot-rolled coils ('SSHR') into SSCR are not assembly operations since there are no parts which are assembled, and the resulting transformation is irreversible. In addition, the production of SSCR cannot be seen as a finishing or completion operation as this is something which should take place at the end of the manufacturing process, such as polishing, skin pass or slitting. The parties argued that the main stages of SSCR production such as the actual cold-rolling or cold annealing and pickling cannot fall under such a definition. It was also argued that assembly operations are not the same as completion operations, since the latter takes place only after the product has already been assembled. According to Posco Assan and Posco VST, the concept of completion operations is only concerned when calculating the added value under Article 13(2)(b) and can therefore not be considered a 'practice, process or work' as intended by Article 13(1)(d).
- (19) The Commission rejected these claims. The practice described in the request under section 5.3.2 was confirmed to be a completion operation falling within the concept of assembly operations under Article 13(2) of the basic AD Regulation. In addition, the Commission has drawn the same conclusion for similar situations in previous investigations⁽⁹⁾.
- (20) The basic AD Regulation does not define the terms 'assembly operation' or 'completion operation'. However, a 'completion operation' is explicitly mentioned in Article 13(2)(b). 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 all those instances in which semi-finished inputs are further processed into a finished product.

⁽⁸⁾ See section 6 of the request for initiation.

⁽⁹⁾ See 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 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).

- (21) After disclosure, Yongjin argued that SSHR cannot be considered a semi-finished product, but rather a finished product which does not need to be necessarily processed into SSCR. In support of this argument, Yongjin referred to the wording of the Legal Notes of Chapter 72 of the Harmonised System which excludes that SSHR presented in coils can constitute a semi-finished material. However, the Commission considered the processing of SSHR into SSCR as one of the steps necessary to process slabs into the finished product – SSCR. For this purpose, both slabs and SSHR were considered input materials, whether semi-processed, semi-finished or not, which necessitated further processing or completion in order to obtain the finished product – SSCR.
- (22) In addition, Yongjin consistently referred to SSHR as a 'raw material' throughout its submission. However, the Harmonised System classifies raw materials as even less worked or manufactured than semi-finished materials: 'As a general rule, goods are arranged in order of their degree of manufacture: raw materials, unworked products, semi-finished products, finished products' ⁽¹⁰⁾. The wording used by Yongjin therefore clearly indicates that, despite the official classification of SSHR in coils as not semi-finished inputs, the company itself considers it as a product which is not finished and necessitates further processing.
- (23) The Commission therefore rejected this argument.
- (24) Furthermore, the Commission did not agree with the parties' argument that while polishing, skin pass or slitting could be seen as finishing operations, the cold-rolling process itself would not. These actions all form part of the same process of transforming the semi-processed material (slabs or SSHR) into SSCR. It would be illogical to describe part of this process as completion, and part as assembly operations. As explained in recital 48 below, companies which perform minor operations such as cutting and slitting were not considered producers in their own right. They were confirmed as being service centres, which do not qualify for an exemption of the extension of measures in an anti-circumvention investigation. This is consistent with the notion that such minor operations cannot be seen as completion operations, since the SSCR supplied to these service centres is necessarily already a finished or completed product.
- (25) The parties' arguments as to the irreversibility of the transformation process had to be rejected. First, such argument is not based on legal authority. In other words, there is no reason why reversibility should be a precondition for a process to be considered as assembly or finishing. Second, the parties themselves have argued that a completion operation includes, for example, slitting – which is also an irreversible operation. Slitting is basically cutting a large coil into a narrower coil, where width is one of the essential characteristics of the product. Welding the slit pieces back together will not result in the original coil, due to material loss during slitting and the addition of welding material. To reverse a slitting operation completely and invisibly, the slitted parts of steel would have to be melted together again, which in itself causes changes to the material not to mention that it necessitates all previous steps in the process including the cold rolling.

⁽¹⁰⁾ See the World Customs Organization publication: 'Harmonized System Compendium – 30 Years On', which is an updated and expanded version of the 'Customs Compendium', available at <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/activities-and-programmes/30-years-hs/hs-compendium.pdf>.

- (26) After disclosure, EURANIMI, Yongjin and the trader Gerber Steel GmbH ('Gerber') provided further arguments against the application of the notion of assembly operations in this investigation. All three parties referred to the fact that the cold-rolling process changes all the essential physical, mechanical and metallurgical properties of the product. In particular, the parties referred to a previous investigation on certain stainless steel seamless pipes and tubes ⁽¹¹⁾. In that investigation, the Commission had found 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' ⁽¹²⁾.
- (27) However, that finding, which is arguably different for the process, input materials and final product in that investigation (cold forming of pipes and tubes) than for the cold rolling of SSCR, was not the reason for terminating that investigation. The Commission, in the terminating Regulation ⁽¹³⁾, clearly stated that 'In its assessment, the Commission noted that the finding of non-circumvention under Article 13(1) of the basic Regulation was based in this case on the existence of a sufficient due cause and economic justification for the processing activities carried out in India'. As confirmed by EURANIMI in paragraph 8 of its submission after disclosure, 'The Commission terminated that investigation, without reaching any conclusion that cold forming would constitute an assembly or completion operation'.
- (28) Moreover, the Commission disagreed that the essential properties of the product are changed during the cold-rolling process. While some properties may undergo changes, others (equally or more essential) are already determined at the input material stage. This was confirmed by EUROFER in their submission after disclosure, 'the essential characteristics of stainless steel products are determined at the first stage of production, during which the slab is molten and poured, by the selection and quantity of raw materials such as nickel and chromium. The raw inputs and their chemical composition determine the essential characteristics of the later stainless steel product such as its resistance against oxidation. In particular, the chemical composition of the product will not change during further processing such as cold rolling.'
- (29) The Commission therefore dismissed the arguments regarding the changes in the properties of the product.
- (30) According to EURANIMI, interpreting the term assembly operation in an overly broad manner would deprive the rest of the provisions of the basic AD Regulation of their intended effect. Instead, the Commission should, in a case such as the current investigation, open a new anti-dumping/anti-subsidy investigation. However, it is well documented that the Court of Justice has favoured a broad interpretation of Article 13 of the basic AD Regulation, in view of its context and the need to preserve its effectiveness ⁽¹⁴⁾. The purpose of investigations conducted in accordance with Article 13 of the basic AD 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 AD 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. Because the starting point and objective of anti-circumvention investigations are fundamentally different from those of new anti-dumping/anti-subsidy investigations, one cannot be used as a substitute for the other.

⁽¹¹⁾ 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).

⁽¹²⁾ Ibid, recital 33.

⁽¹³⁾ Ibid, recital 72.

⁽¹⁴⁾ See Judgment of the Court of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717.

- (31) Fourth, EURANIMI put forward several arguments regarding due cause or economic justification for the change in the pattern of trade alleged in the request. The party claimed that the increase in SSCR imports from the countries concerned was influenced by the COVID-19 pandemic, that the increase in the use of Indonesian inputs already started before the initiation of the original anti-dumping investigation, and that the request's table showing Union consumption and market shares was incorrect due to the inclusion of 'indirect imports' and the influence of recent events causing limited availability of SSCR from Union suppliers.
- (32) However, the relevant tables in the request showed that there was an increase in imports from the countries concerned comparing 2022 and 2019. While the impact of the COVID-19 pandemic on the trade flows was felt in 2020 and 2021, there was still a significant increase in 2022 as compared with the last 'normal' year before the pandemic ⁽¹⁵⁾. Regarding the use of Indonesian inputs before 2019, no data was supplied by EURANIMI supporting this argument. Finally, the consumption and market share table the party referred to indeed included the notion of indirect imports. However, these imports were shown on a separate line and it was clear from the table that the data without this notion showed similar trends as for the indirect imports ⁽¹⁶⁾. As for the scarcity of SSCR from Union suppliers, no evidence was provided supporting this assertion.
- (33) Following disclosure, EURANIMI pointed to the 23 letters it had provided after initiation from SSCR end-users testifying to the scarcity. However, these letters dated from 2021, the time of the original anti-dumping investigation against Indonesia. As EURANIMI stated in its submission for the hearing on 12 October 2023, the shortages in 2021 were linked to the 'natural recovery from the pandemic'. No evidence was provided that shortages alleged at that time persisted since then and/or into the reporting period. The Commission therefore rejected these arguments.
- (34) Fifth, Posco VST and Posco Assan both claimed that the safeguard measures in place against steel imports (including SSCR) from all three countries concerned ⁽¹⁷⁾ already restricted imports of SSCR from these countries and provided the necessary and sufficient protection to the Union industry.
- (35) However, safeguard measures are by definition of a temporary nature and have a different rationale and objective than that of anti-dumping measures or that of Article 13 of the basic AD Regulation, namely to ensure the effectiveness of anti-dumping duties and to prevent their circumvention. The Commission therefore rejected this claim.
- (36) In addition to the above claims, Gerber, an importer of SSCR, submitted the following comments after disclosure, which include comments concerning the initiation of the case.
- (37) First, that the Commission should not use the unprecedented increase in nickel prices in 2022 as a basis for any calculation in this investigation. The Commission however, did not use nickel prices in its calculations.
- (38) Second, the fact that steel imports into the Union have been stable for the past 10 years. However, it is irrelevant whether steel imports into the Union have remained stable throughout the years or not. What is relevant in the case at hand is whether there was a change in the pattern of trade between the Union, Indonesia and the three countries concerned. As indicated in the request and as was confirmed during the investigation, there was such a change in the pattern of trade.

⁽¹⁵⁾ See sections 5.1 and 5.2 of the request for initiation.

⁽¹⁶⁾ See section 6.1 of the request for initiation.

⁽¹⁷⁾ Commission Implementing Regulation (EU) 2022/978 of 23 June 2022 amending Implementing Regulation (EU) 2019/159 imposing a definitive safeguard measure on imports of certain steel products (OJ L 167, 24.6.2022, p. 58).

- (39) Third, Gerber claimed that the finding both in the request and in the investigation that the value added during the processing of SSCR is less than 10 % is wrong, and that the Commission failed to provide evidence of such finding. However, it should be noted that the threshold laid down in Article 13(2)(b) of the basic AD Regulation is an added value of 25 %, not 10 %. In its analysis, the Commission used the data provided by the individual cooperating companies, which was verified on spot. For most of these companies, the added value did not rise above 10 %, and it remained far below 25 % for all of them. Contrary to Gerber's claims, this finding was not the result of leaving out processing or finishing stages such as annealing, or excluding certain types of stainless steel (Gerber mentioned 200 and 400 series steel), 'other numerical tricks' or even 'fraud'. The Commission calculated the value added to the parts as required by Article 13(2)(b) of the basic AD Regulation by expressing the 'value added to the parts brought in' (in this case manufacturing cost other than the material cost) as a percentage of the overall manufacturing cost. None of the cooperating companies, which provided the data, contested this methodology nor the Commission's findings with regard to the added value based on the companies' data.
- (40) Fourth, Gerber argued that certain actions by the Union stainless steel industry run counter to the Union's anti-trust law or even constitutes a criminal offence. However, such allegations fall outside the scope of the current investigation. If Gerber believed that the Union industry has behaved in an untoward manner, Gerber should address its concerns to the competent authorities, e.g. the Commission's department dealing with competition issues, OLAF (the European Anti-Fraud Office) or the competent national authorities.
- (41) The Commission therefore dismissed these four arguments brought by Gerber.
- (42) Considering the above, the Commission rejected the claims with regard to the initiation of the investigation and concluded that the request contained sufficient evidence to warrant the initiation of the investigation.

1.6. Investigation period and reporting period

- (43) The investigation period covered the period from 1 January 2020 to 30 June 2023 ('the investigation period'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of the 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 2022 to 30 June 2023 ('the reporting period') 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.

1.7. Investigation

- (44) The Commission officially informed the authorities of Indonesia, Taiwan, Türkiye, and Vietnam, the known exporting producers in those countries, the Union industry and the known importers in the Union of the initiation of the investigation.
- (45) Exemption claim forms for the exporting producers in Taiwan, Türkiye, and Vietnam, questionnaires for the producers/exporters in Indonesia and for importers in the Union were made available on DG TRADE's website.
- (46) The following exporting producers submitted exemption requests and verification visits were carried out at their premises:

Taiwan:

- Chia Far Industrial Factory Co., Ltd
- Tang Eng Iron Works Co., Ltd (YUSCO Group)
- Tung Mung Development Co., Ltd

- Walsin Lihwa Corporation
- Yieh United Steel Corporation (YUSCO Group)
- Yuan Long Stainless Steel Corp.

Türkiye:

- Posco Assan TST Celik Sanayi A.Ş.
- Trinox Metal Sanayi ve Ticaret A.Ş.

Vietnam:

- Lam Khang Joint Stock Company
- Posco VST Co., Ltd
- Yongjin Metal Technology (Vietnam) Company Limited.

(47) In addition, exemption claim forms were submitted by the following service centres:

- YC Inox Tr Çelik Sanayi Ve Ticaret Anonim Şirketi (Türkiye)
- Yue Seng Industrial Co. (Taiwan)
- YC Inox Co Ltd (Taiwan).

(48) However, based on an analysis of the information provided in their requests, the Commission concluded that the activities of these three companies during the investigation period consisted of providing services such as cutting and slitting of the SSCR produced by other companies, which does not entail any actual production of the product under investigation. As such, these companies could not be considered producers and thus could not be eligible for an exemption of the extension of the measures under Article 13(4) of the basic AD Regulation, which only provides such possibility for producers of the product concerned. No verification visits were carried out at the premises of these companies.

(49) Moreover, questionnaire replies were submitted by the following companies:

Union importers & users:

- Replasa Advanced Materials, S.A.
- Marcegaglia Specialties SpA
- Padana Tubi & Profilati Acciaio SpA
- Nova Trading S.A.

Indonesian producers:

- Pt. Indonesia RuiPu Nickel and Chrome Alloy
- Pt. Indonesia Guang Ching Nickel and Stainless Steel Industry
- Pt. Indonesia Tsingshan Stainless Steel
- Pt. Sulawesi Mining Investment.

(50) The Commission did not verify the questionnaire replies of these companies but used the submitted information to cross check the trade flows and names of suppliers from Indonesia.

- (51) In the process of verification of information and statistics provided by the applicant and the cooperating companies, the Commission held on spot consultations with Taiwanese and Vietnamese Authorities, namely with the Taiwan International Trade Administration (TITA) and the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam.
- (52) 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 AD Regulation and to findings being based on the facts available.
- (53) Several parties provided submissions outside the time-limit set in the initiating Regulation. The Commission informed these parties that their submission could not be accepted for that reason, and informed them of the possibility to provide comments after disclosure of the essential facts and considerations in this investigation.
- (54) A hearing was held on 12 October 2023, with EURANIMI. After disclosure, hearings took place with EUROFER on 14 March 2024, with Lam Khang on 18 March 2024 and with Yongjin on 20 March 2024.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (55) In accordance with Article 13(1) of the basic AD Regulation, the following elements should be analysed successively in order to assess possible circumvention:
- (1) whether there was a change in the pattern of trade between Indonesia, Taiwan, Türkiye, Vietnam and the Union,
 - (2) 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 duty,
 - (3) if there was evidence of injury or whether 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
 - (4) whether there was evidence of dumping in relation to the normal values previously established for the product concerned.
- (56) Since the evidence provided by the applicant in the request pointed to assembly/completion operations in Taiwan, Türkiye and Vietnam, the Commission in the present investigation, specifically analysed whether the criteria set out in Article 13(2) of the basic AD Regulation were met, in particular:
- (1) 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
 - (2) whether those parts constituted 60 % or more of the total value of the parts of the assembled/completed product and whether the added value of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs.

2.2. Change in the pattern of trade between Indonesia and the Union

(57) Table 1 below shows the development of imports from Indonesia into the Union in the investigation period.

Table 1

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Indonesia	106 483	107 362	51 382	7 634
<i>Index (base = 2020)</i>	100	101	48	7
Share total imports	14 %	12 %	4 %	1 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

(58) Table 1 shows that the volume of imports of SSCR from Indonesia decreased from 106 483 tonnes in 2020 to 7 634 tonnes in the reporting period. The volume of imports increased from 2020 to 2021 by 1 %, but sharply decreased in 2022 by 53 % compared to 2020. This decrease coincided in time with the imposition of definitive anti-dumping measures on SSCR from Indonesia at the end of 2021. From 2022 to the reporting period the volume of imports of SSCR from Indonesia severely declined further, resulting in an overall decline of almost 93 % during the entire investigation period. At the same time, its share of total imports decreased from 14 % to 1 %.

2.3. Results of the investigation in Taiwan

2.3.1. Degree of cooperation

(59) As stated in recital 46, six Taiwanese exporting producers provided exemption requests and cooperated throughout the investigation. These companies accounted for only 50 % of the total imports of SSCR from Taiwan during the reporting period. Findings with respect to exports of SSCR from Taiwan to the Union as well as the raw materials from Indonesia to Taiwan were therefore based on statistics extracted from Eurostat and the Global Trade Atlas ('GTA')⁽¹⁸⁾.

2.3.2. Change in the pattern of trade in Taiwan

(60) Table 2 below shows the development of imports from Taiwan into the Union in the investigation period.

Table 2

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Taiwan	125 072	218 784	251 304	186 872
<i>Index (base = 2020)</i>	100	175	201	149
Share total imports	16 %	24 %	19 %	22 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

⁽¹⁸⁾ <https://www.gtis.com/gta>.

- (61) Table 2 shows that the volume of imports of SSCR from Taiwan into the Union increased from 125 072 tonnes in 2020 to 186 872 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2020 to 2021, when the volume increased by 75 %, from 125 072 tonnes to 218 784 tonnes. This increase coincided in time with the initiation of the original anti-dumping investigation, in September 2020, and the imposition of definitive measures in November 2021. From 2021 to 2022, the volume of imports from Taiwan continued increasing to reach 251 304 tonnes to later decrease to a level of 186 872 tonnes during the reporting period. Overall, the volume of imports from Taiwan increased 49 % during the investigation period.
- (62) Furthermore, the volume of imports to the Union from Taiwan, not originating from the exporting producers who submitted requests for exemption, significantly increased after the initiation of the original anti-dumping investigation. More particularly, before the initiation of the anti-dumping investigation the cooperating producers accounted for the vast majority (over 90 %) of all exports to the Union whilst during the reporting period they only accounted for just above 50 %.
- (63) Table 3 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Taiwan during the investigation period. These raw materials consisted of either stainless steel slabs, or stainless steel hot-rolled coils ('SSHR').

Table 3

Exports of raw materials from Indonesia to Taiwan in the investigation period (tonnes)

	2020	2021	2022	RP
Slabs	93 085	190 908	140 272	141 041
<i>Index (base = 2020)</i>	100	205	151	152
SSHR	529 143	817 705	563 534	631 208
<i>Index (base = 2020)</i>	100	155	106	119
Total Slabs and SSHR	622 228	1 008 614	703 805	772 249
<i>Index (base = 2020)</i>	100	162	113	124

Source: Global Trade Atlas.

- (64) In general, the main input for the production of SSCR is SSHR. SSCR production can, however, also start from stainless-steel slabs, which are then hot rolled into SSHR, which is subsequently further rolled into SSCR. Table 3 shows that the exports of stainless steel slabs from Indonesia to Taiwan increased from 93 085 tonnes in 2020 to 141 041 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 105 % from 93 085 tonnes in 2020 to 190 908 tonnes in 2021. From 2021 the volume of exports of slabs from Indonesia decreased to 140 272 tonnes in 2022, to later slightly increase to reach a level of 141 041 tonnes during the reporting period. Overall the volume of exports of slabs from Indonesia to Taiwan increased 52 % during the investigation period.
- (65) During the investigation period, the exports from Indonesia represented between 95 % to 99,8 % of the total volume of imports of stainless steel slabs into Taiwan. During the reporting period exports from Indonesia of stainless steel slabs represented 99,8 %.

- (66) Similarly, exports of SSHR from Indonesia to Taiwan increased, from 529 143 tonnes in 2020 to 631 208 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 55 % from 529 143 tonnes to 817 705 tonnes. From 2021 to 2022, the volume of exports of SSHR from Indonesia decreased to 563 534 tonnes to later increase again to a level of 631 208 during the reporting period. Overall the volume of exports of SSHR from Indonesia to Taiwan increased 19 % during the investigation period.
- (67) It should be noted that there are significant quantities of SSHR exports from Indonesia to Taiwan that are not accounted for or purchased by the Taiwanese exporting producers who submitted requests for exemption, as explained in recital 62. Before the initiation of the original anti-dumping investigation imports of SSHR by the cooperating producers accounted for around 97 % of all imports whilst during the reporting period they only accounted for 84 %. Thus more than 100 000 tonnes of SSHR imported from Indonesia were purchased by companies which did not submit a request for exemption.
- (68) The combined exports of stainless steel slabs and SSHR from Indonesia to Taiwan increased, from 622 228 tonnes in 2020 to 772 249 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 62 % from 622 228 tonnes to 1 008 614 tonnes. From 2021 the volume of combined exports of stainless steel slabs and SSHR from Indonesia decreased to reach 703 805 tonnes in 2022, to later increase to a level of 772 249 during the reporting period. Overall the volume of combined exports of stainless steel slabs and SSHR from Indonesia to Taiwan increased 24 % during the investigation period.
- (69) The increase in export volumes of stainless steel slabs and SSHR from Indonesia to Taiwan indicated an increasing demand for such input materials in Taiwan, which could, at least in part, be explained by the increase in the production and exports to the Union of SSCR from Taiwan during the reporting period. This was also corroborated by the information provided by the cooperating companies.

2.3.2.1. Conclusion on the change in the pattern of trade in Taiwan

- (70) The investigation established that the significant volumes of stainless steel, either in the form of slabs or SSHR, exported from Indonesia, were further processed into SSCR in Taiwan to be later exported to the Union. The increase of exports of SSCR from Taiwan to the Union seen in Table 2, together with the significant increase of exports of stainless steel slabs and SSHR from Indonesia to Taiwan in the investigation period, as shown in Table 3, constituted a change in the pattern of trade between Indonesia, Taiwan and the Union within the meaning of Article 13(1) of the basic AD Regulation.

2.3.3. *Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty*

- (71) Article 13(1) of the basic AD Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, amongst others, the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation.
- (72) Stainless steel slabs and SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of stainless steel slabs and SSHR into SSCR falls under the concept of an assembly of parts/completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (73) The original anti-dumping duties were imposed on 19 November 2021. As described in section 2.3.2 above, Taiwan substantially increased its export sales to the Union during the investigation period, and a substantial part of the main input material, stainless steel slabs and SSHR, were imported from Indonesia.

- (74) Furthermore, as explained above (recitals 62 and 67), large amounts of input material originating from Indonesia could not be accounted for by purchases from cooperating producers whilst, at the same time, exports of (assembled/completed) SSCR to the Union, not exported by the cooperating producers, increased significantly.
- (75) The investigation has demonstrated that stainless steel slabs and SSHR coils were being imported from Indonesia into Taiwan, further processed in Taiwan into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.3.2 other than the initiation of the original anti-dumping investigation and the subsequent imposition of the original measures.
- (76) Article 13(1) of the basic AD Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that the circumvention found in Taiwan was an assembly/completion operation that led to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 13(1) of the basic AD Regulation was met in Taiwan for the country as a whole.

2.3.4. *Undermining of the remedial effects of the duty*

- (77) In accordance with Article 13(1) of the basic AD Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (78) Regarding quantities, the market share of the imports from Taiwan represented around 4,7 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes⁽¹⁹⁾. The volume of imports was thus considered to be significant.
- (79) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-dumping investigation adjusted for the price increase of SSCR based on the European Union producer price index⁽²⁰⁾, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Taiwan undersold the Union prices by more than 19 %.
- (80) The Commission therefore concluded that the remedial effect of the measures in force was being undermined in terms of both quantities and prices.

2.3.5. *Evidence of dumping*

- (81) In accordance with Article 13(1) of the basic AD Regulation, the Commission also examined whether there was evidence of dumping in relation to the normal values previously established for the like product.
- (82) To this end, the Commission compared the average export prices from Taiwan to the Union, based on Eurostat statistics and adjusted to ex-works prices based on the data reported by the cooperating companies, to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR from Indonesia since the original anti-dumping investigation. The Commission, following the methodology established in the request, took as reference the increase in prices of worldwide imports of SSCR from Indonesia, as per GTA data. For this analysis, the exports from Indonesia to the Union and China were excluded, since for these two destinations distortions had been identified due to the dumping and subsidisation practices established in the original anti-dumping and anti-subsidy investigations⁽²¹⁾.

⁽¹⁹⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see section 6.1 of the request for initiation.

⁽²⁰⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

⁽²¹⁾ Implementing Regulations (EU) 2021/2012 and (EU) 2022/433.

- (83) The comparison of the export price thus established and the normal values previously established in the original anti-dumping investigation for the like product and adjusted as explained in recital 82, showed evidence of dumping during the reporting period, within the meaning of Article 13(1) of the basic AD Regulation.

2.4. Results of the investigation in Türkiye

2.4.1. Degree of cooperation

- (84) As stated in recital 46, two Turkish exporting producers provided exemption requests and cooperated throughout the investigation. These two companies accounted for only 52 % of the total imports of SSCR from Türkiye during the reporting period. Findings regarding exports of SSCR from Türkiye to the Union as well as the raw materials from Indonesia to Türkiye were therefore based on statistics extracted from Eurostat and GTA.

2.4.2. Change in the pattern of trade in Türkiye

- (85) Table 4 below shows the development of imports from Türkiye into the Union in the investigation period.

Table 4

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Türkiye	73 835	105 619	125 072	105 116
<i>Index (base = 2020)</i>	100	143	169	142
Share total imports	10 %	12 %	10 %	13 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

- (86) Table 4 shows that the volume of imports of SSCR from Türkiye into the Union increased from 73 835 tonnes in 2020 to 105 116 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2020 to 2021, when the volume increased from 73 835 tonnes to 105 619 tonnes. This increase coincided with the initiation of the original anti-dumping investigation, in September 2020, and the imposition of definitive measures in November 2021. In 2022 the volume of imports from Türkiye increased further to 125 072 tonnes before decreasing again to a level of 105 116 tonnes during the reporting period. Overall, the volume of imports from Türkiye increased 42 % during the investigation period.
- (87) Table 5 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Türkiye during the investigation period.

Table 5

Exports of raw materials from Indonesia to Türkiye in the investigation period (tonnes)

	2020	2021	2022	RP
Slabs	24 241	50 378	20 328	81
<i>Index (base = 2020)</i>	100	208	84	0
SSHR	23 560	84 443	84 126	77 544
<i>Index (base = 2020)</i>	100	358	357	329

Source: Global Trade Atlas.

- (88) In general, the main input for the production of SSCR is SSHR. SSCR production can however also start from stainless-steel slabs which then are hot rolled into SSHR, which is subsequently further rolled into SSCR. Table 5 shows that the exports of stainless-steel slabs from Indonesia to Türkiye has decreased between 2020 and the reporting period from 24 241 tonnes to a negligible amount. This is largely due to the extension of the measures on SSHR from Indonesia to Türkiye in 2022 on imports of SSHR consigned from Türkiye, following an anti-circumvention investigation ⁽²²⁾.
- (89) However, the evidence available to the Commission showed that there were no SSCR production facilities in Türkiye which start the production process from slabs, nor were there Turkish SSCR producers purchasing SSHR from Turkish SSHR producers to further roll this into SSCR. The evolution of the export volumes of slabs to Türkiye is therefore not deemed relevant for this investigation.
- (90) Table 5 also shows that exports of SSHR from Indonesia to Türkiye increased from 23 560 tonnes in 2020 to 77 544 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume more than tripled to reach 84 443 tonnes. From 2021 the volume of exports of SSHR from Indonesia decreased slightly, to 77 544 tonnes in the reporting period. Overall the volume of exports of SSHR from Indonesia to Türkiye more than tripled throughout the investigation period.
- (91) The increase in export volumes of SSHR from Indonesia to Türkiye indicated an increasing demand for such input materials in Türkiye, which could, at least in part, be explained by the increase in the production and exports of SSCR to the Union from Türkiye during the reporting period.

2.4.2.1. Conclusion on the change in the pattern of trade in Türkiye

- (92) The investigation established that significant volumes of SSHR exported from Indonesia were further processed into SSCR in Türkiye, to be later exported to the Union. The increase of exports of SSCR from Türkiye to the Union seen in Table 4, together with the significant increase of exports of SSHR from Indonesia to Türkiye in the investigation period, as shown in Table 5, constituted a change in the pattern of trade between Indonesia, Türkiye and the Union within the meaning of Article 13(1) of the basic AD Regulation.

2.4.3. *Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty*

- (93) Article 13(1) of the basic AD Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation.
- (94) SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of SSHR into SSCR falls under the concept of assembly of parts/completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (95) The original anti-dumping duties were imposed on 19 November 2021. As described in section 2.4.2 above, Türkiye substantially increased its export sales to the Union during the investigation period and a substantial part of the main input material SSHR was imported from Indonesia.

⁽²²⁾ Implementing Regulation (EU) 2023/825.

- (96) The investigation has demonstrated that SSHR were imported from Indonesia into Türkiye, further processed in Türkiye into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.4.2 other than the initiation of the original anti-dumping investigation and the subsequent imposition of the original measures.
- (97) Article 13(1) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that any circumvention found in Türkiye was an assembly/completion operation that led to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 13(1) of the basic AD Regulation was met in Türkiye for the country as a whole.

2.4.4. *Undermining of the remedial effects of the duty*

- (98) In accordance with Article 13(1) of the basic AD Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (99) Regarding quantities, the market share of the imports from Türkiye represented around 2,6 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes⁽²³⁾. The volume of imports was thus considered to be significant.
- (100) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-dumping investigation adjusted for the price increase of SSCR based on the European Union producer price index⁽²⁴⁾, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Türkiye undersold Union prices by 1,3 %.
- (101) The Commission therefore concluded that the remedial effect of the measures in force was being undermined in terms of quantities and prices.

2.4.5. *Evidence of dumping*

- (102) In accordance with Article 13(1) of the basic AD Regulation, the Commission also examined whether there was evidence of dumping in relation to the normal values previously established for the like product.
- (103) To this end, the Commission compared the export prices from Türkiye to the Union, based on the ex-works prices of the two cooperating companies on product-type level, to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR in Indonesia. The Commission, following the methodology established in the request, took as reference the increase in prices of worldwide imports of SSCR from Indonesia, as per GTA data. For this analysis, the exports from Indonesia to the Union and China were excluded, since for these two destinations distortions had been identified due to the dumping and subsidisation practices established in the original anti-dumping and anti-subsidy investigations⁽²⁵⁾.
- (104) The comparison of the export price thus established and the normal values previously established for the like product in the original anti-dumping investigation and adjusted as explained in recital 103, did not show evidence of dumping during the reporting period, within the meaning of Article 13(1) of the basic AD Regulation.

⁽²³⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see section 6.1 of the request for initiation.

⁽²⁴⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

⁽²⁵⁾ Implementing Regulations (EU) 2021/2012 and (EU) 2022/433.

2.5. Results of the investigation in Vietnam

2.5.1. Degree of cooperation

- (105) As stated in recital 46, three Vietnamese exporting producers provided exemption requests and cooperated throughout the investigation. These three companies accounted for 82 % of the total imports of SSCR from Vietnam during the reporting period. Findings with respect to exports of SSCR from Vietnam to the Union as well as the raw materials from Indonesia to Vietnam were therefore based on statistics extracted from Eurostat and GTA.

2.5.2. Change in the pattern of trade in Vietnam

- (106) Table 6 below shows the development of imports from Vietnam into the Union in the investigation period.

Table 6

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Vietnam	35 345	51 566	87 606	96 668
<i>Index (base = 2020)</i>	100	146	248	274
Share total imports	4,6 %	5,8 %	6,8 %	11,5 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

- (107) Table 6 shows that the volume of imports of SSCR from Vietnam into the Union increased from 35 345 tonnes in 2020 to 96 668 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2021 to 2022, when the volume increased from 51 566 tonnes to 87 606 tonnes. This increase coincided with the imposition of definitive measures on 19 November 2021. In 2022 the volume of imports from Vietnam increased further to 96 668 tonnes during the reporting period. Overall, the volume of imports from Vietnam increased by 174 % during the investigation period.

- (108) Table 7 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Vietnam during the investigation period.

Table 7

Exports of raw materials ⁽²⁶⁾ from Indonesia to Vietnam in the investigation period (tonnes)

	2020	2021	2022	RP
SSHR	184 018	245 603	361 082	397 923
<i>Index (base = 2020)</i>	100	133	196	216

Source: Global Trade Atlas.

⁽²⁶⁾ The raw materials used to produce SSCR in Vietnam is SSHR. The investigation did not indicate hot-rolling activities of stainless steel slabs coming from Indonesia for further re-export to the EU.

- (109) Table 7 shows that the exports of stainless-steel hot-rolled coils from Indonesia to Vietnam has substantially increased between 2020 and the reporting period from 184 018 tonnes to 397 923 tonnes. The most significant increase in the volume of exports took place from 2021 to 2022, when the volume increased from 245 603 tonnes in 2021 to 361 082 tonnes in 2022. This increase coincided in time with the imposition of definitive measures on 19 November 2021. Overall, the volume of exports of SSHR from Indonesia to Vietnam more than doubled throughout the investigation period.
- (110) Conclusion on the change in the pattern of trade in Vietnam
- (111) The investigation established that significant volumes of SSHR exported from Indonesia were further processed into SSCR in Vietnam, to be later exported to the Union. The increase of exports of SSCR from Vietnam to the Union seen in Table 6, together with the significant increase of exports of SSHR from Indonesia to Vietnam in the investigation period, as shown in Table 7, constituted a change in the pattern of trade between Indonesia, Vietnam and the Union within the meaning of Article 13(1) of the basic AD Regulation.
- 2.5.3. *Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty*
- (112) Article 13(1) of the basic AD Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation.
- (113) SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of SSHR into SSCR falls under the concept of completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (114) The original anti-dumping measures were imposed on 19 November 2021. As described in section 2.5.2 above, Vietnam substantially increased its export sales to the Union during the investigation period and a substantial part of the main input material SSHR was imported from Indonesia.
- (115) The investigation demonstrated that SSHR coils were imported Indonesia into Vietnam, further processed in Vietnam into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.5.2 other than the initiation of the original anti-dumping investigation and the subsequent imposition of the original measures.
- (116) After disclosure, the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam argued that the change in the pattern of trade was due to the nature of the operation and to market demand and not for the purpose of circumvention. However, the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam did not provide a substantiated analysis of how the nature of the operation and market demand could explain that exports from Vietnam to the Union almost tripled between 2020 and the RP. There was also no analysis of the origin of the supplies of SSHR, whether there was a preference given to supplies from Indonesia or not, and, if so, if there was a sufficient due cause or economic justification other than the imposition of the anti-dumping measures.

(117) Article 13(1) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that the circumvention found in Vietnam, as confirmed in section 5.2 below, was an assembly/completion operation that led to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 13(1) of the basic AD Regulation was met in Vietnam for the country as a whole.

2.5.4. *Undermining of the remedial effects of the duty*

(118) In accordance with Article 13(1) of the basic AD Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

(119) Regarding quantities, the market share of the imports from Vietnam represented around 2,4 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes⁽²⁷⁾. The volume of imports was thus considered to be significant.

(120) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-dumping investigation adjusted for the price increase of SSCR based on the European Union producer price index⁽²⁸⁾, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Vietnam did not undersell Union prices. After disclosure, EURANIMI pointed to the fact that underselling was found for one Vietnamese company, Yongjin (see recital 168). Indeed, while no underselling was found on a countrywide average basis, there was evidence of underselling from at least one of the exporting producers, which in addition was found to be circumventing the original anti-dumping measures.

(121) The Commission therefore concluded that the remedial effect of the measures in force were being undermined in terms of quantities.

2.5.5. *Evidence of dumping*

(122) In accordance with Article 13(1) of the basic AD Regulation, the Commission examined whether there was evidence of dumping in relation to the normal values previously established for the like product.

(123) To this end, the Commission compared the export prices from Vietnam to the Union, based on the ex-works prices of the three cooperating companies on product-type level, to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR coils in Indonesia. The Commission, following the methodology established in the request, took as reference the increase in prices of worldwide imports of SSCR from Indonesia, as per GTA data. For this analysis, the exports from Indonesia to the Union and China were excluded, since for these two destinations distortions had been identified due to the dumping and subsidisation practices established in the original anti-dumping and anti-subsidy investigations⁽²⁹⁾.

(124) The comparison of the export price thus established and the normal values previously established for the like product in the original anti-dumping investigation and adjusted as explained in recital 123, showed evidence of dumping during the reporting period, within the meaning of Article 13(1) of the basic AD Regulation.

⁽²⁷⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see section 6.1 of the request for initiation.

⁽²⁸⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

⁽²⁹⁾ Implementing Regulations (EU) 2021/2012 and (EU) 2022/433.

3. MEASURES

- (125) Based on the above findings and their assessment in relation to the three countries as a whole, the Commission concluded that the definitive anti-dumping duty imposed on imports of stainless steel cold-rolled flat products originating in Indonesia was circumvented by imports of the product under investigation consigned from Taiwan and Vietnam.
- (126) Therefore, in accordance with Article 13(1) of the basic AD Regulation, the anti-dumping measures in force should be extended to imports from Taiwan and Vietnam into the Union of the product under investigation.
- (127) Pursuant to Article 13(1), second subparagraph of the basic AD Regulation, the measure to be extended should be the one established in Article 1(2) of Implementing Regulation (EU) 2021/2012 for 'all other Indonesian companies', subsequently amended in Article 2(1) of Implementing Regulation (EU) 2022/433, which is a definitive anti-dumping duty of 19,3 % applicable to the net, free-at-Union-frontier price, before customs duty.
- (128) With respect to Taiwan, there are currently anti-dumping duties in place against imports of SSCR since 27 August 2015, following an anti-dumping investigation⁽³⁰⁾ and continued on 16 September 2021 following an expiry review investigation⁽³¹⁾. These duties were set at a level of 6,8 % for all Taiwanese companies except Chia Far Industrial Factory Co., Ltd. To avoid double imposition of anti-dumping duties, the 6,8 % duties payable by those companies which were not exempted from the extension of the measures in the current investigation should be suspended for the duration of the extension of the measures in the current investigation.
- (129) Pursuant to Articles 13(3) and 14(5) of the basic AD Regulation, which provide 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 in accordance with the findings made in this investigation.
- (130) In their submission after disclosure, EUROFER called on the Commission to apply the special provisions under Article 14(3) of the basic AD Regulation. EUROFER urged the Commission to initiate on its own initiative interim reviews of the measures on SSCR from Indonesia, to replace the applicable non-preferential rules of origin by alternative measures based on information on the place of the melting of the stainless steel, through a mill certificate. However, the decision to initiate such investigations should be based on a thorough analysis of the available information and adhere to the rules for interim reviews as laid down in the basic AD Regulation. As such, EUROFER's request and possible Commission actions based on such request fall outside the scope of the current anti-circumvention investigation and cannot be addressed by this Regulation.

⁽³⁰⁾ Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 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 (OJ L 224, 27.8.2015, p. 10).

⁽³¹⁾ 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).

4. TERMINATION OF THE INVESTIGATION

- (131) In view of the findings mentioned in recitals 102 to 104, the investigation concerning possible circumvention of anti-dumping measures by imports of SSCR into the Union consigned from Türkiye should be terminated. The registration of imports of SSCR consigned from Türkiye, introduced by the initiating Regulation, should be discontinued.

5. REQUESTS FOR EXEMPTION

5.1. Taiwan

- (132) Six exporting producers from Taiwan requested an exemption of the extension of the measures.

5.1.1. *Start or substantial increase of operations*

- (133) The investigation found that the companies Yieh United Steel Corporation, Tang Eng Iron Works Co., Ltd (YUSCO group), Chia Far Industrial Factory Co., Ltd, Yuan Long Stainless Steel Corp, Tung Mung Development Co., Ltd and Walsin Lihwa Corporation, were buying part of their inputs (slabs and/or SSHR) of Indonesian origin, processing them into SSCR and then exporting some of that SSCR to the Union. However, the investigation found that this operation did not start or substantially increase since, or just prior to, the initiation of the original anti-dumping investigation, within the meaning of Article 13(2)(a) of the basic AD Regulation. Indeed, as also claimed by Gerber in its disclosure comments, some of the Taiwanese stainless steel producers have been importing and processing inputs from Indonesia since 2017. It follows that, in accordance with Article 13(2) of the basic AD Regulation, the operation in question cannot be considered as circumventing the measures in force.
- (134) In its comments on disclosure, EUROFER argued that the Commission has a broad margin of interpretation regarding the anti-circumvention provision. According to EUROFER, such broad margin must be used by the Commission in particular for the timing requirement in Article 13(2)(a) of the basic AD Regulation. As such, the Commission must not try to look at perfect time coincidence, but must focus on the existence of a justifiable causal link with the circumvented measures including if the behaviour anticipates expected trade defence investigations. EUROFER here referred to the anti-dumping and anti-subsidy investigations initiated in 2019 concerning SSHR from Indonesia ⁽³²⁾, a case concerning nickel ore brought against Indonesia at the World Trade Organization in 2019 ⁽³³⁾, the original anti-dumping and anti-subsidy investigations on SSCR from Indonesia in 2020 and 2021, respectively ⁽³⁴⁾, and the anti-circumvention investigation against Türkiye concerning the measures on SSHR from Indonesia in 2022 ⁽³⁵⁾.
- (135) However, Article 13(2)(a) of the basic AD Regulation makes a clear link between the start or substantial increase of the assembly/completion operation and the initiation of the original anti-dumping investigation. The temporal link which should be established, therefore, whether interpreted broadly or not, should be between (1) the assembly/completion operation, i.e. the use of Indonesian inputs for the processing of SSCR and the sales to the Union of such SSCR and (2) the initiation of the original anti-dumping investigation. The assembly/completion operation should have started 'just prior to' this initiation, or substantially increased since.

⁽³²⁾ 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); Notice of initiation of an anti-subsidy proceeding concerning imports of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China and Indonesia (OJ C 342, 10.10.2019, 18).

⁽³³⁾ WTO DS592/R, 27 November 2019, Indonesia – Measures Relating to Raw Materials, request for consultations by the European Union.

⁽³⁴⁾ See footnotes 2 and 3 above.

⁽³⁵⁾ See footnote 21 above.

- (136) The Commission considers that the notion of 'just prior to', in the case at hand, cannot mean going back to the initiation of other trade defence investigations against Indonesia on other products (SSHR or nickel ore), which took place more than a year before the initiation of the original anti-dumping investigation. As confirmed by EUROFER in its submission, the earliest moment that parties could have known about the possible initiation of the SSCR anti-dumping investigation against Indonesia was at the time when the complaint was lodged by EUROFER in August 2020. The Commission therefore rejected this argument.
- (137) After disclosure, EUROFER also claimed that the Union imports from Taiwan, which did not come directly from the exempted producers, given that they hold a large proportion of the cold rolling capacity, in its vast majority had to come from them indirectly, via service centres for example. Based on this, it should be concluded that there has been a change in the pattern of trade for the individual exempted producers.
- (138) First, EUROFER's claim was not confirmed by the information gathered and verified during the investigation. It should be noted that the exempted producers did not represent the entirety of the cold rolling capacity in Taiwan during the reporting period, since there were significant cold rolling capacities from companies that did not request exemptions. Furthermore, the companies that requested exemptions did not account for all Taiwanese purchases of Indonesian stainless steel during the reporting period. In fact, it was established that over 100 000 tonnes of SSHR imported from Indonesia into Taiwan during the reporting period were not purchased by the companies that requested exemptions.
- (139) Second, even if the exempted Taiwanese producers would sell potentially large quantities of SSCR to the Union via service centres in Taiwan, this does not change the fact that, based on Article 13(2)(a) of the basic AD Regulation, the relevant producers were not found to be engaged in the circumvention practice found in Taiwan. To recall, as noted in recital 133, the relevant entities either did not use inputs from Indonesia or, if they did, they did not substantially increase that usage 'since, or just prior to, the initiation of the [original] anti-dumping investigation' ⁽³⁶⁾. It follows that the assembly/completion operation the relevant entities were found to be engaged in could not be considered to circumvent the measures in force within the meaning of Article 13(2) of the basic AD Regulation. In other words, even if SSCR produced by the exempted entities was sold to service centres, further processed and then exported to the Union, that SSCR was not an outcome of the circumvention practice found for Taiwan.
- (140) Based on this, EUROFER's claim that the change in trade patterns at country level is due to indirect sales of the exempted producers is rejected.
- (141) As the first of the criteria laid down in Article 13(2) of the basic AD Regulation was not met, the Commission concluded that the operations of these companies shall not be considered as circumventing the existing measures. The requests for exemption of Yieh United Steel Corporation – Tang Eng Iron Works Co., Ltd (YUSCO group), Chia Far Industrial Factory Co., Ltd, Yuan Long Stainless Steel Corp, Tung Mung Development Co., Ltd and Walsin Lihwa Corporation should therefore be accepted.

5.2. Vietnam

- (142) Three exporting producers from Vietnam requested an exemption of the extension of the measures.

5.2.1. Lam Khang Joint Stock Company

5.2.1.1. Start or substantial increase of operations

- (143) Lam Khang began production of the product under investigation in August 2021, when it started to lease the factory of Hoa Binh International Stainless Steel Joint Stock Company. The Commission therefore concluded that the operation of Lam Khang started after the initiation of the anti-dumping investigation of 30 September 2020.

⁽³⁶⁾ Article 13(2)(a) of the basic AD Regulation.

5.2.1.2. Value of parts and added value

- (144) For Lam Khang, in the reporting period more than 60 % of all parts used by the company were from Indonesia. The value added to the parts was below 10 % of the manufacturing cost.

5.2.1.3. Undermining of the remedial effects of the duty

- (145) In accordance with Article 13(2) of the basic AD Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (146) The quantities of SSCR that were exported to the Union by Lam Khang increased significantly in absolute volumes during the investigation period and represented [3-7] % of the imports into the Union originating in Vietnam and [0-0,2] % of the Union consumption during the reporting period.
- (147) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-dumping investigation adjusted for the price increase of SSCR based on the European Union producer price index ⁽³⁷⁾, with the weighted average export CIF prices determined on the basis of the information provided by Lam Khang, duly adjusted to include post importation costs. This price comparison showed that Lam Khang did not undersell the Union prices in the reporting period.
- (148) The Commission therefore concluded that the existing measures were undermined in terms of quantities by the imports from Vietnam into the Union by Lam Khang.

5.2.1.4. Evidence of dumping

- (149) In accordance with Article 13(2)(c) of the basic AD Regulation, the Commission examined whether there was evidence of dumping in relation to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR coils in Indonesia (as explained in recital 123).
- (150) The comparison of normal values and export prices showed no evidence of dumping by Lam Khang during the reporting period.

5.2.1.5. Conclusion on the exemption request

- (151) In view of the above, the Commission concluded that the request for exemption of Lam Khang should be accepted.

5.2.2. Posco VST Co., Ltd

- (152) The investigation established that less than 60 % of all parts used by Posco VST during the reporting period was from Indonesia. In addition, in accordance with Article 13(2)(c) of the basic AD Regulation, the Commission examined whether there was evidence of dumping in relation to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR coils in Indonesia (as explained in recital 123). The comparison of normal values and export prices showed no evidence of dumping by Posco VST during the reporting period.

⁽³⁷⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

- (153) Following disclosure, EUROFER concluded from recital 152 that the Commission assessed the criteria of article 13(2)(b) of the basic AD regulation, and specifically the 60 % rule laid therein, at the level of the producer rather than the product. EUROFER considered that the adoption of such approach was incompatible with the stated purpose and objective of the anti-circumvention provision. Although the Commission has used this approach in previous cases, EUROFER claimed that such approach is not relevant nor appropriate in the case at hand, that it leads to absurd and nonsensical results and that it would go against the very purpose of the anti-circumvention provision by preventing capturing the largest circumventing volumes. According to EUROFER, the Commission should base its interpretation of the assembly/completion operations test on adherence to the requirements of the basic AD Regulation and case law, and not its prior practice.
- (154) The Commission recalled, as is apparent from the case-law of the Court of Justice, that the legislature intended to give the EU institutions a broad margin of discretion in relation to the definition of ‘circumvention’ and that the objective of investigations conducted in accordance with Article 13 of the basic AD Regulation is to ensure the effectiveness of anti-dumping duties and to prevent their circumvention⁽³⁸⁾. The Commission also noted that it is apparent that the legislature intended that the use of some parts from the country under measures, in assembly/completion operations in another country or the Union, does not constitute a circumvention. This is why, when the practice, process or work referred to in Article 13(1) of the basic AD Regulation falls under the concept of assembly/completion operations, Article 13(2)(b) foresees an objective threshold of 60 % to be applied to that operation.
- (155) The main issue with the approach proposed by EUROFER is that it does not consider the practice, process or work referred to in Article 13(1), in this case an assembly/completion operation, in its entirety. Instead, it proposes to focus the threshold assessment only on the part of the assembly/completion operation where exclusively inputs from Indonesia were used, ignoring the rest. In the case at hand, such approach, by its very nature, essentially renders the threshold put in place by the legislature meaningless. This is why, considering the particular facts of this case, such approach was rejected.
- (156) EUROFER also argued that, when the Commission concluded that the practice, process or work does not meet the threshold of Article 13(2) of the basic AD Regulation, the Commission should have assessed whether the practice falls under the general circumvention definition of Article 13(1) of the basic AD Regulation. However, this is exactly what the Commission did in section 2.5.3. In that section, the Commission concluded that the further processing of SSHR into SSCR falls under the concept of an assembly/completion operation in the sense of Article 13(2) of the basic AD Regulation. This meant that the Commission considered which type of practice, process or work was taking place in Vietnam, as required by Article 13(1) of the basic AD Regulation, and concluded that this should be considered an assembly/completion operation. The fact that for a number of companies, the assembly/completion operation did not fulfil the criteria for circumvention, does not mean that the Commission should then no longer consider such operation as assembly or completion for those companies.
- (157) EUROFER, in its submission after disclosure, stated ‘To consider that there is no circumvention when the assembly test is not met, the Commission must also demonstrate that the “cold rolling” found to occur in the exempted companies is not a practice process or work’. This is incorrect. In establishing the existence of circumvention the Commission must first demonstrate, according to Article 13(1) of the basic AD Regulation, that the observed change in the pattern of trade ‘stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty’. On a countrywide level, the Commission established the existence of circumvention on this basis for Vietnam.

⁽³⁸⁾ See Judgment of the Court of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, paras 46 and 109.

- (158) However, the exemptions granted on company level, such as for Posco VST, were based on the fact that for that particular company the practice, process or work – which was considered an assembly/completion operation – failed to meet the specific criteria laid down in Article 13(2). This only means that that company was found not to be engaged in circumvention practice, but it does not invalidate the finding of circumvention for the rest of the country, including the companies that were not exempted from the extension of the measures. It certainly does not invalidate the finding that the practice, process or work which is the cause of the circumvention of the measures in Vietnam is considered an assembly/completion operation. The Commission therefore dismissed this claim.
- (159) An additional claim by EUROFER in its submission after disclosure was that the Commission is not allowed to grant any exemptions 'if circumvention of the product is found to exist'. This claim seems to imply that EUROFER believes that the Commission has illegally granted exemptions. This is incorrect. The Commission has applied the rules as laid down in Article 13(1) and 13(2)(b), as set out in the previous sections. It has found that certain producers of the product concerned qualified for an exemption based on those rules.
- (160) As the second and third of the criteria laid down in Article 13(2) of the basic AD Regulation were not met, the Commission concluded that the operation of this company shall not be considered to circumvent the existing measures. Posco VST's request for exemption should therefore be accepted.

5.2.3. *Yongjin Metal Technology (Vietnam) Company Limited*

5.2.3.1. Start or substantial increase of operations

- (161) Yongjin started its production of the product concerned in April 2022. The Commission therefore concluded that the operation of Yongjin started after the initiation of the anti-dumping investigation of 30 September 2020.
- (162) After disclosure, Yongjin and Gerber claimed that Yongjin's cold-rolling mill had been planned since 2017 and that its construction was therefore not linked to the initiation of the original investigation. However, even if the plans for the mill pre-date the original anti-dumping investigation, Yongjin's actual operation (i.e. the purchasing of input materials from Indonesia and the sales to the Union of SSCR which incorporate such Indonesian input materials) started and substantially increased only after the initiation of the original investigation, namely in 2022. The Commission therefore dismissed this claim.
- (163) In its submission following initiation of the current investigation, Yongjin argued that there are economic justifications for, on the one hand, establishing an SSCR production facility in Vietnam (such as competitive labour costs, geographical location, low energy costs, Vietnam's environment, economic and trade policy including tax incentives, ...), and, on the other hand, sourcing input material (SSHR) from Indonesia in view of the availability in Indonesia of nickel – an input for stainless steel – and the relations built with Indonesian companies. After disclosure, Yongjin repeated this argument highlighting the low operating cost in Vietnam and the growing domestic demand for SSCR.
- (164) However, the Commission noted that these factors had previously existed and that there were no specific developments in recent years that would explain the development of the production of SSCR, other than the imposition of the duty. The Commission therefore rejected this claim.

5.2.3.2. Value of parts and added value

- (165) For Yongjin, in the reporting period almost 100 % of all parts used by the company were from Indonesia. The value added to the parts was below 10 % of the manufacturing cost.

5.2.3.3. Undermining of the remedial effects of the duty

- (166) In accordance with Article 13(2) of the basic AD Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (167) The quantities of SSCR that were exported to the Union by Yongjin increased significantly in absolute volumes during the investigation period and represented [26-30] % of the imports into the Union originating in Vietnam and [0,5-1] % of the Union consumption during the reporting period.
- (168) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-dumping investigation adjusted for the price increase of SSCR based on the European Union producer price index ⁽³⁹⁾, with the weighted average export CIF prices determined on the basis of the information provided by Yongjin, duly adjusted to include post importation costs. This price comparison showed that Yongjin undersold by [23-43] % the Union prices in the reporting period.
- (169) The Commission therefore concluded that the existing measures were undermined in terms of quantities and prices by the imports from Vietnam into the Union by Yongjin.

5.2.3.4. Evidence of dumping

- (170) In accordance with Article 13(2)(c) of the basic AD Regulation, the Commission examined whether there was evidence of dumping in relation to the normal values established during the original anti-dumping investigation, adjusted for the price increase of SSCR coils in Indonesia (as explained in recital 123).
- (171) Following disclosure, Yongjin claimed that the adjustment of the normal value as explained in recital 123 does not ensure a fair comparison as it does not consider the difference in the exchange rates which affect price comparability. Yongjin argued that the exchange rate difference between the original investigation period and the reporting period for the specific currencies related to each export destination should have been taken into account. However, the data was extracted by the Commission from GTA. Indonesia reports its data to GTA in US dollar, regardless of the export destination. This meant there was no influence of the export destinations' exchange rate fluctuations on the Indonesian export prices used for adjusting the normal value. This is also corroborated by the fact that in the original investigation, the cooperating Indonesian companies used US dollar as the invoice currency for their exports. The Commission therefore dismissed this claim.
- (172) The comparison of normal values and export prices showed that there was evidence of dumping by Yongjin during the reporting period.

5.2.3.5. Conclusion on the exemption request

- (173) In view of the above, the Commission concluded that the request for exemption of Yongjin should be rejected.

6. STRENGTHENING OF THE IMPORT REQUIREMENTS AND MONITORING

- (174) The application of exemptions when the request for release for free circulation is presented to the relevant customs authority should be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice and, to minimise the risks of circumvention, especially for sales of SSCR via traders or service centres, a valid commercial invoice and a valid mill certificate which shall conform to the requirements set out in the Articles of this Regulation. If no such invoice and mill certificate are presented at the time of the request for release for free circulation is presented to the relevant customs authority, imports shall be made subject to the extended anti-dumping duty rate for all other companies.

⁽³⁹⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

- (175) In light of the seriousness of the circumvention practices in this case, the Commission considered that an additional measure was necessary to monitor the proportion of Indonesian-based SSCR imported into the Union. This monitoring system would work as follows: a declaration will be added to the mill certificate mentioned in recital 174 to state whether the location where the stainless steel to produce the SSCR was originally melted and poured, was in Indonesia or not.
- (176) While presentation of this invoice and mill certificate is necessary for the customs authorities of the Member States to apply the exemptions, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1 of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents, etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the exemption is justified, in compliance with customs law.
- (177) After disclosure, Posco VST and Posco Assan requested that the Commission include a template with the text of the declaration referred to in recital 175 in the definitive Regulation. Such template was included in the Annexes to this Regulation.
- (178) Posco VST and Posco Assan also requested the Commission to confirm that it did not intend to prohibit imports of SSCR from the exempted companies even when made from Indonesian SSHR or slabs. Indeed, the exemption granted to certain companies in this investigation applies to all SSCR imported from those exempted companies, regardless of the origin of their inputs. If, however, the Commission were to find that following the entry into force of these measures, a substantial increase of imports into the Union of SSCR made from Indonesian inputs were to occur, the Commission will re-assess the situation in light of such developments. If warranted, such assessment may give rise to a review under Article 11 of the basic AD Regulation.

7. DISCLOSURE

- (179) On 5 March 2024, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment.
- (180) 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) 2021/2012 on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) originating in Indonesia, as amended by Implementing Regulation (EU) 2022/433 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, is hereby extended to imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80, consigned

from Taiwan and Vietnam, whether declared as originating in Taiwan and Vietnam or not, (TARIC codes 7219310010, 7219321010, 7219329010, 7219331010, 7219339010, 7219341010, 7219349010, 7219351010, 7219359010, 7219902010, 7219908010, 7220202110, 7220202910, 7220204110, 7220204910, 7220208110, 7220208910, 7220902010 and 7220908010), with the exemption of those produced by the companies listed below:

Country	Company	TARIC additional code
Taiwan	Chia Far Industrial Factory Co., Ltd Tang Eng Iron Works Co., Ltd Tung Mung Development Co., Ltd Walsin Lihwa Corporation Yieh United Steel Corporation Yuan Long Stainless Steel Corp.	89AH
Vietnam	Posco VST Co., Ltd Lam Khang Joint Stock Company	89AJ 89AI

2. The extended duty is the anti-dumping duty of 19,3 % applicable to 'all other Indonesian companies'.

3. The duty extended by paragraphs 1 and 2 of this Article shall be collected on imports consigned from Taiwan and Vietnam, whether declared as originating in Taiwan and Vietnam or not, registered in accordance with Article 2 of Implementing Regulation (EU) 2023/1632 and Articles 13(3) and 14(5) of Regulation (EU) 2016/1036, with the exception of those produced by the companies listed in paragraph 1.

4. The application of exemptions granted to the companies specifically mentioned in paragraph 1 shall be conditional upon presentation of the following documents to the customs authorities of the Member States:

- (a) If the importer buys directly from the Taiwanese or Vietnamese exporting producer, a commercial invoice bearing a declaration of the exporting producer and a mill certificate from that exporting producer as specified in Annex 1 ('manufacturer declaration for direct export sale'). The mill certificate must be from one of the companies listed in paragraph 1;
- (b) If the importer buys from a trader or other intermediate legal person, whether located in Taiwan and Vietnam or not, a commercial invoice from the manufacturer to the trader or other intermediate legal person bearing a declaration of the manufacturer and a mill certificate from that manufacturer as specified in Annex 2 ('manufacturer declaration for indirect export sale') and a commercial invoice from the trader or other intermediate legal person to the importer. The mill certificate must be from one of the companies listed in paragraph 1.

If neither the mill certificate nor the invoice are presented, the duty applicable to 'all other companies' shall apply.

5. For monitoring purposes, importers are requested to declare in the documents mentioned in Article 1(4), whether Indonesia is the country where the stainless steel inputs used for the processing of the product in Taiwan or Vietnam was originally melted and poured. Customs authorities shall record such transactions as provided by the importers as 'originally melted and poured in Indonesia' or 'not originally melted and poured in Indonesia'.

6. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are hereby directed to cease the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2023/1632.

Article 3

1. Where the anti-dumping duty referred to in Article 1(2) of Implementing Regulation (EU) 2021/1483 is applicable and is set at a level lower than the anti-dumping duty set out in Article 1(2), the anti-dumping duty referred to in Article 1(2) of Implementing Regulation (EU) 2021/1483 shall be collected in addition to the difference between that duty and the higher anti-dumping duty set out in Article 1(2).
2. The part of the amount of anti-dumping duty not collected pursuant to paragraph 1 shall be suspended.
3. The suspension referred to in paragraph 2 shall be limited in time to the period of application of the anti-dumping duty referred to in Article 2(1) of Implementing Regulation (EU) 2021/1483.

Article 4

1. Where the above-quota tariff duty referred to in Article 1(6) of Commission Implementing Regulation (EU) 2019/159 ⁽⁴⁰⁾ becomes applicable to flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), and exceeds the level of the anti-dumping duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected.
2. During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.
3. The suspension referred to in paragraph 2 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159.

Article 5

The exemption request submitted by Yongjin Metal Technology (Vietnam) Company Limited is rejected.

Article 6

The investigation concerning possible circumvention of anti-dumping measures imposed by Implementing Regulation (EU) 2021/2012, by imports of stainless steel cold-rolled flat products consigned from Türkiye, whether declared as originating in Türkiye or not, is hereby terminated.

⁽⁴⁰⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

Article 7

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, by decision, the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) 2021/2012, from the duty extended by Article 1.

Article 8

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, 6 May 2024.

For the Commission
The President
Ursula VON DER LEYEN

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ANNEX 1

Manufacturer declaration for direct export sale

1. A declaration signed by an official of the manufacturer issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(4)(a):
 - (a) the name and function of the official of the manufacturer;
 - (b) the following declaration: *'I, the undersigned, certify that the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (Taiwan or Vietnam). I declare that the information provided in this invoice is complete and correct.'*;
 - (c) date and signature.

2. The commercial invoice must be accompanied by a mill certificate including a declaration signed by an official of the entity issuing the mill certificate, in the following format, appearing on the valid mill certificate referred to in Article 1(4)(a):
 - (a) the name and function of the official of the entity issuing the mill certificate;
 - (b) the following declaration:

'I, the undersigned, certify that:

 - (i) *the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate, was manufactured by (company name and address) (TARIC additional code) in (Taiwan or Vietnam). I declare that the information provided in this mill certificate is complete and correct.*
 - (ii) *The stainless steel inputs used for the production of the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate was originally melted and poured in Indonesia: YES/NO (please indicate the correct reply).'*;
 - (c) date and signature.

ANNEX 2

Manufacturer declaration for indirect export sale

1. A declaration of the Taiwanese or Vietnamese manufacturer, signed by an official of the manufacturer issuing the invoice for this transaction to the trader or other intermediate legal person, in the following format, must appear on the commercial invoice of the manufacturer to the other intermediate legal person or trader referred to in Article 1(4)(b):
 - (a) the name and function of the official of the manufacturer;
 - (b) the following declaration: *'I, the undersigned, certify that the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) sold to the trader/other intermediate legal person (name of the trader/other intermediate legal person) (country of the trader/other intermediate legal person), covered by this invoice, was manufactured by our company (company name and address) (TARIC additional code) in (Taiwan or Vietnam). I declare that the information provided in this invoice is complete and correct.'*;
 - (c) date and signature.

2. The commercial invoice must be accompanied by a mill certificate including a declaration signed by an official of the entity issuing the mill certificate, in the following format, appearing on the valid mill certificate referred to in Article 1(4)(b):
 - (a) the name and function of the official of the entity issuing the mill certificate;
 - (b) the following declaration:

'I, the undersigned, certify that:

 - (i) *the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate, was manufactured by (company name and address) (TARIC additional code) in (Taiwan or Vietnam). I declare that the information provided in this mill certificate is complete and correct.*
 - (ii) *The stainless steel inputs used for the production of the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate was originally melted and poured in Indonesia: YES/NO (please indicate the correct reply).'*;
 - (c) date and signature.



2024/1268

7.5.2024

COMMISSION IMPLEMENTING REGULATION (EU) 2024/1268**of 6 May 2024****extending the definitive countervailing duties imposed by Implementing Regulation (EU) 2022/433 on imports of stainless steel cold-rolled flat products originating in Indonesia to 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**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾ ('the basic AS Regulation'), and in particular Article 23 thereof,

Whereas:

1. PROCEDURE**1.1. Previous investigations and existing measures**

- (1) In 2022, by Implementing Regulation (EU) 2022/433 ⁽²⁾, the European Commission imposed definitive countervailing duties on imports of stainless steel cold-rolled flat products ('SSCR') originating in, inter alia, Indonesia following an anti-subsidy investigation ('the original anti-subsidy investigation'). The measures took the form of an *ad valorem* duty ranging between 0 and 21,4 %, with a residual duty for all non-cooperating Indonesian companies of 20,5 % ('the original measures').

1.2. Request

- (2) The Commission received a request pursuant to Articles 23(4) and 24(5) of the basic AS Regulation to investigate the possible circumvention of the countervailing measures imposed on imports of SSCR originating in Indonesia by imports of SSCR consigned from Taiwan, Türkiye and Vietnam, whether declared in Taiwan, Türkiye and Vietnam or not, and to make such imports subject to registration ('the request').
- (3) The request was lodged on 3 July 2023 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, Taiwan, Türkiye and Vietnam to the Union that had taken place following the imposition of measures on SSCR from Indonesia. This change appeared to stem from the consignment of SSCR via Taiwan, Türkiye and Vietnam ('the countries concerned') to the Union after having undergone assembly/completion operations in these countries. The request also contained sufficient evidence showing that such assembly/completion operations constituted circumvention, as Indonesian parts accounted for more than 60 % of the total value of the assembled/completed product in the countries concerned, while the value added during the assembly/completion operation was lower than 25 % of the manufacturing cost.

⁽¹⁾ OJ L 176, 30.6.2016, p. 55.

⁽²⁾ 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, 16.3.2022, p. 24).

- (5) Furthermore, the request contained sufficient evidence that the practice described above was undermining the remedial effects of the existing countervailing measures in terms of quantities and prices. In addition, there was sufficient evidence that the prices of SSCR consigned from Taiwan, Türkiye and Vietnam still benefitted from subsidies. The product under investigation and the parts thereof were produced by and exported to Taiwan, Türkiye and Vietnam by companies in Indonesia that were found to receive countervailable subsidies for the production and sale of the product under investigation under the existing measures.

1.3. Product concerned and product under investigation

- (6) The product concerned by possible circumvention is flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), classified on the date of entry into force of Commission Implementing Regulation (EU) 2021/2012 ⁽³⁾ under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80 and originating in Indonesia ('the product concerned'). This is the product to which the measures that are currently in force apply.
- (7) The product under investigation is the same as that defined in the previous recital, but consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, currently falling under the same CN codes as the product concerned (TARIC codes 7219310010, 7219321010, 7219329010, 7219331010, 7219339010, 7219341010, 7219349010, 7219351010, 7219359010, 7219902010, 7219908010, 7220202110, 7220202910, 7220204110, 7220204910, 7220208110, 7220208910, 7220902010 and 7220908010) ('the product under investigation').
- (8) The investigation showed that SSCR exported from Indonesia to the Union and SSCR consigned from Taiwan, Türkiye and Vietnam, whether originating in Taiwan, Türkiye and Vietnam or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore to be considered as like products within the meaning of Article 2 of the basic AS Regulation.

1.4. Initiation

- (9) Having determined, after informing the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 23(4) of the basic AS Regulation, the Commission initiated an investigation by Commission Implementing Regulation (EU) 2023/1631 ⁽⁴⁾ on 15 August 2023 ('the initiating Regulation') and made imports of SSCR consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, subject to registration in accordance with Article 24(5) of the basic AS Regulation.

1.5. Comments on initiation

- (10) After initiation, the Commission received comments from four interested parties: Posco Assan TST Celik Sanayi A.Ş. ('Posco Assan'), POSCO VST Co., Ltd. ('Posco VST'), YONGJIN METAL TECHNOLOGY (VIETNAM) COMPANY LIMITED ('Yongjin') and the European Association of Non-Integrated Metal Importers & Distributors ('EURANIMI').
- (11) Posco Assan, Posco VST and Yongjin provided general comments on initiation, as well as company specific comments in the context of this investigation. In view of the findings set out in Section 4 below, these comments by Posco Assan and Posco VST have become moot and were therefore not addressed in this Regulation. The comments by Yongjin were addressed in Section 4.3.3.

⁽³⁾ 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).

⁽⁴⁾ 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).

- (12) Posco Assan, Posco VST and EURANIMI also commented on the change in the pattern of trade and the lack of evidence that the remedial effects of the original duties were being undermined. Furthermore, Posco Assan, Posco VST and Yongjin claimed that the concept of assembly/completion operations falls outside the scope of the basic AS Regulation. In addition, Posco Assan, Posco VST, Yongjin and EURANIMI all provided similar comments related to the application of the circumvention rules on assembly/completion operations applied to SSCR and the existence of sufficient due cause or economic justification. Finally, Posco Assan and Posco VST referred to the existing steel safeguard measures already restricting imports from the targeted countries.
- (13) First, the companies argued that, in contrast to the allegations in the request, there was no change in the pattern of trade. To show this, the parties provided data from different periods. EURANIMI used data from July 2019 to June 2023, while Posco Assan and Posco VST used data from several longer or shorter periods, comparing either 2020, or the period July 2021–June 2022 to the reporting period, or comparing the first semester of 2022 to the first semester of 2023.
- (14) However, the applicant based its request on the period 1 January 2019–31 December 2022. This period included the time before the initiation of the original anti-subsidy investigation (on 17 February 2021) and after the imposition of the countervailing duties, both of which have to be analysed and compared in order to determine whether a ‘change in a 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’⁽⁵⁾ occurred. The applicant showed that during that period, there was a change in the pattern of trade. That such conclusion may change depending on which periods you add or remove from the analysis, does not detract from the fact that the applicant provided sufficient evidence that there was a change in the pattern of trade within the meaning of Article 23(3) of the basic AS Regulation⁽⁶⁾.
- (15) Second, with regard to the undermining of the remedial effect of the duties, Posco Assan and Posco VST claimed that this did not exist since there was no change in the pattern of trade, nor a massive or rapid increase of imports from the countries concerned. In addition, the companies pointed towards China as a possible cause for injury or undermining of the remedial effects, as Chinese imports into the Union had increased much more than the imports from the three countries concerned. EURANIMI, as well as Trinox after disclosure, claimed that there was no undermining of the remedial effects since the Union industry had made significant profits in 2021 and 2022.
- (16) The basic AS Regulation provides that for circumvention to exist, there must be (inter alia) ‘evidence of injury or that the remedial effects of the duty are being undermined in terms of prices and/or quantities of the like product’. The applicant had demonstrated in its request that there was a significant increase in imports from the three countries concerned at low prices, representing a non-negligible share of Union consumption⁽⁷⁾. The fact that even more imports are coming in from China, or that the Union industry was profitable during the past few years, did not alter this conclusion. The Commission therefore rejected these claims.
- (17) Third, Posco Assan, Posco VST and Yongjin argued that the operations at issue do not fall within the scope of Article 23(3) of the basic AS Regulation. The parties put forward that while assembly operations are explicitly referred to in Article 13(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council⁽⁸⁾ (‘the basic AD Regulation’), they are omitted from Article 23 of the basic AS Regulation. Indeed, with regard to assembly/completion operations, the second subparagraph of Article 23(3) of the basic AS Regulation does not list them specifically as a practice, process or work that constitutes circumvention. Nevertheless, the second subparagraph of Article 23(3) of the basic AS Regulation explicitly uses the wording ‘inter alia’, which means that it provides a non-exhaustive list of possible circumvention practices. It thus also covers other circumvention practices, which are not explicitly listed in the Article in question, such as assembly/completion operations. The Commission therefore rejected this claim.

⁽⁵⁾ Article 23(3) of the basic AS Regulation.

⁽⁶⁾ See Section 5.1 of the request for initiation, available in the open file.

⁽⁷⁾ See Section 6 of the request for initiation.

⁽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).

- (18) Fourth, all four parties commented on the concept of assembly operations, as set out in Article 13(2) of the basic AD Regulation, and argued that this concept did not apply to the operations in the countries concerned regarding the production of SSCR. According to the parties, the transformation of slabs or stainless steel hot-rolled coils ('SSHR') into SSCR are not assembly operations since there are no parts which are assembled, and the resulting transformation is irreversible. In addition, the production of SSCR cannot be seen as a finishing or completion operation as this is something which should take place at the end of the manufacturing process such as polishing, skin pass or slitting. The parties argued that the main stages of SSCR production such as the actual cold-rolling or cold annealing and pickling cannot fall under such a definition. It was also argued that assembly operations are not the same as completion operations, since the latter takes place only after the product has already been assembled. According to Posco Assan and Posco VST, the concept of completion operations is only concerned when calculating the added value under Article 13(2)(b) of the basic AD Regulation, and can therefore not be considered a 'practice, process or work' as intended by Article 23(3) of the basic AS Regulation.
- (19) The Commission rejected these claims. The practice described in the request under Section 5.3.2 was confirmed to be a completion operation falling within the concept of assembly operations under Article 13(2) of the basic AD Regulation. In addition, the Commission has drawn the same conclusion for similar situations in previous investigations⁽⁹⁾.
- (20) The basic AD Regulation does not define the terms 'assembly operation' or 'completion operation'. However, a 'completion operation' is explicitly mentioned in Article 13(2)(b). 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 all those instances in which semi-finished inputs are further processed into a finished product.
- (21) After disclosure, Yongjin argued that SSHR cannot be considered a semi-finished product, but rather a finished product which does not need to be necessarily processed into SSCR. In support of this argument, Yongjin referred to the wording of the Legal Notes of Chapter 72 of the Harmonised System which excludes that SSHR presented in coils can constitute a semi-finished material. However, the Commission considered the processing of SSHR into SSCR as one of the steps necessary to process slabs into the finished product – SSCR. For this purpose, both slabs and SSHR were considered input materials, semi-finished or not, which necessitate further processing or completion in order to obtain the finished product – SSCR.
- (22) In addition, Yongjin consistently referred to SSHR as a 'raw material' throughout its submission. However, the Harmonised System classifies raw materials as even less worked or manufactured than semi-finished materials: 'As a general rule, goods are arranged in order of their degree of manufacture: raw materials, unworked products, semi-finished products, finished products'⁽¹⁰⁾. The wording used by Yongjin therefore clearly indicates that, despite the official classification of SSHR in coils as not semi-finished inputs, the company itself considers it as a product which is not finished and necessitates further processing.

⁽⁹⁾ See 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 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).

⁽¹⁰⁾ See the World Customs Organization' publication: 'Harmonized System Compendium – 30 Years On', which is an updated and expanded version of the 'Customs Compendium', available at <https://www.wcoomd.org/-/media/wco/public/global/pdf/topics/nomenclature/activities-and-programmes/30-years-hs/hs-compendium.pdf>.

- (23) The Commission therefore rejected this argument.
- (24) Furthermore, the Commission did not agree with the parties' argument that while polishing, skin pass or slitting could be seen as finishing operations, the cold-rolling process itself would not. These actions all form part of the same process of transforming the semi-processed material (slabs or SSHR) into SSCR. It would be illogical to describe part of this process as completion, and part as assembly operations. As explained in recital (48) below, companies which perform minor operations such as cutting and slitting were not considered producers in their own right. They were confirmed as being service centres, which do not qualify for an exemption of the extension of measures in an anti-circumvention investigation. This is consistent with the notion that such minor operations cannot be seen as completion operations, since the SSCR supplied to these service centres is necessarily already a finished or completed product.
- (25) The parties' argument as to the irreversibility of the transformation process had to be rejected. First, such argument is not based on legal authority. In other words, there is no reason why reversibility should be a precondition for a process to be considered as assembly or finishing. Second, the parties themselves have argued that a completion operation includes, for example, slitting – which is also an irreversible operation. Slitting is basically cutting a large coil into a narrower coil, where width is one of the essential characteristics of the product. Welding the slit pieces back together will not result in the original coil, due to material loss during slitting and the addition of welding material. To completely and invisibly reverse a slitting operation, the slitted parts of steel would have to be melted together again, which in itself causes changes to the material not to mention that it necessitates all previous steps in the process including the cold rolling.
- (26) After disclosure, EURANIMI, Yongjin and the trader Gerber Steel GmbH ('Gerber') provided further arguments against the application of the notion of assembly operations in this investigation. All three parties referred to the fact that the cold-rolling process changes all the essential physical, mechanical and metallurgical properties of the product. In particular, the parties referred to a previous investigation on certain stainless steel seamless pipes and tubes⁽¹¹⁾. In that investigation, the Commission had found 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'⁽¹²⁾.
- (27) However, that finding, which is arguably different for the process, input materials and final product in that investigation (cold forming of pipes and tubes) than the cold rolling of SSCR, was not the reason for terminating that investigation. The Commission, in the terminating Regulation⁽¹³⁾, clearly stated that 'In its assessment, the Commission noted that the finding of non-circumvention under Article 13(1) of the basic Regulation was based in this case on the existence of a sufficient due cause and economic justification for the processing activities carried out in India'. As confirmed by EURANIMI in paragraph 8 of its submission after disclosure, 'The Commission terminated that investigation, without reaching any conclusion that cold forming would constitute an assembly or completion operation'.
- (28) Moreover, the Commission disagreed that the essential properties of the product are changed during the cold-rolling process. While some properties may undergo changes, others (equally or more essential) are already determined at the input material stage. This was confirmed by EUROFER in their submission after disclosure, 'the essential characteristics of stainless steel products are determined at the first stage of production, during which the slab is molten and poured, by the selection and quantity of raw materials such as nickel and chromium. The raw inputs and their chemical composition determine the essential characteristics of the later stainless steel product such as its resistance against oxidation. In particular, the chemical composition of the product will not change during further processing such as cold rolling'.

⁽¹¹⁾ 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).

⁽¹²⁾ Ibid, recital (33).

⁽¹³⁾ Ibid, recital (72).

- (29) The Commission therefore dismissed the arguments with regard to the changes in the properties of the product.
- (30) According to EURANIMI, interpreting the term assembly operation in an overly broad manner would deprive the rest of the provisions of the basic AD Regulation (and by analogy, the AS Regulation) of their intended effect. Instead, the Commission should, in a case such as the current investigation, open a new anti-dumping/anti-subsidy investigation. However, it is well documented that the Court of Justice has favoured a broad interpretation of Article 13 of the basic AD Regulation (applied by analogy in this investigation), in view of its context and the need to preserve its effectiveness⁽¹⁴⁾. The purpose of investigations conducted in accordance with Article 23 of the basic AS Regulation is to ensure the effectiveness of countervailing duties and to prevent their circumvention. Consequently, the purpose of Article 13(2) of the basic AD Regulation (applied by analogy in anti-subsidy investigations) 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. Because the starting point and objective of anti-circumvention investigations are therefore fundamentally different from those of new anti-dumping/anti-subsidy investigations, one cannot be used as a substitute for the other.
- (31) Fifth, EURANIMI put forward several arguments regarding due cause or economic justification for the change in the pattern of trade alleged in the request. The party claimed that the increase in SSCR imports from the countries concerned was influenced by the COVID-19 pandemic, that the increase in the use of Indonesian inputs already started before the initiation of the original anti-subsidy investigation, and that the request's table showing Union consumption and market shares was incorrect due to the inclusion of 'indirect imports' and the influence of recent events causing limited availability of SSCR from Union suppliers.
- (32) However, the relevant tables in the request showed that there was an increase in imports from the countries concerned comparing 2022 and 2019. While the impact of the COVID-19 pandemic on the trade flows was felt in 2020 and 2021, there was still a significant increase in 2022 as compared with the last 'normal' year before the pandemic. With regard to the use of Indonesian inputs before 2019, no data was supplied by EURANIMI supporting this argument. Finally, the consumption and market share table the party referred to indeed included the notion of indirect imports. However, these imports were shown on a separate line and it was clear from the table that the data without this notion showed similar trends for the indirect imports. As for the scarcity of SSCR from Union suppliers, no evidence was provided supporting this assertion.
- (33) Following disclosure, EURANIMI pointed to the 23 letters it had provided after initiation from SSCR end-users testifying to the scarcity. However, these letters dated from 2021, the time of the original anti-dumping investigation against Indonesia. As EURANIMI stated in its submission for the hearing on 12 October 2023, the shortages in 2021 were linked to the 'natural recovery from the pandemic'. No evidence was provided that shortages alleged at that time persisted since then and into the reporting period. The Commission therefore rejected these arguments.
- (34) Sixth, Posco VST and Posco Assan both claimed that the safeguard measures in place against steel imports (including SSCR) from all three countries concerned⁽¹⁵⁾ already restricted imports of SSCR from these countries and provided the necessary and sufficient protection to the Union industry.
- (35) However, safeguard measures are by definition of a temporary nature and have a different rationale and objective than that of anti-subsidy measures or that of Article 23 of the basic AS Regulation, namely to ensure the effectiveness of countervailing duties and to prevent their circumvention. The Commission therefore rejected this claim.
- (36) In addition to the above claims, Gerber, an importer of SSCR, submitted the following comments after disclosure, which include comments concerning the initiation of the case.

⁽¹⁴⁾ See Judgment of the Court of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717.

⁽¹⁵⁾ Commission Implementing Regulation (EU) 2022/978 of 23 June 2022 amending Implementing Regulation (EU) 2019/159 imposing a definitive safeguard measure on imports of certain steel products (OJ L 167, 24.6.2022, p. 58).

- (37) First, that the Commission should not use the unprecedented increase in nickel prices in 2022 as a basis for any calculations in this investigation. The Commission, however, did not use nickel prices in its calculations.
- (38) Second, the fact that steel imports into the Union have been stable for the past 10 years. However, it is irrelevant whether steel imports into the Union have remained stable throughout the years or not. What is relevant in the case at hand is whether there was a change in the pattern of trade between the Union, Indonesia and the three countries concerned. As indicated in the request and as was confirmed during the investigation, there was such a change in the pattern of trade.
- (39) Third, Gerber claimed that the finding, both in the request and in the investigation, that the value added during the processing of SSCR is less than 10 % is wrong, and that the Commission failed to provide evidence of such finding. However, it should be noted that the threshold laid down in Article 13(2)(b) of the basic AD Regulation is an added value of 25 %, not 10 %. In its analysis, the Commission used the data provided by the individual cooperating companies which was verified on spot. For most of these companies, the added value did not rise above 10 %, and it remained far below 25 % for all of them. Contrary to Gerber's claims, this finding was not the result of leaving out processing or finishing stages such as annealing, or excluding certain types of stainless steel (Gerber mentioned 200 and 400 series steel), other 'numerical tricks' or even 'fraud'. The Commission calculated the value added to the parts as required by Article 13(2)(b) of the basic AD Regulation by expressing the 'value added to the parts brought in' (in this case manufacturing cost other than the material cost) as a percentage of the overall manufacturing cost. None of the cooperating companies, which provided the data, contested this methodology nor the Commission's findings with regard to the added value based on the companies' data.
- (40) Fourth, Gerber argued that certain actions by the Union stainless steel industry run counter to the Union's anti-trust law or even constitutes a criminal offence. However, such allegations fall outside the scope of the current investigation. If Gerber believed that the Union industry has behaved in an untoward manner, Gerber should address its concerns to the competent authorities, e.g. the Commission's department dealing with competition issues, OLAF (the European Anti-Fraud Office) or the competent national authorities.
- (41) The Commission therefore dismissed these four arguments brought by Gerber.
- (42) In light of the above, the Commission rejected the claims with regard to the initiation of the investigation and concluded that the request contained sufficient evidence to warrant the initiation of the investigation.

1.6. Investigation period and reporting period

- (43) The investigation period covered the period from 1 January 2020 to 30 June 2023 ('the investigation period'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of the 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 2022 to 30 June 2023 ('the reporting period') 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 subsidisation.

1.7. Investigation

- (44) The Commission officially informed the authorities of Taiwan, Türkiye, Vietnam and Indonesia, the known exporting producers in those countries, the Union industry and the known importers in the Union of the initiation of the investigation.
- (45) Exemption claim forms for the exporting producers in Taiwan, Türkiye, and Vietnam, questionnaires for the producers/exporters in Indonesia and for importers in the Union were made available on DG TRADE's website.

(46) The following exporting producers submitted exemption requests and verification visits were carried out at their premises:

Taiwan:

- Chia Far Industrial Factory Co., Ltd.
- Tang Eng Iron Works Co., Ltd. (YUSCO Group)
- Tung Mung Development Co., Ltd.
- Walsin Lihwa Corporation
- Yieh United Steel Corporation (YUSCO Group)
- Yuan Long Stainless Steel Corp.

Türkiye:

- Posco Assan TST Celik Sanayi A.Ş.
- Trinox Metal Sanayi ve Ticaret A.Ş.

Vietnam:

- Lam Khang Joint Stock Company
- Posco VST Co., Ltd.
- Yongjin Metal Technology (Vietnam) Company Limited.

(47) In addition, exemption claim forms were submitted by the following service centres in Taiwan and Türkiye:

- YC Inox Tr Çelik Sanayi Ve Ticaret Anonim Şirketi (Türkiye)
- Yue Seng Industrial Co. (Taiwan)
- YC Inox Co Ltd. (Taiwan).

(48) However, based on an analysis of the information provided in their requests, the Commission concluded that the activities of these three companies during the investigation period consisted of providing services such as cutting and slitting of the SSCR produced by other companies, which does not entail any actual production of the product under investigation. As such, these companies could not be considered producers and thus could not be eligible for an exemption of the extension of the measures under Article 23(6) of the basic AS Regulation, which only provides such possibility for producers of the product concerned. No verification visits were carried out at the premises of these companies.

(49) Moreover, questionnaire replies were submitted by the following companies:

Union importers and users:

- Replasa Advanced Materials, S. A
- Marcegaglia Specialties SpA
- Padana Tubi & Profilati Acciaio SpA
- Nova Trading S.A.,

Indonesian producers:

- Pt. Indonesia Ruipu Nickel and Chrome Alloy
- Pt. Indonesia Guang Ching Nickel and Stainless Steel Industry
- Pt. Indonesia Tsingshan Stainless Steel
- Pt. Sulawesi Mining Investment.

- (50) The Commission did not verify the questionnaire replies of these companies but used the submitted information to cross check the trade flows and names of suppliers from Indonesia.
- (51) In the process of verification of information and statistics provided by the applicant and the cooperating companies, the Commission held on spot consultations with Taiwanese and Vietnamese Authorities, namely with the Taiwan International Trade Administration (TITA) and the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam.
- (52) 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 28 of the basic AS Regulation and to findings being based on the facts available.
- (53) Several parties provided submissions outside the time-limit set in the initiating Regulation. The Commission informed these parties that their submission could not be accepted for that reason, and informed them of the possibility to provide comments after disclosure of the essential facts and considerations in this investigation.
- (54) A hearing was held on 12 October 2023 with EURANIMI. After disclosure, hearings took place with EUROFER on 14 March 2024, with Lam Khang on 18 March 2024 and with Yongjin on 20 March 2024.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

- (55) In accordance with Article 23(3) of the basic AS Regulation, the following elements should be analysed successively in order to assess possible circumvention:
- whether there was a change in the pattern of trade between Indonesia, Taiwan, Türkiye, Vietnam 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 duty,
 - if there was evidence of injury or whether the remedial effects of the countervailing measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and
 - whether the imported like product and/or parts thereof still benefitted from the subsidy.
- (56) In the present investigation the evidence provided by the applicant in the request pointed to assembly/completion operations in Taiwan, Türkiye and Vietnam. As explained in recital (17) above with regard to assembly/completion operations, the second subparagraph of Article 23(3) of the basic AS Regulation does not list such operations specifically as a practice, process or work that constitutes circumvention. Nevertheless, the second subparagraph of Article 23(3) of the basic AS Regulation explicitly uses the wording 'inter alia', which means that it provides a non-exhaustive list of possible circumvention practices. As a result, it also covers other circumvention practices,

which are not explicitly listed in the Article in question, such as assembly/completion operations. Therefore, since the evidence provided by the applicant in the request pointed to assembly/completion operations in the countries concerned, the Commission specifically analysed whether, by analogy, the criteria set out in Article 13(2) of the basic AD Regulation were met, in particular:

- whether the assembly/completion operation started or substantially increased since, or just prior to, the initiation of the anti-subsidy investigation and whether the parts concerned are from the country subject to measures, and
- whether the parts constituted 60 % or more of the total value of the parts of the assembled/completed product and whether the added value of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs.

2.2. Change in the pattern of trade between Indonesia and the Union

(57) Table 1 below shows the development of imports from Indonesia into the Union in the investigation period.

Table 1

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Indonesia	106 483	107 362	51 382	7 634
<i>Index (base = 2020)</i>	100	101	48	7
Share total imports	14 %	12 %	4 %	1 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

(58) Table 1 shows that the volume of imports of SSCR from Indonesia decreased from 106 483 tonnes in 2020 to 7 634 tonnes in the reporting period. The volume of imports increased from 2020 to 2021 by 1 %, but sharply decreased in 2022 by 53 % compared to 2020. The development of the pattern of trade, as shown in Table 1, should be seen in light of not only the imposition of the countervailing measures in March 2022, but also the imposition of the anti-dumping measures in November 2021 on the same product in the anti-dumping investigation which was conducted partly in parallel with the original anti-subsidy investigation⁽¹⁶⁾. The analysis of the data with regard to the anti-subsidy investigation was therefore done taking into account the impact of the initiation and imposition of both the anti-dumping and anti-subsidy investigations and measures.

(59) The imposition of definitive anti-dumping measures on 19 November 2021 already had an effect on the SSCR imports into the Union from Indonesia⁽¹⁷⁾, which was amplified by the imposition of the anti-subsidy measures on 17 March 2022. The data in table 1 shows that there was a sharp decrease in Indonesian imports in 2022, which coincided in time with the imposition of definitive anti-dumping measures on SSCR from Indonesia at the

⁽¹⁶⁾ Implementing Regulation (EU) 2021/2012.

⁽¹⁷⁾ As found in the parallel investigation on circumvention of the anti-dumping measures on SSCR of the three countries concerned (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)).

end of 2021, and the countervailing measures in the beginning of 2022. From 2022 to the reporting period the volume of imports of SSCR from Indonesia severely declined further, resulting in an overall decline of almost 93 % during the entire investigation period. At the same time, its share of total imports decreased from 14 % to 1 %.

2.3. Results of the investigation in Taiwan

2.3.1. Degree of cooperation

- (60) As stated in recital (49), six Taiwanese exporting producers provided exemption requests and cooperated throughout the investigation. These companies accounted for only 50 % of the total imports of SSCR from Taiwan during the reporting period. Findings with respect to exports of SSCR from Taiwan to the Union as well as the raw materials from Indonesia to Taiwan were therefore based on statistics extracted from Eurostat and the Global Trade Atlas ('GTA')⁽¹⁸⁾.

2.3.2. Change in the pattern of trade in Taiwan

- (61) Table 2 below shows the development of imports from Taiwan into the Union in the investigation period.

Table 2

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Taiwan	125 072	218 784	251 304	186 872
Index (base = 2020)	100	175	201	149
Share total imports	16 %	24 %	19 %	22 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

- (62) Table 2 shows that the volume of imports of SSCR from Taiwan into the Union increased from 125 072 tonnes in 2020 to 186 872 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2020 to 2021, when the volume increased from by 75 %, from 125 072 tonnes to 218 784 tonnes. This increase coincided in time with the initiation of the original anti-dumping and anti-subsidy investigations, in September 2020 and February 2021, respectively, and the imposition of definitive anti-dumping measures in November 2021. From 2021 to 2022, the volume of imports from Taiwan continued increasing to reach 251 304 tonnes, coinciding with the imposition of countervailing measures in March 2022. Imports finally decreased again to a level of 186 872 tonnes during the reporting period. Overall, the volume of imports from Taiwan increased 49 % during the investigation period.
- (63) Furthermore, the volume of imports to the Union from Taiwan, not originating from the exporting producers who submitted requests for exemption, significantly increased after the initiation of the original anti-dumping investigation. More particularly, before the initiation of the anti-dumping investigation the cooperating producers accounted for the vast majority (over 90 %) of all exports to the Union whilst during the reporting period they only accounted for just above 50 %.

⁽¹⁸⁾ <https://www.gtis.com/gta>.

- (64) Table 3 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Taiwan during the investigation period. These raw materials consisted of either stainless steel slabs or stainless steel hot-rolled coils (SSHR).

Table 3

Exports of raw materials from Indonesia to Taiwan in the investigation period (tonnes)

	2020	2021	2022	RP
Slabs	93 085	190 908	140 272	141 041
<i>Index (base = 2020)</i>	100	205	151	152
SSHR	529 143	817 705	563 534	631 208
<i>Index (base = 2020)</i>	100	155	106	119
Total Slabs and SSHR	622 228	1 008 614	703 805	772 249
<i>Index (base = 2020)</i>	100	162	113	124

Source: Global Trade Atlas.

- (65) In general, the main input for the production of SSCR is SSHR. SSCR production can, however, also start from stainless-steel slabs, which are then hot rolled into SSHR, which is subsequently further rolled into SSCR. Table 3 shows that the exports of stainless-steel slabs from Indonesia to Taiwan increased from 93 085 tonnes in 2020 to 141 041 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 105 % from 93 085 tonnes in 2020 to 190 908 tonnes in 2021. From 2021 the volume of exports of slabs from Indonesia decreased to 140 272 tonnes in 2022, to later slightly increase to reach a level of 141 041 during the reporting period. Overall the volume of exports of slabs from Indonesia to Taiwan increased 52 % during the investigation period.
- (66) During the investigation period, the exports from Indonesia represented between 95 % to 99,8 % of the total volume of imports of stainless-steel slabs into Taiwan. During the reporting period exports from Indonesia of stainless steel slabs represented 99,8 %.
- (67) Similarly, exports of SSHR from Indonesia to Taiwan increased, from 529 143 tonnes in 2020 to 631 208 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 55 % from 529 143 tonnes to 817 705 tonnes. From 2021 to 2022, the volume of exports of SSHR from Indonesia decreased to reach 563 534 tonnes to later increase again to a level of 631 208 during the reporting period. Overall the volume of exports of SSHR from Indonesia to Taiwan increased 19 % during the investigation period.
- (68) It should be noted that there are significant quantities of SSHR exports from Indonesia to Taiwan that are not accounted for or purchased by the Taiwanese exporting producers who submitted requests for exemption as explained in recital (63). Before the initiation of the original anti-dumping investigation imports of SSHR by the cooperating producers accounted for around 97 % whilst during the reporting period they only accounted for 84 %. Thus more than 100 000 tonnes of SSHR imported from Indonesia were purchased by companies which did not submit a request for exemption.
- (69) The combined exports of stainless steel slabs and SSHR from Indonesia to Taiwan increased, from 622 228 tonnes in 2020 to 772 249 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to 2021, when the volume increased by 62 % from 622 228 tonnes to 1 008 614 tonnes. From 2021 the volume of combined exports of stainless steel slabs and SSHR from Indonesia decreased to reach 703 805 tonnes in 2022, to later increase to a level of 772 249 during the reporting period. Overall the volume of combined exports of stainless steel slabs and SSHR from Indonesia to Taiwan increased 24 % during the investigation period.

- (70) The increase in export volumes of stainless steel slabs and SSHR from Indonesia to Taiwan indicated an increasing demand for such input materials in Taiwan, which could, at least in part, be explained by the increase in the production and exports to the Union of SSCR from Taiwan during the reporting period. This was also corroborated by the information provided by the cooperating companies.

2.3.2.1. Conclusion on the change in the pattern of trade in Taiwan

- (71) The investigation established that the significant volumes of stainless steel, either in the form of slabs or SSHR, exported from Indonesia, were further processed into SSCR in Taiwan to be later exported to the Union. The increase of exports of SSCR from Taiwan to the Union seen in Table 2, together with the significant increase of exports of stainless steel slabs and SSHR from Indonesia to Taiwan in the investigation period, as shown in Table 3, constituted a change in the pattern of trade between Indonesia, Taiwan and the Union within the meaning of Article 23(3) of the basic AS Regulation.

2.3.3. *Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty*

- (72) Article 23(3) of the basic AS Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes, amongst others, the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation. As set out in recital (56), this Article is applied by analogy in the current investigation.
- (73) Stainless steel slabs and SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of stainless steel slabs and SSHR into SSCR falls under the concept of a completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (74) The original anti-dumping duties were imposed on 19 November 2021, and the original countervailing measures on 17 March 2022. As described in Section 2.3.2 above, Taiwan substantially increased its export sales to the Union during the investigation period, and a substantial part of the main input material, stainless steel slabs and SSHR, were imported from Indonesia.
- (75) Furthermore, as explained above (recitals (63) and (68)), large amounts of input material originating from Indonesia could not be accounted for by purchases from cooperating producers whilst, at the same time, exports of (assembled/completed) SSCR to the Union, not exported by the cooperating producers, increased significantly.
- (76) The investigation has demonstrated that stainless steel slabs and SSHR coils were being imported from Indonesia into Taiwan, further processed in Taiwan into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.3.2 other than the initiation of the original anti-subsidy investigation and the subsequent imposition of the original measures.
- (77) Article 23(3) of the basic AS Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that the circumvention found in Taiwan was an assembly/completion operation that led to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 23(3) of the basic AS Regulation was met in Taiwan for the country as a whole.

2.3.4. *Undermining of the remedial effects of the duty*

- (78) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

- (79) Regarding quantities, the market share of the imports from Taiwan represented around 4,7 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes⁽¹⁹⁾. The volume of imports was thus considered to be significant.
- (80) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation adjusted for the price increase of SSCR based on the European Union producer price index⁽²⁰⁾, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Taiwan undersold the Union prices by more than 19 %.
- (81) The Commission therefore concluded that the remedial effect of the measures in force was being undermined in terms of both quantities and prices.

2.3.5. Evidence of subsidisation

- (82) In accordance with Article 23(3) of the basic AS Regulation, the Commission also examined whether the imported like product and/or parts thereof still benefitted from subsidies.
- (83) As set out in Implementing Regulation (EU) 2022/433, Indonesian exporting producers were found to benefit from a number of subsidy schemes by the Government of Indonesia and the Government of China (see recital (1)). Not only the production of SSCR, but also the parts used to produce SSCR, including SSHR and slabs, benefited from subsidies such as the provision of nickel ore and land for less than adequate remuneration, support for capital investments, non-market loans and preferential fiscal and customs regimes. The subsidisation affected all sales of the products regardless of the customer, was bound to benefit the total production of the companies as it was not tied to a specific product and was, at least to a certain extent, export contingent.
- (84) No new information became available in this investigation that would put into question the conclusion from the initial investigation and would suggest that those subsidy schemes were no longer valid. No evidence was provided during the investigation showing that the slabs and SSHR produced in Indonesia stopped benefitting from the subsidies, or that such parts imported into Taiwan no longer benefitted from them. Hence, the Commission concluded that parts of the imported like product were still benefitting from the subsidies.

2.4. Results of the investigation in Türkiye

2.4.1. Degree of cooperation

- (85) As stated in recital (49), two Turkish exporting producers provided exemption requests and cooperated throughout the investigation. These two companies accounted for only 52 % of the total imports of SSCR from Türkiye during the reporting period. Findings regarding exports of SSCR from Türkiye to the Union as well as the raw materials from Indonesia to Türkiye were therefore based on statistics extracted from Eurostat and GTA.

2.4.2. Change in the pattern of trade in Türkiye

- (86) Table 4 below shows the development of imports from Türkiye into the Union in the investigation period.

⁽¹⁹⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see Section 6.1 of the request for initiation.

⁽²⁰⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

Table 4

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Türkiye	73 835	105 619	125 072	105 116
<i>Index (base = 2020)</i>	100	143	169	142
Share total imports	10 %	12 %	10 %	13 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

- (87) Table 4 shows that the volume of imports of SSCR from Türkiye into the Union increased from 73 835 tonnes in 2020 to 105 116 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2020 to 2021, when the volume increased from 73 835 tonnes to 105 619 tonnes. This increase coincided with the initiation of the original anti-dumping and anti-subsidy investigations, in September 2020 and February 2021, and the imposition of definitive anti-dumping measures in November 2021. In 2022 the volume of imports from Türkiye increased further to 125 072 tonnes, coinciding with the imposition of countervailing measures in March 2022, before decreasing again to a level of 105 116 tonnes during the reporting period. Overall, the volume of imports from Türkiye increased 42 % during the investigation period.
- (88) Table 5 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Türkiye during the investigation period.

Table 5

Exports of raw materials from Indonesia to Türkiye in the investigation period (tonnes)

	2020	2021	2022	RP
Slabs	24 241	50 378	20 328	81
<i>Index (base = 2020)</i>	100	208	84	0
SSHR	23 560	84 443	84 126	77 544
<i>Index (base = 2020)</i>	100	358	357	329

Source: Global Trade Atlas.

- (89) In general, the main input for the production of SSCR is SSHR. SSCR production can, however, also start from stainless-steel slabs, which are then hot rolled into SSHR, which is subsequently further rolled into SSCR. Table 5 shows that the exports of stainless-steel slabs from Indonesia to Türkiye has decreased between 2020 and the reporting period from 24 241 tonnes to a negligible amount. This is largely due to the extension of the measures on SSHR from Indonesia to Türkiye in 2022 on imports of SSHR consigned from Türkiye, following an anti-circumvention investigation ⁽²¹⁾.
- (90) However, the evidence available to the Commission showed that there were no SSCR production facilities in Türkiye which start the production process from slabs, nor were there Turkish SSCR producers purchasing SSHR from Turkish SSHR producers to further roll this into SSCR. The evolution of the export volumes of slabs to Türkiye is therefore not deemed relevant for this investigation.
- (91) Table 5 also shows that exports of SSHR from Indonesia to Türkiye increased from 23 560 tonnes in 2020 to 77 544 tonnes in the reporting period. The most significant increase in the volume of exports took place from 2020 to

⁽²¹⁾ Implementing Regulation (EU) 2023/825.

2021, when the volume more than tripled to reach 84 443 tonnes. From 2021 the volume of exports of SSHR from Indonesia decreased slightly, to 77 544 tonnes in the reporting period. Overall the volume of exports of SSHR from Indonesia to Türkiye more than tripled throughout the investigation period.

- (92) The increase in export volumes of SSHR from Indonesia to Türkiye indicated an increasing demand for such input materials in Türkiye, which could, at least in part, be explained by the increase in the production and exports of SSCR to the Union from Türkiye during the reporting period.
- (93) Conclusion on the change in the pattern of trade in Türkiye
- (94) The investigation established that significant volumes of SSHR imported from Indonesia were further processed into SSCR in Türkiye, to be later exported to the Union. The increase of exports of SSCR from Türkiye to the Union seen in Table 4, together with the significant increase of exports of SSHR from Indonesia to Türkiye in the investigation period, as shown in Table 5, constituted a change in the pattern of trade between Indonesia, Türkiye and the Union within the meaning of Article 23(3) of the basic AS Regulation.

2.4.3. *Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty*

- (95) Article 23(3) of the basic AS Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation. As set out in recital (56), this Article is applied by analogy in the current investigation.
- (96) SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of SSHR into SSCR falls under the concept of completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (97) The original anti-dumping duties were imposed on 19 November 2021, and the original countervailing measures on 17 March 2022. As described in Section 2.4.2 above, Türkiye substantially increased its export sales to the Union during the investigation period and a substantial part of the main input material SSHR was imported from Indonesia.
- (98) The investigation has demonstrated that SSHR were imported from Indonesia into Türkiye, further processed in Türkiye into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.4.2 other than the initiation of the original anti-subsidy investigations and the subsequent imposition of the original measures.
- (99) Article 23(3) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that the circumvention found in Türkiye, as confirmed in Section 4.2 below, was an assembly/completion operation that led to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 23(3) of the basic AS Regulation was met in Türkiye for the country as a whole.

2.4.4. *Undermining of the remedial effects of the duty*

- (100) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports of the product under investigation into the Union in terms of quantities and/or prices, undermined the remedial effects of the measures currently in force.

- (101) Regarding quantities, the market share of the imports from Türkiye represented around 2,6 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes ⁽²²⁾. The volume of imports was thus considered to be significant.
- (102) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation adjusted for the price increase of SSCR based on the European Union producer price index ⁽²³⁾, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Türkiye undersold Union prices by 1,3 %.
- (103) The Commission therefore concluded that the remedial effect of the measures in force was being undermined in terms of quantities and prices.

2.4.5. Evidence of subsidisation

- (104) In accordance with Article 23(3) of the basic AS Regulation, the Commission also examined whether the imported like product and/or parts thereof still benefitted from subsidies.
- (105) As set out in Implementing Regulation (EU) 2022/433 (see recital (1)), Indonesian exporting producers were found to benefit from a number of subsidy schemes by the Government of Indonesia and the Government of China. Not only the production of SSCR, but also the parts used to produce SSCR including SSHR and slabs, benefited from subsidies such as the provision of nickel ore and land for less than adequate remuneration, support for capital investments, non-market loans and preferential fiscal and customs regimes. The subsidisation affected all sales of the products, regardless of the customer, was bound to benefit the total production of the companies as it was not tied to a specific product, and was, at least to a certain extent, export contingent.
- (106) No new information became available in this investigation that would put into question the conclusion from the initial investigation and would suggest that those subsidy schemes were no longer valid. No evidence was provided during the investigation showing that the slabs and SSHR produced in Indonesia stopped benefitting from the subsidies, or that such parts imported into Türkiye no longer benefitted from them. Hence, the Commission concluded that parts of the imported like product were still benefitting from the subsidies.

2.5. Results of the investigation in Vietnam

2.5.1. Degree of cooperation

- (107) As stated in recital (49), three Vietnamese exporting producers provided exemption requests and cooperated throughout the investigation. These three companies accounted for 82 % of the total imports of SSCR from Vietnam during the reporting period. Findings with respect to exports of SSCR from Vietnam to the Union as well as the raw materials from Indonesia to Vietnam were therefore based on statistics extracted from Eurostat and GTA.

2.5.2. Change in the pattern of trade in Vietnam

- (108) Table 6 below shows the development of imports from Vietnam into the Union in the investigation period.

⁽²²⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see Section 6.1 of the request for initiation.

⁽²³⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

Table 6

Imports of SSCR into the Union in the investigation period (tonnes)

	2020	2021	2022	RP
Vietnam	35 345	51 566	87 606	96 668
<i>Index (base = 2020)</i>	100	146	248	274
Share total imports	4,6 %	5,8 %	6,8 %	11,5 %
Total imports	766 159	893 672	1 295 790	838 007

Source: Eurostat.

- (109) Table 6 shows that the volume of imports of SSCR from Vietnam into the Union increased from 35 345 tonnes in 2020 to 96 668 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2021 to 2022, when the volume increased from 51 566 tonnes to 87 606 tonnes. This increase coincided with the imposition of definitive countervailing measures on 17 March 2022. In 2022 the volume of imports from Vietnam increased further to 96 668 tonnes during the reporting period. Overall, the volume of imports from Vietnam increased by 174 % during the investigation period.
- (110) Table 7 shows the development of exports of raw materials necessary for the production of SSCR from Indonesia to Vietnam during the investigation period.

Table 7

Exports of raw materials ⁽²⁴⁾ from Indonesia to Vietnam in the investigation period (tonnes)

	2020	2021	2022	RP
SSHR	184 018	245 603	361 082	397 923
<i>Index (base = 2020)</i>	100	133	196	216

Source: Global Trade Atlas.

- (111) Table 7 shows that the imports of stainless-steel hot-rolled coils from Indonesia to Vietnam has substantially increased between 2020 and the reporting period from 184 018 tonnes to 397 923 tonnes. The most significant increase in the volume of imports took place from 2021 to 2022, when the volume increased from 245 603 tonnes in 2021 to 361 082 tonnes in 2022. This increase coincided in time with the imposition of definitive measures on 17 March 2022. Overall, the volume of imports of SSHR from Indonesia to Vietnam more than doubled throughout the investigation period.
- (112) Conclusion on the change in the pattern of trade in Vietnam

The investigation established that significant volumes of SSHR exported from Indonesia were further processed into SSCR in Vietnam, to be later exported to the Union. The increase of exports of SSCR from Vietnam to the Union seen in Table 6, together with the significant increase of exports of SSHR from Indonesia to Vietnam in the investigation period, as shown in Table 7, constituted a change in the pattern of trade between Indonesia, Vietnam and the Union within the meaning of Article 23(3) of the basic AS Regulation.

⁽²⁴⁾ The raw materials used to produce SSCR in Vietnam is SSHR. The investigation did not indicate hot-rolling activities of stainless steel slabs coming from Indonesia for further re-export to the EU.

2.5.3. Practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty

- (113) Article 23(3) of the basic AS Regulation requires that the change in the pattern of trade stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty. The practice, process or work includes the consignment of the product subject to the existing measures via third countries, and the assembly of parts/completion operations in a third country in accordance with Article 13(2) of the basic AD Regulation. As set out in recital (56), this Article is applied by analogy in the current investigation.
- (114) SSHR coils were considered as semi-finished products, which were further processed into finished goods such as SSCR. This further processing of SSHR into SSCR falls under the concept of completion operation in the sense of Article 13(2) of the basic AD Regulation.
- (115) The original anti-dumping duties were imposed on 19 November 2021, and the original countervailing measures on 17 March 2022. As described in Section 2.5.2 above, Vietnam substantially increased its export sales to the Union during the investigation period and a substantial part of the main input material SSHR was imported from Indonesia.
- (116) The investigation demonstrated that SSHR coils were imported Indonesia into Vietnam, further processed in Vietnam into SSCR and exported to the Union triggering a change of pattern of trade. The investigation further revealed no economic justification for the change in the pattern of trade described in Section 2.5.2 other than the initiation of the original anti-subsidy investigations and the subsequent imposition of the original measures.
- (117) After disclosure, the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam argued that the change in the pattern of trade was due to the nature of the operation and to market demand and not for the purpose of circumvention. However, the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam did not provide a substantiated analysis of how the nature of the operation and market demand could explain that exports from Vietnam to the Union almost tripled between 2020 and the RP. There was also no analysis of the origin of the supplies of SSHR, whether there was a preference give to supplies from Indonesia or not, and, if so, if there was a sufficient due cause or economic justification other than the imposition of the countervailing measures.
- (118) After disclosure, Lam Khang requested the Commission to assess whether there was sufficient due cause or economic justification for the processing conducted by Lam Khang specifically. Without prejudice of whether this analysis is necessary or not, the Commission noted that the argument used in recital (116) for Vietnam also applies to Lam Khang.
- (119) As described in recital (161), Lam Khang substantially increased its imports from Indonesia, its processing of SSHR into SSCR and its export sales to the Union during the investigation period. There was no economic justification for this change other than the initiation of the original anti-subsidy investigations and the subsequent imposition of the original measures. This claim was therefore rejected.
- (120) Article 23(3) of the basic Regulation establishes a link between the practice, process or work in question and the change of the pattern of trade as the latter must 'stem' from the former. It follows that the circumvention found in Vietnam, as confirmed in Section 4.3 below, was an assembly/completion operation that lead to the change of the pattern of trade and for which there was no economic justification. Therefore, this requirement of Article 23(3) of the basic AS Regulation was met in Vietnam for the country as a whole.

2.5.4. *Undermining of the remedial effects of the duty*

- (121) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

- (122) Regarding quantities, the market share of the imports from Vietnam represented around 2,4 % of Union consumption during the reporting period, which was estimated at 400 000 tonnes ⁽²⁵⁾. The volume of imports was thus considered to be significant.
- (123) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted for post importation costs. This price comparison showed that the imports from Vietnam did not undersell Union prices. After disclosure, EURANIMI pointed to the fact that underselling was found for one Vietnamese company, Yongjin (see recital (191)). Indeed, while no underselling was found on a countrywide average basis, there was evidence of underselling from at least one of the exporting producers, which in addition was found to be circumventing the original anti-dumping measures.
- (124) The Commission therefore concluded that the remedial effect of the measures in force were being undermined in terms of quantities.

2.5.5. Evidence of subsidisation

- (125) In accordance with Article 23(3) of the basic AS Regulation, the Commission also examined whether the imported like product and/or parts thereof still benefitted from subsidies.
- (126) As set out in Implementing Regulation (EU) 2022/433 (see recital (1)), Indonesian exporting producers were found to benefit from a number of subsidy schemes by the Government of Indonesia and the Government of China. Not only the production of SSCR, but also the parts used to produce SSCR, including SSHR and slabs, benefited from subsidies such as the provision of nickel ore and land for less than adequate remuneration, support for capital investments, non-market loans and preferential fiscal and customs regimes. The subsidisation affected all sales of the products, regardless of the customer, was bound to benefit the total production of the companies as it was not tied to a specific product, and was, at least to a certain extent, export contingent.
- (127) No new information became available in this investigation that would put into question the conclusion from the initial investigation and would suggest that those subsidy schemes were no longer valid. No evidence was provided during the investigation showing that the slabs and SSHR produced in Indonesia stopped benefitting from the subsidies, or that such parts imported into Vietnam no longer benefitted from them. Hence, the Commission concluded that parts of the imported like product were still benefitting from the subsidies.

3. MEASURES

- (128) Based on the above findings and their assessment in relation to the three countries as a whole, the Commission concluded that the definitive countervailing duty imposed on imports of stainless steel cold-rolled flat products originating in Indonesia was circumvented by imports of the product under investigation consigned from Taiwan, Türkiye and Vietnam.
- (129) Therefore, in accordance with Article 23(1) of the basic AS Regulation, the countervailing measures in force should be extended to imports from Taiwan, Türkiye and Vietnam into the Union of the product under investigation.
- (130) Pursuant to Article 23(2) of the basic AS Regulation, the measure to be extended should be the one established in Article 1(2) of Commission Implementing Regulation (EU) 2022/433 for 'all other Indonesian companies', which is a definitive countervailing duty of 20,5 % applicable to the net, free-at-Union-frontier price, before customs duty.
- (131) Pursuant to Articles 23(4) and 24(5) of the basic AS Regulation, which provide 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 in accordance with the findings made in this investigation.

⁽²⁵⁾ The consumption figures were based on estimations by the applicant for 2022 and rounded to 400 000 tonnes – see Section 6.1 of the request for initiation.

(132) Following disclosure, Trinox requested that any type of SSCR for which the inputs were not purchased from Indonesia should be exempted from the application of the extension of the measures. However, Article 23(6) of the basic AS Regulation foresees the granting of exemptions only to producers of the product concerned, not to certain products by such producers. If a company is exempted from the extension of the measures, all the imports of the product concerned from these companies are exempted. If a company is not granted an exemption, all imports of the product concerned are subject to the extended duties – regardless of the origin of the input materials used to produce such products. The Commission therefore rejected the claim.

4. REQUESTS FOR EXEMPTION

(133) As set out in recital (56), Article 13(2) of the basic AD Regulation is applied by analogy in the current investigation, including to the analysis of the requests for exemption.

4.1. Taiwan

(134) Six exporting producers from Taiwan requested an exemption from the extension of the measures

4.1.1. *Start or substantial increase of operations, value of parts and added value*

(135) The investigation found that the companies Yieh United Steel Corporation, Tang Eng Iron Works Co., Ltd. (YUSCO group), Chia Far Industrial Factory Co., Ltd., Yuan Long Stainless Steel Corp, Tung Mung Development Co., Ltd. and Walsin Lihwa Corporation, were buying part of their inputs (slabs and/or SSHR) of Indonesian origin, processing them into SSCR and then exporting some of that SSCR to the Union. However, the investigation found that this operation did not start or substantially increase since, or just prior to, the initiation of the original anti-dumping investigation, within the meaning of Article 13(2)(a) of the basic AD Regulation as applied by analogy in this subsidy investigation. Indeed, as also claimed by Gerber in its disclosure comments, some of the Taiwanese stainless steel producers have been importing and processing primary material from Indonesia since 2017. It follows that, in accordance with Article 13(2) of the basic AD Regulation, the operation in question cannot be considered as circumventing the measures in force.

(136) In its comments on disclosure, EUROFER argued that the Commission has a broad margin of interpretation regarding the anti-circumvention provision. According to EUROFER, such broad margin must be used by the Commission in particular with regard to the timing requirement in Article 13(2)(a) of the basic AD Regulation, as applied by analogy in this subsidy investigation. As such, the Commission must not try to look at perfect time coincidence, but must focus on the existence of a justifiable causal link with the circumvented measures including if the behaviour anticipates expected trade defence investigations. EUROFER here refers to the anti-dumping and anti-subsidy investigations initiated in 2019 concerning SSHR from Indonesia, ⁽²⁶⁾ a case concerning nickel ore brought against Indonesia at the World Trade Organization in 2019 ⁽²⁷⁾, the original anti-dumping and anti-subsidy investigations on SSCR from Indonesia in 2020 and 2021, respectively ⁽²⁸⁾, and the anti-circumvention investigation against Türkiye concerning the measures on SSHR from Indonesia in 2022 ⁽²⁹⁾.

(137) However, Article 13(2)(a) of the basic AD Regulation makes a clear link between the start or substantial increase of the assembly/completion operation and the initiation of the original anti-dumping investigation. The temporal link which should be established, therefore, whether interpreted broadly or not, should be between (1) the assembly

⁽²⁶⁾ 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); Notice of initiation of an anti-subsidy proceeding concerning imports of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China and Indonesia (OJ C 342, 10.10.2019, p. 18).

⁽²⁷⁾ WTO DS592/R, 27 November 2019, Indonesia – Measures Relating to Raw Materials, request for consultations by the European Union.

⁽²⁸⁾ See footnotes 2 and 4 above.

⁽²⁹⁾ See footnote 22 above.

/completion operation, i.e. the use of Indonesian inputs for the processing and the sales to the Union of SSCR; and (2) the initiation of the original anti-dumping investigation. The assembly/completion operation should have started 'just prior to' this initiation, or substantially increased since.

- (138) The Commission considers that the notion of 'just prior to', in the case at hand, cannot mean going back to the initiation of other investigations against Indonesia on other products (SSHR or nickel ore) which took place more than a year before the initiation of the original anti-dumping investigation. As confirmed by EUROFER in its submission, the earliest moment that parties could have known about the possible initiation of the SSCR anti-dumping investigation against Indonesia was at the time when the complaint was lodged by EUROFER in August 2020. The Commission therefore rejected this argument.
- (139) After disclosure, EUROFER also claimed that the Union imports from Taiwan, which did not come directly from the exempted producers, given that they hold a large proportion of the cold rolling capacity, in its vast majority had to come from them indirectly, via service centres for example. Based on this, it should be concluded that there has been a change in the pattern of trade for the individual exempted producers.
- (140) First, EUROFER's claim was not confirmed by the information gathered and verified during the investigation. It should be noted that the exempted producers did not represent the entirety of the cold rolling capacity in Taiwan during the reporting period, since there are significant cold rolling capacities from companies that did not request exemptions. Furthermore, the companies that requested exemptions did not account for all Taiwanese purchases of Indonesian stainless steel during the reporting period. In fact, it was established that over 100 000 tonnes of SSHR imported from Indonesia into Taiwan during the reporting period were not purchased by the companies that requested exemptions.
- (141) Second, even if the exempted Taiwanese producers would sell potentially large quantities of SSCR to the Union via service centres in Taiwan, this does not change the fact that, based on Article 13(2)(a) of the basic AD Regulation, the relevant producers were not found to be engaged in the circumvention practice found in Taiwan. To recall, as noted in recital (135), the relevant entities either did not use inputs from Indonesia or, if they did, they did not substantially increase that usage 'since, or just prior to, the initiation of the [original] anti-dumping investigation' ⁽³⁰⁾. It follows that the assembly/completion operation the relevant entities were found to be engaged in could not be considered to circumvent the measures in force within the meaning of Article 13(2) of the basic AD Regulation. In other words, even if SSCR produced by the exempted entities was sold to service centres, further processed and then exported to the Union, that SSCR was not an outcome of the circumvention practice found for Taiwan.
- (142) Based on this, EUROFER's claim that the change in trade patterns at country level is due to indirect sales of the exempted producers is rejected.
- (143) As the first of the criteria laid down in Article 13(2) of the basic AD Regulation, applied by analogy in this subsidy investigation, was not met, the Commission concluded that the operations of these companies shall not be considered as circumventing the existing measures. The requests for exemption of Yieh United Steel Corporation – Tang Eng Iron Works Co., Ltd. (YUSCO group), Chia Far Industrial Factory Co., Ltd., Yuan Long Stainless Steel Corp, Tung Mung Development Co., Ltd. and Walsin Lihwa Corporation should therefore be accepted.

4.2. **Türkiye**

- (144) Two exporting producers from Türkiye submitted exemption requests.

⁽³⁰⁾ Article 13(2)(a) of the basic AD Regulation.

4.2.1. *Trinox Metal Sanayi ve Ticaret A.Ş. (Trinox)*

4.2.1.1. Start or substantial increase of operations

- (145) Trinox was established in 2014, but started real export and production only as of end of 2019/start of 2020. The company's verified data showed that it almost doubled its production and sales of SSCR between 2020 and the reporting period, while at the same time its sales to the Union increased by more than a factor of 30. In addition, the company changed their purchase strategy in 2020, switching from mainly Chinese and Korean inputs to Indonesian inputs. In its submission after disclosure, Trinox claimed that it did not change its purchase strategy in 2020. However, during the on spot verification visit the company explained that Trinox started purchasing from Indonesia from the end of 2019/2020 instead of from China and Korea, and that this was due to the fact that Indonesian SSHR is much cheaper than that from the other sources. The assembly/completion operation by Trinox thus started just prior to the initiation of the original anti-dumping and anti-subsidy investigations, which was on 30 September 2020 and 17 February 2021, respectively, and substantially increased thereafter.
- (146) After disclosure Trinox claimed that its production cannot be considered an assembly/completion operation in view of the level of investment required for such production. However, recitals (19) to (26) above explain why the Commission concluded that the transformation of SSHR into SSCR constituted an assembly/completion operation as meant by Article 13(2) of the basic AD Regulation (as applied by analogy in this investigation). Since the level of investments in a company's production site does not alter this conclusion, this claim was rejected. Moreover, the level of investment in the form of depreciation costs was taken into consideration when calculating the added value. To recall, that added value was found to be substantially below the threshold of 25 %.

4.2.1.2. Value of parts and added value

- (147) For Trinox, in the reporting period over 60 % of all parts used by the company were from Indonesia. The value added to the parts was significantly below the 25 % threshold for the manufacturing cost. It was therefore concluded that the second criterion set out in Article 13(2)(b) of the basic AD Regulation was also met.

4.2.1.3. Undermining of the remedial effects of the duty

- (148) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports into the Union of the product under investigation, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (149) The quantities of SSCR that were imported into the Union by Trinox increased significantly in absolute volumes during the investigation period and represented [7,5–8,5] % of the imports into the Union originating in Türkiye, and [0,2–0,4 %] of the Union consumption during the reporting period.
- (150) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation adjusted for the price increase of SSCR based on the European Union producer price index ⁽³¹⁾, with the weighted average export CIF prices determined on the basis of the information provided by Trinox, duly adjusted to include post importation costs. This price comparison showed that Trinox did not undersell the Union prices in the reporting period.
- (151) The Commission therefore concluded that the existing measures were undermined in terms of quantities by the imports from Türkiye into the Union by Trinox.
- (152) After disclosure, Trinox claimed that there was no change in the pattern of trade nor any evidence that the remedial effects of the original duties were being undermined by Trinox. However, in the recitals above ((145) to (149)) the Commission found a substantial increase in purchases of input materials from Indonesia, a significant increase in export volumes by Trinox since 2020 (which included more than 60 % SSCR made from Indonesian SSHR), and the

⁽³¹⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

fact that imports from Trinox represent more than 7,5 % of Turkish imports into the Union. These factors together show that there was a change in the pattern of trade and that the remedial effects of the original duties were being undermined in terms of quantities.

4.2.1.4. Imported like product benefitting from the subsidy

(153) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imported like product and/or parts thereof still benefitted from the subsidy.

(154) As set out in Section 2.4.5, the Commission concluded that parts of the imported like product were still benefitting from the subsidies found in the original anti-subsidy investigation. As mentioned in recital (145), during the verification Trinox confirmed that they had started buying SSHR from Indonesia due to the Indonesian suppliers' much lower prices. The Commission therefore concluded that the imported like product and/or parts thereof still benefitted from the subsidy.

4.2.1.5. Conclusion on the exemption request

(155) In view of the above, the Commission concluded that the request for exemption of Trinox should be rejected.

4.2.2. Posco Assan TST Celik Sanayi A.Ş.

(156) The investigation found that part of the SSHR bought by Posco Assan was produced from Indonesian inputs. Posco Assan was processing this SSHR into SSCR and then exporting some of that SSCR to the Union. However, the investigation found that this operation did not start or substantially increase since, or just prior to, the initiation of the original anti-dumping investigation, within the meaning of Article 13(2)(a) of the basic AD Regulation. It follows that, in accordance with Article 13(2) of the basic AD Regulation, as applied by analogy in this anti-subsidy investigation, the operation in question cannot be considered as circumventing the measures in force. Posco Assan's request for exemption should therefore be accepted.

(157) In their submission after disclosure, EUROFER claimed that the Turkish import data tied to two custom entry points located close to Posco Assan show that the use of Indonesian input materials (SSHR) by Posco Assan significantly increased since 2020. However, this data provided by EUROFER cannot serve as proof that Posco Assan is buying SSHR from Indonesia, let alone the relevant volumes. The data provided by Posco Assan, verified on spot by the Commission, shows that during the reporting period Posco Assan purchased no SSHR directly from Indonesia at all, as also declared in the open version of the company's questionnaire reply⁽³²⁾. The Turkish import data must therefore concern imports of SSHR from Indonesia by companies other than Posco Assan. Posco Assan is one of many companies active in the steel industry located in industrial areas close to Istanbul, and certainly not the only company which uses SSHR for their operations. The Commission therefore rejects this claim.

(158) EUROFER also argued that Trinox and Posco Assan are the two main, if not only known producers in Türkiye. From this fact, EUROFER drew the conclusion that the Union imports from Türkiye which did not come directly from these two companies, must come from them indirectly, i.e. via service centres. However, no evidence was provided by EUROFER to this effect, nor found during the investigation. In any event, even if Posco Assan sells potentially large quantities of SSCR to the Union via service centres in Türkiye, this does not change the fact that there was no substantial increase in the assembly/completion operation by Posco Assan since the initiation of the investigation. It should be noted that the practice, process or work within the meaning of Article 23(3) of the basic AS Regulation includes not only the exports of SSCR to the Union, but also the purchasing of Indonesian input materials and the use of these materials to process SSCR whether exported to the Union or not. Based on the company's verified data the Commission found that no such substantial increase took place.

⁽³²⁾ See Posco Assan's reply to Question D.3.6: 'As shown in Table D.3., there was no purchase of raw materials (SSHR) from Indonesia during the RP period.', available in the open file in Tron.tdi, under save number t23.004403.

4.3. Vietnam

(159) Three exporting producers from Vietnam submitted exemption requests.

4.3.1. Lam Khang Joint Stock Company

4.3.1.1. Start or substantial increase of operations

(160) Lam Khang began production of the product under investigation in August 2021, when it started to lease the factory of Hoa Binh International Stainless Steel Joint Stock Company. The Commission therefore concluded that the operation of Lam Khang started after the initiation of the anti-subsidy investigation of 17 February 2021.

(161) After disclosure, Lam Khang claimed that the operation did not start after the initiation of the investigation, but before. The Commission noted that for the period 2014-2020, the production of SSCR averaged [7 000-11 000] tons per year. In 2021-2022, production figures were more than three times higher. The Commission also noted that regarding supplies of SSHR, the supplies from Indonesia increased over the investigating period both in absolute terms and as a share of the total supplies. Last, the Commission noted that sales of SSCR to the Union increased over the investigating period in absolute terms. The Commission therefore confirmed its conclusion that the circumvention based on assembly/completion operations of Lam Khang started after the initiation of the anti-subsidy investigation of 17 February 2021, or, at least, increased substantially after this date.

4.3.1.2. Value of parts and added value

(162) For Lam Khang, in the reporting period more than 60 % of all parts used by the company were from Indonesia. The value added to the parts was below 10 % of the manufacturing cost.

4.3.1.3. Undermining of the remedial effects of the duty

(163) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

(164) The quantities of SSCR that were exported to the Union by Lam Khang increased significantly in absolute volumes during the investigation period and represented [3-7] % of the imports into the Union originating in Vietnam and [0-0,2] % of the Union consumption during the reporting period.

(165) After disclosure, Lam Khang as well as the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam claimed that the quantities exported by LK to the Union were too small to undermine the remedial effects of the measures in force. However, the Commission recalled the conclusion reached in recital (124) that the remedial effect of the measures in force were being undermined in terms of quantities by exports from Vietnam into the EU. Since Lam Khang is exporting to the EU, its exports are participating in undermining the remedial effects of the duty. Small exporters cannot be excluded due to their size, as it is the cumulative effect of all exports from Vietnam, which has to be considered.

(166) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation adjusted for the price increase of SSCR based on the European Union producer price index⁽³³⁾, with the weighted average export CIF prices determined on the basis of the information provided by Lam Khang, duly adjusted to include post importation costs. This price comparison showed that Lam Khang did not undersell the Union prices in the reporting period.

(167) The Commission therefore concluded that the existing measures were undermined in terms of quantities by the imports from Vietnam into the Union by Lam Khang.

⁽³³⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

4.3.1.4. Imported like product benefitting from the subsidy

- (168) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imported like product and/or parts thereof still benefitted from the subsidy.
- (169) As set out in Section 2.5.5, the Commission concluded that parts of the imported like product were still benefitting from the subsidies found in the original anti-subsidy investigation. The Commission therefore concluded that the imported like product and/or parts thereof still benefitted from the subsidy.
- (170) After disclosure, Lam Khang as well as the Trade Remedies Authority under the Ministry of Industry and Trade of Vietnam claimed that Lam Khang's purchases were made at arm's length and therefore did not benefit from the subsidies found in the original anti-subsidy investigation.
- (171) The Commission first noted that there is no questioning that the subsidy schemes put in place by Indonesia and unveiled in the initial investigation were still in place.
- (172) The Commission noted that Lam Khang supplies itself predominantly from Indonesia (in the reporting period more than 60 %).
- (173) In addition, the Commission looked into the prices of SSHR imported from Indonesia in comparison to China, after Indonesia the only other significant source of comparable SSHR for Lam Khang. In order to allow a fair price comparison, the Commission focused on the SSHR product most traded by Lam Khang. This SSHR product represented 50 % in weight and value of the Lam Khang supplies. When analysing price differences on a quarterly basis for the RP, the Commission found out that Indonesian SSHR were between 2,3 % and 9,5 % cheaper than Chinese SSHR.
- (174) The Commission reasonably concluded from the low prices of Indonesian SSHR that parts of the imported like product were therefore benefitting from subsidies found in the original investigation.

4.3.1.5. Conclusion on the exemption request

- (175) In view of the above, the Commission concluded that the request for exemption of Lam Khang should be rejected.

4.3.2. Posco VST Co., Ltd.

- (176) The investigation established that less than 60 % of all parts used by Posco VST during the reporting period were from Indonesia. As the second of the criteria laid down in Article 13(2) of the basic AD Regulation, applied by analogy in this subsidy investigation, was not met, the Commission concluded that the operations of this company shall not be considered to circumvent the existing measures. Posco VST's request for exemption should therefore be accepted.
- (177) Following disclosure, EUROFER concluded from recital (176) that the Commission assessed the criteria of article 13(2)(b) of the basic AD regulation (applied by analogy in this subsidy investigation), and specifically the 60 % rule laid therein, at the level of the producer rather than the product. EUROFER considered that the adoption of such approach was incompatible with the stated purpose and objective of the anti-circumvention provision. Although the Commission has used this approach in previous cases, EUROFER claimed that such approach is not relevant nor appropriate in the case at hand, that it leads to absurd and nonsensical results and that it would go against the very purpose of the anti-circumvention provision by preventing capturing the largest circumventing volumes. According to EUROFER, the Commission should base its interpretation of the assembly/completion operations test on adherence to the requirements of the basic AD Regulation and case law, and not its prior practice.

- (178) The Commission recalled, as is apparent from the case-law of the Court of Justice, that the legislature intended to give the EU institutions a broad margin of discretion in relation to the definition of 'circumvention' and that the objective of investigations conducted in accordance with Article 13 of the basic AD Regulation is to ensure the effectiveness of anti-dumping duties and to prevent their circumvention⁽³⁴⁾. The Commission also noted that it is apparent that the legislature intended that the use of some parts from the country under measures, in assembly/completion operations in another country or the Union, does not constitute a circumvention. This is why, when the practice, process or work referred to in Article 13(1) of the basic AD Regulation falls under the concept of assembly/completion operations, Article 13(2)(b) foresees an objective threshold of 60 % to be applied to that operation.
- (179) The main issue with the approach proposed by EUROFER is that it does not consider the practice, process or work referred to in Article 23(3), in this case an assembly/completion operation, in its entirety. Instead, it proposes to focus the threshold assessment only on the part of the assembly/completion operation where exclusively inputs from Indonesia were used, ignoring the rest. In the case at hand, such approach, by its very nature, essentially renders the threshold put in place by the legislature meaningless. This is why, considering the particular facts of this case, such approach was rejected.
- (180) EUROFER also argued that, when the Commission concluded that the practice, process or work does not meet the threshold of Article 13(2) of the basic AD Regulation, the Commission should have assessed whether the practice falls under the general circumvention definition of Article 13(1) of the basic AD Regulation (Article 23(3) of the basic AS Regulation). However, this is exactly what the Commission did in Section 2.5.3. In that section, the Commission concluded that the further processing of SSHR into SSCR falls under the concept of an assembly of parts/completion operation in the sense of Article 13(2) of the basic AD Regulation. This meant that the Commission considered which type of practice, process or work was taking place in Vietnam, as required by Article 23(3) of the basic AS Regulation, and concluded that this should be considered an assembly/completion operation. The fact that for a number of companies, the assembly/completion operation did not fulfil the criteria for circumvention, does not mean that the Commission should then no longer consider such operation as assembly or completion for those companies.
- (181) EUROFER, in its submission after disclosure, stated that 'To consider that there is no circumvention when the assembly test is not met, the Commission must also demonstrate that the 'cold rolling' found to occur in the exempted companies is not a practice process or work'. This is incorrect. In establishing the existence of circumvention the Commission must demonstrate, according to Article 23(3) of the basic AS Regulation, that the observed change in the pattern of trade 'stems from a practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the duty'. On a countrywide level, the Commission established the existence of circumvention on this basis for Vietnam.
- (182) However, the exemptions granted on company level, such as for Posco VST, are based on the fact that for that particular company the practice, process or work which was deemed to be an assembly/completion operation failed to meet the specific criteria laid down in Article 13(2) of the basic AD Regulation as applied by analogy. This only means that that company was found not to be engaged in circumvention practice, but it does not invalidate the finding of circumvention for the rest of the country, including the companies that were not exempted from the extension of the measures. It certainly does not invalidate the finding that the practice, process or work which is the cause of the circumvention of the measures in Vietnam is considered an assembly/completion operation. The Commission therefore dismissed this claim.
- (183) An additional claim by EUROFER in its submission after disclosure was that the Commission is not allowed to grant any exemptions 'if circumvention of the product is found to exist'. This claim seems to imply that EUROFER believes that the Commission has illegally granted exemptions. This is incorrect. The Commission has applied the rules as laid

⁽³⁴⁾ See Judgment of the Court of 12 September 2019, *Commission v Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, paras 46 and 109.

down in Article 23(3) of the basic AS Regulation and Article 13(2)(b) of the basic AD Regulation as applied by analogy, as set out in the previous sections. It has found that certain producers of the product concerned qualified for an exemption based on those rules.

4.3.3. Yongjin Metal Technology (Vietnam) Company Limited

4.3.3.1. Start or substantial increase of operations

- (184) Yongjin started its production of the product concerned in April 2022. The Commission therefore concluded that the operation of Yongjin started after the initiation of the anti-subsidy investigation of 17 February 2021 and shortly after the imposition of the anti-dumping measures.
- (185) After disclosure, Yongjin and Gerber claimed that Yongjin's cold-rolling mill had been planned since 2017 and that its construction was therefore not linked to the initiation of the original investigation. However, even if the plans for the mill pre-date the original anti-dumping investigation, Yongjin's actual operation (i.e. the purchasing of input materials from Indonesia and the sales to the Union of SSCR which incorporate such Indonesian input materials) started and substantially increased only after the initiation of the original investigation, namely in 2022. The Commission therefore dismissed this claim.
- (186) In its submission following initiation of the current investigation, Yongjin argued that there are economic justifications for, on the one hand, establishing an SSCR production facility in Vietnam (such as competitive labour costs, geographical location, low energy costs, Vietnam's environment, economic and trade policy including tax incentives, ...), and, on the other hand, sourcing input material (SSHR) from Indonesia in view of the availability in Indonesia of nickel – an input for stainless steel – and the relations built with Indonesian companies. After disclosure, Yongjin repeated this argument highlighting the low operating cost in Vietnam and the growing domestic demand for SSCR.
- (187) However, the Commission noted that these factors had previously existed and that there were no specific developments in recent years that would explain the development of the production of SSCR, other than the imposition of the duty. The Commission therefore rejected this claim.

4.3.3.2. Value of parts and added value

- (188) For Yongjin, in the reporting period almost 100 % of all parts used by the company were from Indonesia. The value added to the parts was below 10 % of the manufacturing cost.

4.3.3.3. Undermining of the remedial effects of the duty and evidence of subsidization

- (189) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imports of the product under investigation into the Union, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.
- (190) The quantities of SSCR that were exported to the Union by Yongjin increased significantly in absolute volumes during the investigation period and represented [26-30] % of the imports into the Union originating in Vietnam and [0,5-1] % of the Union consumption during the reporting period.
- (191) Regarding prices, the Commission compared the average non-injurious price, as established in the original anti-subsidy investigation adjusted for the price increase of SSCR based on the European Union producer price index ⁽³⁵⁾, with the weighted average export CIF prices determined on the basis of the information provided by Yongjin, duly adjusted to include post importation costs. This price comparison showed that Yongjin undersold by more than 30 % the Union prices in the reporting period.

⁽³⁵⁾ https://ec.europa.eu/eurostat/databrowser/view/sts_inpp_m__custom_8999915/default/table?lang=en.

(192) The Commission therefore concluded that the existing measures were undermined in terms of quantities and prices by the imports from Vietnam into the Union by Yongjin.

4.3.3.4. Imported like product benefitting from the subsidy

(193) In accordance with Article 23(3) of the basic AS Regulation, the Commission examined whether the imported like product and/or parts thereof still benefitted from the subsidy.

(194) As set out in Section 2.5.5, the Commission concluded that parts of the imported like product were still benefitting from the subsidies found in the original anti-subsidy investigation. The Commission therefore concluded that the imported like product and/or parts thereof still benefitted from the subsidy.

4.3.3.5. Conclusion on the exemption request

(195) In view of the above, the Commission concluded that the request for exemption of Yongjin should be rejected.

5. STRENGTHENING OF THE IMPORT REQUIREMENTS AND MONITORING

(196) The application of exemptions when the request for release for free circulation is presented to the relevant customs authority should be conditional upon presentation to the customs authorities of the Member States of a valid commercial invoice and, to minimise the risks of circumvention, especially for sales of SSCR via traders or service centres, a valid mill certificate which shall conform to the requirements set out in the Articles of this Regulation. If no such invoice and mill certificate are presented at the time of the request for release for free circulation is presented to the relevant customs authority, imports shall be made subject to the extended countervailing duty rate for all other companies.

(197) In light of the seriousness of the circumvention practices in this case, the Commission considered that an additional measure was necessary to monitor the proportion of Indonesian-based SSCR imported into the Union. This monitoring system would work as follows: a declaration will be added to the mill certificate mentioned in recital (196) to state whether the location where the stainless steel to produce the SSCR was originally melted and poured, was in Indonesia or not.

(198) While presentation of this invoice and mill certificate is necessary for the customs authorities of the Member States to apply the exemptions, it is not the only element to be taken into account by the customs authorities. Indeed, even if presented with an invoice meeting all the requirements set out in Article 1 of this regulation, the customs authorities of Member States must carry out their usual checks and may, like in all other cases, require additional documents (shipping documents etc.) for the purpose of verifying the accuracy of the particulars contained in the declaration and ensure that the subsequent application of the exemption is justified, in compliance with customs law.

(199) After disclosure, Posco VST and Posco Assan requested that the Commission include a template with the text of the declaration referred to in recital (197) in the definitive Regulation. Such template was included in the Annexes to this Regulation.

(200) Posco VST and Posco Assan also requested the Commission to confirm that it did not intend to prohibit imports of SSCR from the exempted companies even when made from Indonesian SSHR or slabs. As explained in recital (132) above, the exemption granted to certain companies in this investigation applies to all SSCR imported from those exempted companies, regardless of the origin of their inputs. If, however, the Commission were to find that following the entry into force of these measures, a substantial increase of imports into the Union of SSCR made from Indonesian inputs were to occur, the Commission will re-assess the situation in light of such developments. If warranted, such assessment may give rise to a review under Article 19 of the basic AS Regulation.

6. DISCLOSURE

- (201) On 5 March 2024, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment.
- (202) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 25(1) of Regulation (EU) 2016/1037,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive countervailing duty imposed by Implementing Regulation (EU) 2022/433 on imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) originating in Indonesia is hereby extended to imports of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), currently falling under CN codes 7219 31 00, 7219 32 10, 7219 32 90, 7219 33 10, 7219 33 90, 7219 34 10, 7219 34 90, 7219 35 10, 7219 35 90, 7219 90 20, 7219 90 80, 7220 20 21, 7220 20 29, 7220 20 41, 7220 20 49, 7220 20 81, 7220 20 89, 7220 90 20 and 7220 90 80, consigned from Taiwan, Türkiye and Vietnam whether declared as originating in Taiwan, Türkiye and Vietnam or not (TARIC codes 7219310010, 7219310020, 7219321010, 7219321020, 7219329010, 7219329020, 7219331010, 7219331020, 7219339010, 7219339020, 7219341010, 7219341020, 7219349010, 7219349020, 7219351010, 7219351020, 7219359010, 7219359020, 7219902010, 7219902020, 7219908010, 7219908020, 7220202110, 7220202120, 7220202910, 7220202920, 7220204110, 7220204120, 7220204910, 7220204920, 7220208110, 7220208120, 7220208910, 7220208920, 7220902010, 7220902020, 7220908010 and 7220908020), with the exemption of those produced by the companies listed below:

Country	Company	TARIC additional code
Taiwan	Chia Far Industrial Factory Co., Ltd. Tang Eng Iron Works Co., Ltd. Tung Mung Development Co., Ltd. Walsin Lihwa Corporation Yieh United Steel Corporation Yuan Long Stainless Steel Corp.	89AH
Türkiye	Posco Assan TST Celik Sanayi A.Ş.	89AK
Vietnam	Posco VST Co., Ltd.	89AJ

2. The extended duty is the countervailing duty of 20,5 % applicable to 'all other Indonesian companies'.
3. The duty extended by paragraphs 1 and 2 of this Article shall be collected on imports consigned from Taiwan, Türkiye and Vietnam, whether declared as originating in Taiwan, Türkiye and Vietnam or not, registered in accordance with Article 2 of Implementing Regulation (EU) 2023/1631 and Articles 23(4) and 24(5) of Regulation (EU) 2016/1037, with the exception of those produced by the companies listed in paragraph 1.
4. The application of exemptions granted to the companies specifically mentioned in paragraph 1 shall be conditional upon presentation of the following documents to the customs authorities of the Member States:
- (a) if the importer buys directly from the Taiwanese, Turkish or Vietnamese exporting producer, a commercial invoice bearing a declaration of the exporting producer and a mill certificate from that exporting producer as specified in Annex 1 ('manufacturer declaration for direct export sale'). The mill certificate must be from one of the companies listed in paragraph 1;
- (b) if the importer buys from a trader or other intermediate legal person, whether located in Taiwan, Türkiye, Vietnam or not, a commercial invoice from the manufacturer to the trader or other intermediate legal person bearing a

declaration of the manufacturer and a mill certificate from that manufacturer as specified in Annex 2 ('manufacturer declaration for indirect export sale') and a commercial invoice from the trader or other intermediate legal person to the importer. The mill certificate must be from one of the companies listed in paragraph 1.

If neither the mill certificate nor the invoice are presented, the duty applicable to 'all other companies' shall apply.

5. For monitoring purposes, importers are requested to declare in the documents mentioned in Article 1(4), whether Indonesia is the country where the stainless steel inputs used for the processing of the product in Taiwan, Türkiye, Vietnam was originally melted and poured. Customs authorities shall record such transactions as provided by the importers as 'originally melted and poured in Indonesia' or 'not originally melted and poured in Indonesia'.

6. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are hereby directed to cease the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2023/1631.

Article 3

1. Where the above-quota tariff duty referred to in Article 1(6) of Commission Implementing Regulation (EU) 2019/159 ⁽³⁶⁾ becomes applicable to flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), and exceeds the level of the countervailing duty set out in Article 1(2), only the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159 shall be collected.

2. During the period of application of paragraph 1, the collection of the duties imposed pursuant to this Regulation shall be suspended.

3. The suspension referred to in paragraph 2 shall be limited in time to the period of application of the above-quota tariff duty referred to in Article 1(6) of Implementing Regulation (EU) 2019/159.

Article 4

The exemption requests submitted by Trinox Metal Sanayi ve Ticaret A.Ş. (Türkiye), Lam Khang Joint Stock Company (Vietnam) and Yongjin Metal Technology (Vietnam) Company Limited (Vietnam) are rejected.

Article 5

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

⁽³⁶⁾ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products (OJ L 31, 1.2.2019, p. 27).

2. In accordance with Article 23(4) of Regulation (EU) 2016/1037, the Commission may authorise, by decision, the exemption of imports from companies which do not circumvent the countervailing measures imposed by Implementing Regulation (EU) 2022/433, from the duty extended by Article 1.

Article 6

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, 6 May 2024.

For the Commission
The President
Ursula VON DER LEYEN

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ANNEX 1

Manufacturer declaration for direct export sale

- (1) A declaration signed by an official of the manufacturer issuing the commercial invoice, in the following format, must appear on the valid commercial invoice referred to in Article 1(4)(a):
- (a) The name and function of the official of the manufacturer.
 - (b) The following declaration: *'I, the undersigned, certify that the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by this invoice was manufactured by (company name and address) (TARIC additional code) in (Taiwan, Türkiye or Vietnam). I declare that the information provided in this invoice is complete and correct.'*
 - (c) Date and signature.
- (2) The commercial invoice must be accompanied by a mill certificate including a declaration signed by an official of the entity issuing the mill certificate, in the following format, appearing on the valid mill certificate referred to in Article 1(4)(a):
- (a) the name and function of the official of the entity issuing the mill certificate;
 - (b) the following declaration:
'I, the undersigned, certify that:
 - (i) *the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate, was manufactured by (company name and address) (TARIC additional code) in (Taiwan, Türkiye or Vietnam). I declare that the information provided in this mill certificate is complete and correct.*
 - (ii) *The stainless steel inputs used for the production of the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate was originally melted and poured in Indonesia: YES/NO (please indicate the correct reply);'*
 - (c) date and signature.

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ANNEX 2

Manufacturer declaration for indirect export sale

- (1) A declaration of the Taiwanese, Turkish or Vietnamese manufacturer, signed by an official of the manufacturer issuing the invoice for this transaction to the trader or other intermediate legal person, in the following format, must appear on the commercial invoice of the manufacturer to the other intermediate legal person or trader referred to in Article 1(4)(b):
- (a) The name and function of the official of the manufacturer.
 - (b) The following declaration: *'I, the undersigned, certify that the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced) sold to the trader/other intermediate legal person (name of the trader/other intermediate legal person) (country of the trader/other intermediate legal person), covered by this invoice, was manufactured by our company (company name and address) (TARIC additional code) in (Taiwan, Türkiye or Vietnam). I declare that the information provided in this invoice is complete and correct.'*
 - (c) Date and signature.
- (2) The commercial invoice must be accompanied by a mill certificate including a declaration signed by an official of the entity issuing the mill certificate, in the following format, appearing on the valid mill certificate referred to in Article 1(4)(b):
- (a) the name and function of the official of the entity issuing the mill certificate;
 - (b) the following declaration:
'I, the undersigned, certify that:
 - (i) *the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate, was manufactured by (company name and address) (TARIC additional code) in (Taiwan, Türkiye or Vietnam). I declare that the information provided in this mill certificate is complete and correct.*
 - (ii) *The stainless steel inputs used for the production of the (volume in kg) of flat-rolled products of stainless steel, not further worked than cold-rolled (cold-reduced), sold for export to the European Union covered by the mill certificate was originally melted and poured in Indonesia: YES/NO (please indicate the correct reply);'*
 - (c) date and signature.