

FOR INSPECTION BY INTERESTED PARTIES

Please note that this is a consolidated version of the original anti-circumvention review request submitted on 30/06/2023 and additional information provided by the applicant afterwards.

To the Commission of the European Union

APPLICATION

Under Article 23 of Regulation (EU) No 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not being Member States of the European Union

Submitted by

EUROFER

Avenue de Cortenbergh, 172
B-1000 Brussels
Belgium

Application for the initiation of an anti-circumvention investigation concerning imports of cold-rolled stainless steel sheets and coils from Taiwan, Turkey and Vietnam

OPEN VERSION

30 June 2023

TRADE G				
Date	30/6/2023	N°	57042006	
Attribution :		SK		
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1. INTRODUCTION

- (1) On 15 March 2022, the European Commission (the 'Commission') imposed a definitive countervailing duty on stainless steel cold-rolled flat products ('SSCR') from Indonesia and India.¹ The Commission imposed a countervailing duty of between 13,5% and 21,4% on the Indonesian exporters receiving subsidies. In the original investigation, the Commission found that these duties were necessary to offset the subsidies received by the Indonesian exporters.
- (2) However, as early as a year after the original measures, these countervailing duties are being massively and clearly circumvented. Duties on SSCR from Indonesia are evaded through a limited processing operation of Indonesian stainless steel products in third countries, before exporting it to the Union market. The scale of the circumvention via these indirect imports from Indonesia is substantial. The Applicant has, at this stage, identified such flow of imports via no less than three different countries: Taiwan, Turkey and Vietnam. Imports from these countries exhibit all the characteristics of a circumvention.
- (3) The circumvention patterns via the identified third countries clearly show the intention to avoid the duties imposed by the EU on Indonesian SSCR. These increased flows rely on a less efficient organisation of the production process by splitting it among various countries, with limited processing and added value outside of Indonesia. The timeline is unambiguous: the change in the pattern of trade coincided with the Commission's investigation and its imposition of countervailing duties on Indonesian imports.
- (4) The emergence of circumvention patterns is not fully unexpected. In the original investigation, the Complainant cautioned against circumvention of the measures, and stressed that the Indonesian exporters are large corporate groups which rely on intra-group transactions, with presence in several third countries.² In response, the Commission explicitly set out its intention to be vigilant for circumvention of these measures.³ Nonetheless, and unfortunately, this circumvention of EU measures has so far been successful.
- (5) In addition to the change in the pattern of trade, and although prices and costs of SSCR have increased since the original investigation, the prices of SSCR from the countries concerned are very low, undercutting Union prices. Combined with significant volumes, these imports undermine the remedial effect of the AS measures while still benefiting from the massive subsidisation found by the Commission.
- (6) In summary, exporting producers in the targeted countries engage in circumvention within the meaning of Article 23 of EU Regulation 2016/1037 ('the basic AS Regulation'). This Application demonstrates that there is a change in the pattern of trade stemming from a practice not justified

¹ 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.

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, recitals 1074-1076.

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, 1074-1076.

by any reason other than the imposition of the duties, that this change undermines the remedial effects of the duties and that parts of the imported like product still benefit from the subsidies. In such situations, Article 23 of the basic AS Regulation allows the Commission to extend countervailing duties imposed on imports from a country to imports from a third countries of the like product, "*whether slightly modified or not*".

- (7) On behalf of the SSCR Union Industry, Eurofer therefore urges the Commission to ensure that the countervailing duties, set to protect the Union industry against injurious unfair imports of SSCR, are enforced. The continuation of the flows of subsidised SSCR, despite the findings and measures of the Commission, is a clear challenge to the ability of the EU to provide effective protection against unfair trade. In Eurofer's view, it is of the utmost importance for the integrity of the Union Trade Defence system to put an end to such practices swiftly and decisively. It therefore respectfully asks the Commission to urgently initiate an anti-circumvention investigation with a view to extend the countervailing duties on imports of SSCR from Indonesia to the targeted countries and to register imports of SSCR from these countries.

2. APPLICANT

- (8) This Application is submitted by Eurofer, the European Steel Association, on behalf of its members active in the production of SSCR.

Eurofer - the European Steel Association
Address: Avenue de Cortenbergh 172, 1000 Brussels
Tel: +32 2 738 79 20
Fax: +32 2 738 79 55
Contact Person: Matteo Rigamonti
Email: M.Rigamonti@eurofer.be

- (9) Eurofer is the European Steel association, representing more than 95% of steel production in the European Union. Eurofer members are steel companies and national steel federations throughout the EU.
- (10) The companies active in the production of SSCR on behalf of which Eurofer files submit this Application are:
- Acerinox Europa SAU
 - Aperam Stainless Europe
 - Outokumpu Oyj
 - Acciai Speciali Terni SpA
- (11) These four companies account for the large majority of the EU production of SSCR.⁴ They acted as Complainant in the original anti-subsidy investigation that led to the imposition of duties and actively cooperated to the investigation, including as part of the sample of Union producers. The Applicant is therefore undoubtedly an "interested party" within the meaning of Article 23 of the basic AS Regulation.

Annex 1 - Representation letters

⁴ Between 85 and 95% for the original investigation

3. OTHER INTERESTED PARTIES

- (12) For the purpose of the investigation, the Applicant provides information on the identity of the exporting producers in the targeted countries as well as on their suppliers. It also provides information on the other EU producers.
- (13) The Applicant also notes that imports of SSCR in the EU are mostly made by stockists, distributors and service centres, but also by some re-rollers and tube manufacturers. They may also be done through companies related to the exporting producers. SSCR products are used in a wide-array of products and applications, and as a significant share of users source their products through distributors, stockists or unrelated service centres. The Applicant provides a list of the main identified importers and users of SSCR in the EU.

Annex 2 - Other interested parties

4. PRODUCT CONCERNED AND LIKE PRODUCT

- (14) As the circumvention pattern identified occurs through a re-organisation of the production process of the product concerned, the Applicant considers it useful to revert briefly to the characteristics of the product concerned and the like product, as well as to its production process. The developments below are in line with the findings of the Commission over the course of the original investigation.

4.1 Description of the stainless steel cold-rolled flat products

4.1.1 Metallurgical characteristics

- (15) Stainless steel is a steel alloy with a minimum content of 10.5% chromium and a maximum content of 1.2% carbon, a metallurgical characteristic shared by all stainless steel families. The addition of chromium provides stainless steel with its stainless properties. When exposed to oxygen, the chromium forms a passivation layer of chromium oxide, which is capable of reforming quickly when the surface is scratched. The layer is too thin to be visible, but protects the metal beneath by making it impermeable to water and air. As a result, stainless steel requires no added surface protection against corrosion.
- (16) There are a large number of stainless steel types with widely varying chemical compositions. Stainless steels have traditionally been divided into categories depending on their microstructure at room temperature. This gives a division into four main groups of grades families (i) austenitic, (ii) ferritic, (iii) martensitic and (iv) duplex. All four have different levels of corrosion resistance and strength. The differences result from the controlled addition of alloying elements, notably chromium and nickel.
- (17) As found in the original investigation, Indonesian SSCR production principally focuses on austenitic grades, grades containing nickel, as Indonesian exporting producers have access to significant local nickel ore reserves for their production. Nickel-based austenitic grades account for the largest part of the production of stainless steel worldwide, with about 75% of the total production. As an alloying element, nickel enhances important properties of stainless steel such as formability, weldability and ductility, while increasing corrosion resistance in certain applications. Austenitic stainless steel grades are used in a large number of industrial applications such as pumps, piping and heat exchangers, as well as in construction applications.

4.1.2 Production process

Melting stage

- (18) The first stage of the production process of SSCR consists in melting the raw materials containing the necessary alloying elements. The melt is then casted into stainless steel slab, a solid thick rectangular-shaped semi-product.
- (19) The raw materials used at the melting stage may be recycled materials with the appropriate chemical composition, ferro-alloys of various grades (share of the alloying element) and, more exceptionally, pure chemical elements. Chromium is usually available as ferrochromium or through stainless steel scraps, while nickel is typically available in scraps and ferronickel. Iron is essentially provided through scraps, or ferro-alloys. As pure nickel and high grade ferronickel are costly compounds subject to significant fluctuations in price, a relatively new type of low-grade ferro-nickel, produced through smelting of low nickel content laterite ore,⁵ a highly polluting process, has been increasingly used in Eastern Asia especially: the nickel pig iron (NPI).⁶
- (20) In the EU, along with the US and Japan, stainless steel producers primarily rely on recycled stainless steel scrap as the main raw material for the production of stainless steel, complemented by high-grade ferro-alloys. These inputs, containing all the chemicals necessary to achieve the desired grades, are melted together in an electric arc furnace (EAF). To remove excess carbon, the molten material is further processed in an argon oxygen decarburisation converter (AOD) and secondary treatments are carried out as necessary. The liquid steel is then processed through a continuous casting process in which the molten metal is poured directly into a mould to produce the required shapes. After leaving the mould, the strand's shell is further cooled until it has completely solidified. The strand is cut into lengths to obtain compact rectangular blocks of crude steel, the stainless steel slabs.
- (21) In more recent stainless steel producing countries, essentially China and Indonesia, and as found by the Commission over the course of the original investigation, instead of scraps, stainless steel producers essentially rely on low-grade ferro-alloys, the above mentioned NPI. In that process NPI is obtained after a first reduction of nickel ore in a rotary kiln with a mixture of thermal coal and lime, before a final reduction and complete melting inside an electrical smelter with the further addition of coal. In parallel, liquid ferrochromium is produced within a specific furnace dedicated to melting solid ferrochromium or liquid ferrochromium coming directly from a smelter process. NPI and ferrochromium are then poured into an AOD (argon oxygen decarburization) or VOD (vacuum oxygen decarburization). The liquid metal obtained is then finally transferred to the continuous casting machine for transformation into stainless steel slabs.

Hot-rolling stage

- (22) In a second step, the stainless steel slab is reheated and transformed into SSHR coils through mechanical hot-rolling.
- (23) At the hot-rolling production stage, the slabs are preheated to a high temperature and then reduced to a predetermined thickness in the roller gap of a hot-rolling mill, by pressure applied

⁵ Nickel laterite ore is common mostly in tropical environments such as Australia, New Caledonia, Indonesia and the Philippines

⁶ NPI usually has a content of about 10-15% nickel, 1% chromium, 83% iron and 3% carbon

between one or several sets of two rollers. The resulting product is known as "hot-rolled black band" ("black SSHR"), a product covered by a layer of scale, giving it its black colour.

- (24) For the purpose of production of SSCR, black SSHR subsequently undergoes hot annealing and pickling to become "hot-rolled white band" or "HRAP" ("white SSHR"). Annealing consists in heating cold steel to make it more suitable for bending and shaping, as well as to prevent breaking and cracking. Pickling is the process through which stainless steel is cleaned using chemical baths of diluted acid to remove impurities such as rust, dirt, scale and oil from the surface, without changing the underlying properties of the metal. The removal of the scales results in the typical white colour of white SSHR.
- (25) Depending on the industrial process of the producer, this process of annealing and pickling may constitute the last phase of the hot-rolling stage, or the first stage of the cold-rolling process. For re-rollers, the level of integration will define the type of inputs to be used for production of SSCR: black coils if they can undertake annealing and pickling of SSHR, white bands if they don't.

Cold-rolling stage

- (26) In a third step, the white SSHR coil is transformed into SSCR through further mechanical rolling at room temperature.
- (27) The white SSHR is rolled to the required thickness on reversing cluster mills or tandem mills for a number of times until the desired dimensions are achieved, or until hardening necessitates further annealing. In order to obtain the desired thickness, in particular for the lower thickness materials, the same coil may be subjected to several stages of rolling. This process of cold reduction generates heat, part of which is transferred to the rolling oil that is sprayed onto the steel and rolls for cooling as well as lubrication and is subsequently dissipated through heat exchangers to cooling water systems.
- (28) After cold-rolling, or between two cold-rolling phases, the SSCR then undergoes a second annealing, a re-heating of the product above 650°C on continuous lines or in batch furnaces, to restore the physical and mechanical properties of the steel, notably the formability of the steel. For bright finishes ("bright annealed"), annealing is undertaken on dedicated machineries in controlled oxygen-free environments.
- (29) SSCR is then tempered, a minimal reduction in gauge (up to 2 %) to improve the flatness of the product, increase the product yield strength and obtain the desired surface finish. After that process, additional surface treatments, such as polishing or brushing may be undertaken in order to render the product suitable for particular uses.
- (30) Following control, defective coil parts are eliminated or, if necessary, the material is subjected to additional treatments for the removal of the defect. The product is then cut into the coil weights ordered by the customers, protective films or oils are applied and, finally, the product is packaged.

4.2 Product concerned of the original investigation

- (31) A definitive countervailing duty is imposed on 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 80.⁷

- (32) It includes steel cold-rolled flat products that have undergone one or more of the surface treatments, are cut to a shape other than square or rectangular, or have undergone, after rolling, operations such as perforating, bevelling, edge-rounding, brushing or polishing.

5. THE EU CVD MEASURES ON INDONESIA ARE CIRCUMVENTED THROUGH IMPORTS OF SSCR FROM MULTIPLE THIRD COUNTRIES

5.1 There is a change in the pattern of trade

5.1.1 Indonesian stainless steel is processed in third countries and exported to the EU

- (33) Following a complaint lodged by the Union Industry, the Commission opened an anti-subsidy investigation into Indonesian SSCR on the 17 February 2021,⁸ leading to the imposition of definitive measures in March 2022.⁹ In parallel, based on another complaint of the Union Industry, the Commission opened an anti-dumping investigation into SSCR from both countries on the 30th of September 2020, and imposed definitive anti-dumping duties on 17 November 2022.¹⁰
- (34) As a result of the investigation, the expectation, and then the actual implementation of substantial duties, exports of SSCR from Indonesia have been reorganised under new and rapidly expanding new trade flow patterns. Direct flows of exports of SSCR by the main Indonesian exporter targeted in the original investigation have been replaced by indirect flows via third countries, in which SSCR inputs, slabs or SSHR, have been further processed into SSCR and exported to the EU.
- (35) While direct imports from Indonesia have significantly reduced as a result of the original measures, imports on the EU market of SSCR originally melted and poured in Indonesia but processed in a third country have increased to alarmingly high levels, at unfairly low prices resulting from the Indonesian subsidisation of its stainless steel complex. An obvious and massive import substitution has thus been taking place: direct Indonesian imports have been replaced by 'indirect Indonesian imports'. The Applicant has identified so far the existence of

⁷ 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, Article 1.

⁸ 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, rec.1.

⁹ 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.

¹⁰ 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.

such a pattern in a number of countries, in particular Taiwan, Turkey and Vietnam. It is not excluded that indirect imports also occur through other third countries.

- (36) The circumventing trade pattern and the method of circumvention identified echo the findings of the Commission in its recent investigation into circumvention of the antidumping measures on Indonesian SSHR via Turkey.¹¹ After initiation of an investigation aiming to impose measures on Indonesia, the same pattern occurred: a combination between a flow of semi-products from Indonesia to a third country, a processing with very limited added value on site, and a re-export to the EU of the finished product under the non-preferential origin of that country, thus allowing avoidance of the duties.
- (37) In the case at hand, the pattern starts with stainless steel slabs first melted and poured in Indonesia, then hot-rolled in Indonesia and finally exported to one of the third countries where it is then cold-rolled domestically before being exported to the EU. As cold-rolling is sufficient to confer the non-preferential origin to SSCR, that SSCR, indirectly imported by way of any of the countries concerned, evades the duties that would apply to direct imports. In some occasions, the export to the third country takes place right after the slab phase, with the hot-rolling and cold rolling taking place in the third country. These imports into the EU of Indonesian stainless steel semi-products that are processed into SSCR in a third country before being exported to the EU are referred to in this Application as 'indirect imports'.
- (38) Incidentally, the Commission has already identified the occurrence and relevance of such trade patterns in the original anti-subsidy investigation. This concerned Chromeni, an Indian SSCR producer that is a joint-venture between Tsingshan and various Indian business groups.¹² The Commission found that "*Chromeni purchased however upstream products, namely hot rolled coils, from a related company in Indonesia, which may have benefited from the GOID provision of nickel ore for less than adequate remuneration (...)*".¹³ The Commission itself has thus already witnessed, on no less than two occasions, that part of the business model of Tsingshan consists of feeding stainless steel semi-products to exporting producers in third countries, who then export finished products to the EU. As found with respect to SSHR from Turkey, these practices increase significantly as soon as corrective trade measures against Indonesia are considered or implemented.
- (39) As such, the indirect imports are an inescapable consequence of the Indonesian massive export-oriented overcapacity: when direct access to the Union market at unfair prices is restricted, flows are redirected via indirect channels. As the second exporter of stainless steel worldwide, with a nearly negligible domestic consumption, Indonesia simply needs to maintain access to the Union market, the second worldwide, to maintain a rational use of its enormous production capacities. If measures correcting the unfair advantages prevent direct export flows, leveraging processing operations in third countries constitutes the second best option, as shown below.

¹¹ 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

¹² Chromeni, <https://www.chromenisteels.com/>.

¹³ 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, rec. 301.

- (40) This new pattern of trade, expanding to unprecedented levels as a consequence of the EU investigations and measures against Indonesian unfair imports relies on a multitude of agreements between the main Indonesian exporting producer and producers (essentially re-rollers) in third countries. These have taken place either on a circumstantial basis or in application of longer term partnerships. Sometimes, but not systematically, they coincide with efforts of the third party to establish an industrial base in Indonesia through joint ventures with the Indonesian exporter, with the ultimate aim to manage the flow of Indonesian inputs internally. As such, the Indonesian exporter is able to rely on a wide network of exporting producers in third countries, which purchase its SSHR or slabs, process them and then export them to the EU.
- (41) Below, the Applicant provides a detailed assessment of the change in the pattern of trade via third countries and the capacities used in these countries to process Indonesian material. The exporting producers in the third countries nonetheless share a certain number of characteristics. First, they have significant capacities which are usually disproportionate compared to the size of domestic consumption - with Yongjin's Vietnam factory being a prime example (see below). Second, these capacities either are not backed by upstream capacities (in which case the producers are really only re-rollers) or have higher SSCR capacities than they do upstream. This means that the capacities are designed to rely on purchased inputs, essentially white or black SSHR. While this phenomenon is not exceptional among steelmakers, the sheer concentration of upstream capacities in close or even neighbouring third countries with little to no domestic outlet reveals that these aim to a large extent at circumventing trade measures targeting the Chinese- and Indonesian-owned industries.
- (42) Finally, and crucially, as already mentioned, a vast majority of the above producers maintain close relationships with Tsingshan Indonesia and sometimes with State-owned Chinese producers. Similar to Tsingshan, the latter have interests in Indonesia and are "*strictly follow[ing] the policy of the GoC*".¹⁴

5.1.2 Volume of indirect imports in the EU

- (43) The Applicant finds that a massive amount of EU imports of SSCR from the third countries are in fact indirect imports from Indonesia, which undergo only limited processing in the targeted countries before being re-exported to the Union. These flows of indirect imports constitute a significant share of the exports of SSCR from these countries to the EU. The Applicant has calculated the indirect imports to only include SSCR produced from stainless steel melted and poured in Indonesia, imported and processed into the third country and then sent to the Union market.
- (44) In order to identify the volumes, the Applicant has cross-referenced available information on the volume of imports of the upstream inputs - slabs and SSHR - from Indonesia and other sources in the third countries, the domestic melting capacity in the third countries and the exports of SSCR from the third countries to the EU. This methodology accounts for the fact that, as previously established by the Commission over the course of multiple investigation, Indonesian stainless steel, and consequently SSCR produced from Indonesian stainless steel is essentially nickel-based. It also account for the time necessary to process stainless in the third countries.

¹⁴ 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, rec. 628.

The Applicant has adapted the methodology to the specificities of the country in question, as is detailed below.

Annex 3 - Methodology for the assessment of indirect imports

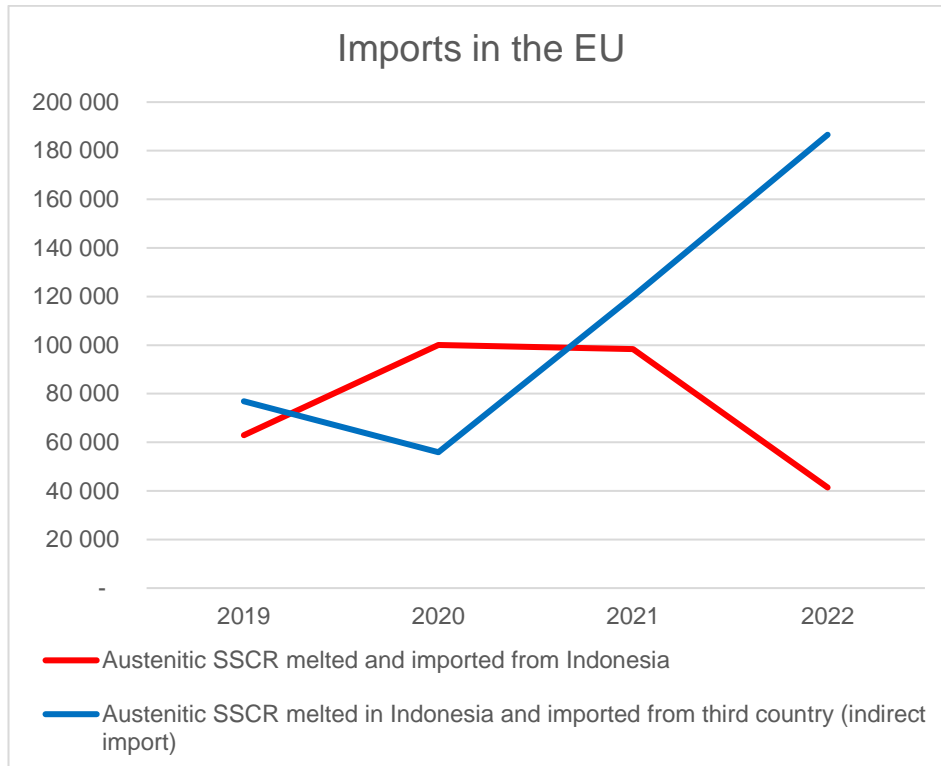
- (45) The calculations of the indirect imports is based on solid and consistent information from available public sources and the applicant's market intelligence. This approach adopted is deliberately conservative and might to a certain extent underestimate the actual volume of indirect imports. This is because the methodology does not assume that exporters in the third countries would specifically allocate their Indonesian inputs to exports to the EU, although such behaviour is manifestly the case for certain exporters. With a wider methodology, it could be argued that all the austenitic imports from the targeted third countries in 2022 could be indirect imports because imports of inputs from Indonesia exceed exports of austenitic SSCR to the EU, even accounting for yield.

5.1.3 Indirect imports of SSCR substituted and exceeded imports of SSCR from Indonesia

- (46) The above methodology reveals the rapid substitution of prior sources of SSCR inputs (imports from other countries or produced domestically) by SSHR or slabs from Indonesia. In line with the growth of Indonesian inputs in these countries, visible as from 2021, a growing share of the imports from the countries identified consists in fact of processed Indonesian material. It is that processing of Indonesian material which drove the increase in exports to the EU. That substitution coincided with the initiation of the investigation and massively increased with the imposition of the EU measures.

In tonnes	2019	2020	2021	2022
Inputs from Indonesia imported in the targeted countries	761.512	836.642	1.276.119	1.205.724
Index	100	110	168	158
Imports of SSCR from the targeted countries in the EU	310.436	234.241	375.951	463.195
Index	100	75	121	149
of which indirect imports	76.898	55.915	120.059	186.578
Index	100	73	156	243

- (47) Comparing EU imports from Indonesia to indirect imports into the EU shows that the pattern of trade changed directly after the initiation of the investigation. Indirect imports from the third countries, which had initially declined between 2019 and 2020, started to pick up over the course of the investigations in 2021, ultimately skyrocketing after the imposition of the measures in 2022. This variation is opposed to the trends of Indonesian imports: after a massive increase in 2020, despite the Covid-crisis, imports from Indonesia plateaued in 2021 as a result of the investigation, before decreasing massively in 2022 as a result of the entry into force of the measures.



In tonnes	2019	2020	2021	2022
Imports of SSCR from Indonesia	72.768	106.488	107.364	51.379
Index	100	146	148	71
of which austenitic imports	62.974	100.055	98.329	41.400
Index	100	159	156	66
Imports of SSCR from the targeted countries in the EU	310.436	234.241	375.951	463.195
Index	100	75	121	149
of which indirect imports	76.898	55.915	120.059	186.578
Index	100	73	156	243

Annex 4 - Volume of indirect imports

- (48) It is therefore obvious that the indirect SSCR imports substituted and then exceeded the SSCR imports from Indonesia. This change in the pattern of trade coincided precisely with the initiation of the investigation and the imposition of the measures on imports of SSCR from Indonesia. This coincidence in time is not accidental: the slabs and SSHR that were originally used in Indonesia to produce SSCR for export to the EU were increasingly used in the third countries to produce SSCR for export to the EU - when it became apparent that measures would be imposed on imports from Indonesia.
- (49) This change in the pattern of trade and the substitution of imports of Indonesian SSCR is visible at the level of the indirect imports as a whole. It is also manifestly apparent at the level of the individual countries through which the indirect imports reach the EU. This confirms the widespread nature of the circumvention. It also confirms that the rise in indirect imports to the EU is not a coincidence. Rather, this increase follows the activation of alternative channels to supply the EU market with Indonesian melted and poured material (which benefited from Indonesian subsidies but avoids the countervailing duties).

5.2 Change in the pattern of trade via specific third countries

- (50) The above confirms that the change in the pattern of trade is manifestly clear from the point of view of the total indirect imports into the EU. However, a country-specific focus also confirms that, for each of the sources identified, there is a change in the pattern of trade. This focus also allows highlighting actors in these countries that are actively participating to the change in the pattern of trade, as well as the nature of their relationship with the Indonesian exporting producer.

Annex 5 - Exporting producers in third countries and capacities

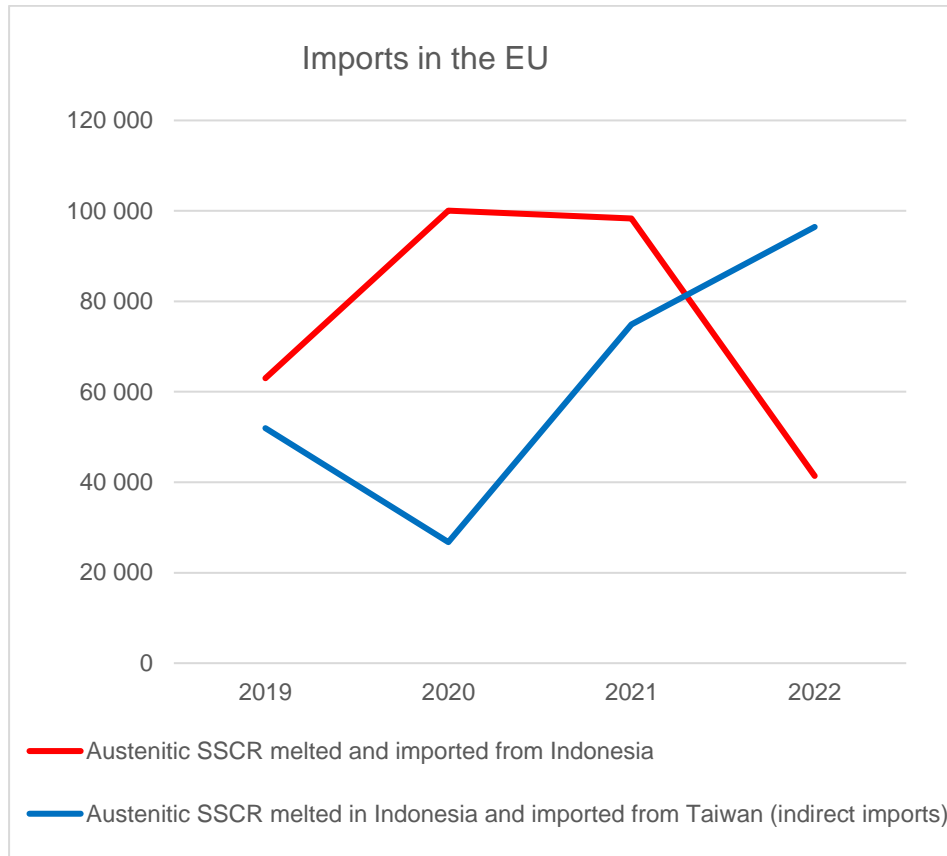
- (51) The analysis below solely focuses on the exporting producers actively participating to the circumvention of the EU measures. However, the Applicant is aware that these flows may be complemented by consignment of SSCR produced in Indonesia via third countries before re-export to the EU under a fraudulent origin.

5.2.1 Indirect imports via Taiwan

- (52) Taiwan holds significant production capacities for SSCR and has historically been an exporter of the product concerned to the EU. However, and at an increasing speed, the country has more and more shifted from integrated production to the processing of inputs from third countries. This is in particular true with regard to austenitic stainless steel, where Indonesian supply of slabs and SSHR progressively substituted domestically melted stainless steel inputs.
- (53) The existence of these domestic melting capacities, and the share of these capacities dedicated to the production of austenitic crude steel, have been duly taken into account by the Applicant. Domestic production was accounted for, together with the imports of inputs from Indonesia and other sources. As such, the Applicant assessed the share of Indonesian material in the Taiwanese production and therefore the indirect imports to the EU.

In tonnes	2019	2020	2021	2022
Inputs from Indonesia imported in Taiwan	548.647	631.372	960.353	747.941
Index	100	115	175	136
Imports of SSCR from Taiwan in the EU	185.614	125.070	218.792	251.418
Index	100	67	118	135
of which indirect imports	51.927	26.764	74.884	96.454
Index	100	52	144	186

- (54) The increase in imports of inputs from Indonesian in Taiwan is particularly important in 2021 and 2022. In these years, the use of inputs from other sources, notably from domestic melting, significantly declined, showing a clear substitution. This substitution is equally apparent in the massive increase as from 2021 of the indirect imports to the EU.



In tonnes	2019	2020	2021	2022
Imports of SSCR from Indonesia	72.768	106.488	107.364	51.379
Index	100	146	148	71
of which austenitic imports	62.974	100.055	98.329	41.400
Index	100	159	156	66
Imports of SSCR from Taiwan in the EU	185.614	125070	218.792	251.418
Index	100	67	118	135
of which indirect imports	51.927	26.764	74.884	96.454
Index	100	52	144	186

- (55) Taiwan is one of the main channels for indirect imports to the EU that circumvent the measures on imports from Indonesia. That imports of SSCR from Taiwan increased so dramatically in 2021 and 2022 can only be fully explained by the opening of the investigation and then the imposition of duties on Indonesian SSCR. 2021 and 2022 show a clear reversal of 2019 and 2020 trends. Since the beginning of the investigation, indirect imports of Indonesian SSCR via Taiwan have dramatically increased, going up by 86% between 2019 and 2022 and 134 percentage points between 2020 and 2022. This increase coincided with the plateauing and then the strong reduction in volumes imported from Indonesia. It shows that Indonesian stainless slabs and SSHR are melted in Indonesia, further processed in Taiwan and then exported to the Union as SSCR, avoiding the duties.
- (56) Even accounting for domestic production, the share of Indonesian austenitic slabs and SSHR processed in Taiwan is very high and is equally reflected in the significant volume of indirect

imports to the EU.¹⁵ While exporting producers in Taiwan may rely on Indonesian material for their exports to the EU to varying degrees, this section shows that the vast majority of them likely do.

(57) One of the main entry points for Indonesian stainless steel inputs in Taiwan is re-roller Walsin Lihwa, which has established a partnership with Tsingshan Indonesia for the supply of stainless steel to Taiwan.

- This partnership extends beyond a mere commercial agreement but reflects a long term strategy of reliance on Indonesian subsidised inputs. Together, Walsin and Tsingshan run a Nickel Pig Iron (NPI) joint venture in Indonesia.¹⁶ Walsin Lihwa also recently acquired a 29,5% share in Indonesian PT Westrong Metal Industry,¹⁷ also linked to Tsingshan.¹⁸ Following the investment, Walsin's production capacity of nickel, in accordance to its equity ownership in various production facilities, will increase to 84.000 tons per year. 55.000 of this stems from PT Westrong Metal Industry.¹⁹
- In Taiwan, Walsin Lihwa, directly or through subsidiaries, has cold-rolling capacities [of between 350 000 and 500 000 tonnes. The Applicant has added confidential information on production capacity]. With upstream hot-rolling capacities much more limited, this mean that the company exclusively relies on SSHR inputs and on its partnership with Tsingshan to fill this capacity.

(58) Main Taiwanese stainless steel manufacturer YUSCO (Yieh United Steel) is also increasingly reliant on Indonesian inputs for its exports of stainless steel (in particular of SSCR to the EU). This reliance also includes purchasing from Tsingshan.

- YUSCO has cold-rolling capacities of [between 600 000 and 800 000 tonnes. The Applicant has added confidential information on feedstock]. For the time being, the latter is purchased from Indonesian actors, which include Tsingshan. Thanks to its hot-rolling capacities, YUSCO can purchase its Indonesian semi-products as slabs, black SSHR or white SSHR to optimise its load and logistics.
- This reliance on Indonesian austenitic inputs is highlighted by YUSCO's strategic decision to move its melting capacities to Indonesia, and correspondingly reduce use of its Taiwanese melting capacities.²⁰ In 2022, the company announced that it acquired two nickel ore mines in Indonesia and that it invested in Indonesian plants "*to produce stainless steel slabs and hot-rolled stainless steel (...)*".²¹ A month later, YUSCO also announced that its subsidiary

¹⁵ See annex 60% threshold assessment (Taiwan)

¹⁶ SMM, Indonesia's NPI out went up in June amid expanded production of Tsingshan, 15 July 2021, [Indonesia's NPI out went up in June amid expanded production of Tsingshan SMM | Shanghai Non ferrous Metals](#).

¹⁷ Marketscreener, Walsin Lihwa : Announcement for the Company's BOD resolved to acquire 29.5% equity of PT. Westrong Metal Industry, 8 May 2022, <https://www.marketscreener.com/quote/stock/WALSIN-LIHWA-CORPORATION-6492359/news/Walsin-Lihwa-Announcement-for-the-Company-s-BOD-resolved-to-acquire-29-5-equity-of-PT-Westrong-M-41211556/>; Walsin, 9 August 2022, <https://www.walsin.com/en/2022/08/>.

¹⁸ Investasi kontan, Analysts Recommend Buying Harum Energy (HRUM) Shares, Here's the Review, 12 May 2022, <https://investasi.kontan.co.id/news/analisis-rekomendasikan-beli-saham-harum-energy-hrum-begini-ulasannya>.

¹⁹ Walsin, 9 August 2022, <https://www.walsin.com/en/2022/08/>.

²⁰ Wood Mackenzie, Tsingshan Indonesia shakes up stainless steel markets in South East Asia, 15 July 2019, <https://www.woodmac.com/press-releases/tsingshan-indonesia-shakes-up-stainless-steel-markets-in-south-east-asia/>.

²¹ Yieh Corp, Taiwan's Yusco to expand its investment in Indonesia, 23 August 2022, <https://www.yieh.com/en/NewsItem/136009>.

Hongyu Asset Management increased its investment in ferronickel Indonesian subsidiary PT E United Ferro Indonesia by 12,4 million USD.²²

- (59) Available information also shows that Tsingshan is selling to other re-rollers like Tung Mung and Yuan Long.²³
- For its part, Tung Mung has [capacities between 150 000 and 250 000 tonnes].
 - Yuan Long has [between 100 000 and 170 000] tonnes of cold-rolling line. It is thus apparent that Taiwanese actors engaging in the production of SSCR maintain links with Tsingshan Indonesia and rely to a varying extent on Indonesian supply of stainless steel for their production and their exports to the EU. These exporting producers, with direct links to the use of inputs from Indonesia, account for [business confidential information not susceptible to public summary] of the cold-rolling capacity in Taiwan.
- (60) It is however likely that other actors with SSCR capacity also process Indonesian inputs, purchased directly from Tsingshan or via Walsin, and therefore contribute to a various extent to indirect imports to the EU. The companies are the following:
- Chia Far, with its [50 000 to 100 000] tonnes of cold-rolling capacities
 - Chien Shing with its [70 000 to 130 000] tonnes of cold-rolling capacities
 - Tang Eng with its [200 000 to 275 000] tonnes of cold-rolling capacities

5.2.2 Indirect imports via Turkey

- (61) SSCR production in Turkey exclusively stems from re-rollers, as the country currently has no dedicated operational melting and hot rolling capacities for stainless steel. This means that all the SSCR produced in Turkey is produced from SSHR imported from third countries, notably from Indonesia. Combined with the limited number of domestic producers, this makes it relatively easy to identify indirect imports to the EU.
- (62) The Commission has recently found that Turkish re-rollers are circumventing EU TDI measures on Indonesian stainless steel by importing Indonesian stainless steel slabs, hot-rolling them in Turkey, and exporting the resulting SSHR to the EU.²⁴ In that circumvention case, the Commission convincingly found that *"the assembly/completion operations in Türkiye started in significant volumes only after the initiation of the original investigation against Indonesia. The agreement (...) focused specifically on basing that supply on stainless steel slabs from Indonesia – the country under measures. Moreover, the Indonesian producer of stainless steel slabs was also the supplier of SSHR. Normally, one does not move one step up the value chain of its vertically integrated supplier for reasons of security of supply. Unless, of course, the threat that is being addressed are potential measures affecting the lower step in that value chain – in this*

²² Yieh Corp, Yieh Phui increases investment in Indonesia subsidiary, 22 September 2022, <https://www.yieh.com/en/NewsItem/136614>.

²³ Please see Annex - Exporting producers in third countries and capacities.

²⁴ Commission Implementing Regulation (EU) 2023/825 of 17 April 2023 extending the anti-dumping duty imposed by Implementing Regulation (EU) 2020/1408 on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia to imports of certain hot rolled stainless steel sheets and coils consigned from Türkiye, whether declared as originating in Türkiye or not.

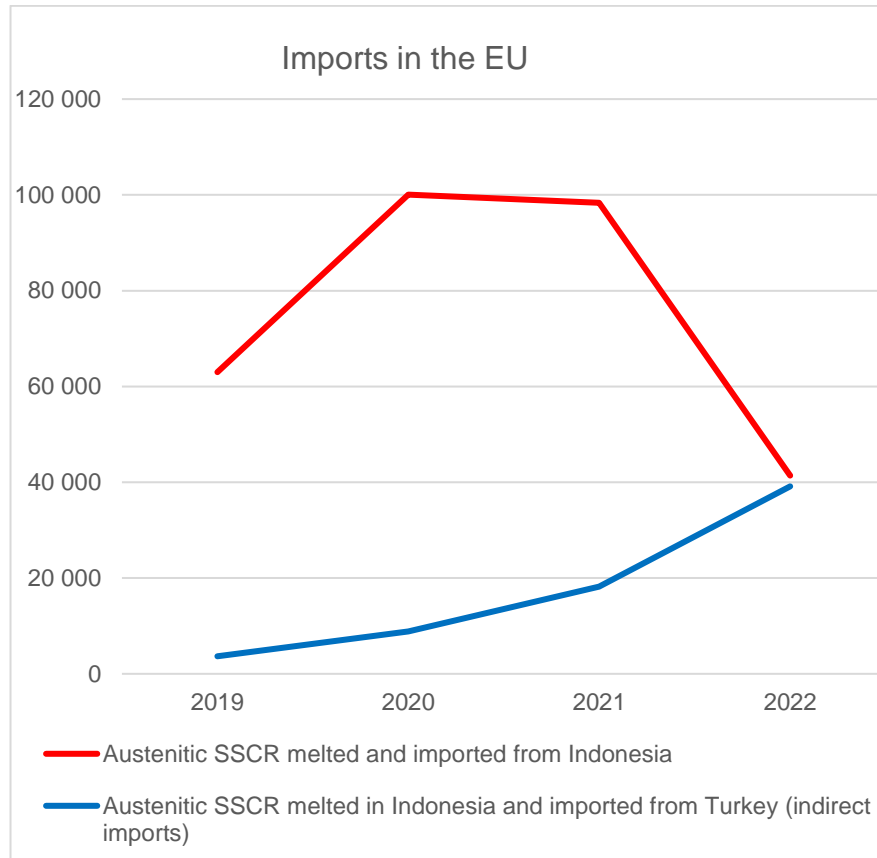
case the anti-dumping duty on imports of SSHR from Indonesia (...) the Commission concluded that the anti-dumping duty imposed on imports of SSHR originating in Indonesia was circumvented by imports of the product under investigation consigned from Türkiye by Çolakoğlu."²⁵

- (63) Because of the above, and because the Commission convincingly established that slabs imported into Turkey are exported to the EU as SSHR, the Applicant has not included Indonesian stainless steel slabs in its assessment of the indirect imports via Turkey. It therefore only accounted for the imports of SSHR from Indonesia and other sources.

In tonnes	2019	2020	2021	2022
Inputs from Indonesia imported in Turkey	15.500	26.402	73.367	100.795
Index	100	170	473	650
Imports of SSCR from Turkey in the EU	87.967	73.833	105.600	125.057
Index	100	84	120	142
Of which indirect imports	3.667	8.842	18.199	39.142
Index	100	241	496	1067

- (64) Imports into Turkey of Indonesian-sourced inputs have exploded by more than 500% since 2019, from about 15.500 to above 100.000 tonnes. The main increase occurred as from 2021 onwards. As inputs from other sources have remained more or less the same, all increase has come exclusively from Indonesia. This increasing trend corresponds to the increase of indirect imports via Turkey into the Union, the main driver behind the significant increase in imports from Turkey.

²⁵ Ibid., rec. 68,108.



In tonnes	2019	2020	2021	2022
Imports of SSCR from Indonesia	72.768	106.488	107.364	51.379
Index	100	146	148	71
of which austenitic imports	62.974	100.055	98.329	41.400
Index	100	159	156	66
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- (65) Indirect imports from Turkey have increased exponentially since the opening of the investigation and the imposition of measures on Indonesian SSCR. This is largely due to the re-routing of Indonesian inputs through Turkey, located at the EU's doorstep. The speed at which indirect imports increased in 2021 and 2022 contrasts with the stability and then decline of the imports from Indonesia to the EU, highlighting the emergence of an alternative channel of imports. The rapid increase in imports from Turkey owes much to the fact that, as evidenced in the SSHR investigation, Turkey is a convenient base for Tsingshan to access the Union market.
- (66) There are two producers of SSCR in Turkey which, according to available information, rely to varying degrees on SSHR from Indonesia to supply the EU market on the back of supply agreement with Tsingshan.

- South-Korean owned POSCO Assan TST [has cold-rolling capacities of 275 000 to 425 000 tonnes. The Applicant has also added confidential information on Posco feedstock.]²⁶
- In addition, Turkey is also home to the re-roller Trinox, which [has cold-rolling capacities of minimum 75 000 tonnes. The Applicant has also added confidential information on Trinox feedstock.]²⁷

5.2.3 Indirect imports via Vietnam

- (67) SSCR production in Vietnam exclusively stems from re-rollers, as the country currently has no stainless steel melting and hot rolling capacities. This means that all the SSCR produced in Vietnam is produced from SSHR imported from third countries, and notably from Indonesia. This makes it relatively easy to identify indirect imports to the EU.
- (68) Vietnam has previously been used as a circumvention hub by Chinese-owned companies. On 29 March 2023, the US Department of Commerce determined that duties on cold-rolled stainless steel from China were circumvented by processing them in Vietnam.²⁸

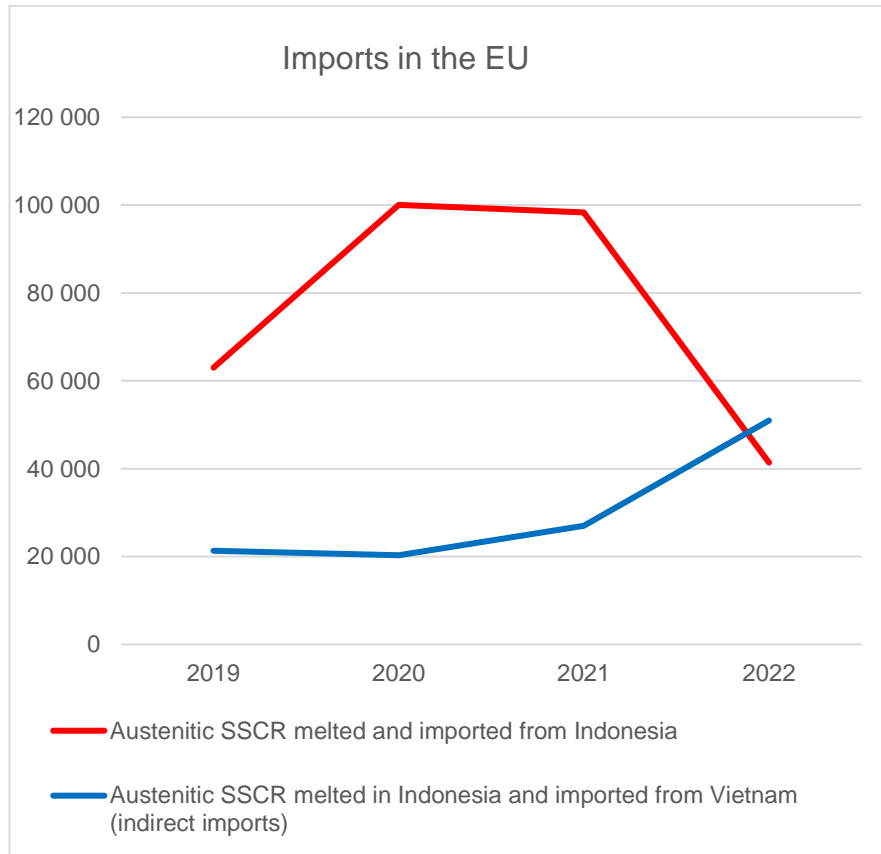
In tonnes	2019	2020	2021	2022
Inputs from Indonesia imported in Vietnam	197.366	178.868	242.399	356.987
Index	100	91	123	181
Imports in the EU of SSCR from Vietnam	36.855	35.338	51.559	86.720
Index	100	96	140	235
Of which indirect imports	21.305	20.310	26.976	50.983
Index	100	95	127	239

- (69) The imports of Indonesian inputs into Vietnam have similarly increased by 81% since 2019, progressively marginalising imports from other sources, as from 2021 in particular. The massive increase in imports in 2022 confirms the reliance on imports from Indonesia for exports to third countries. The 2022 volume corresponds to an increase of indirect imports of Indonesian SSCR into the Union via Vietnam of 139%, or from 21.305 to 50.983 tonnes.

²⁶ Please see Annex - Exporting producers in third countries and capacities.

²⁷ Please see Annex - Exporting producers in third countries and capacities.

²⁸ International Trade Administration, Stainless Steel Sheet and Strip From the People's Republic of China: Final Scope Ruling and Final Affirmative Determination of Circumvention for Exports From the Socialist Republic of Vietnam, 29 March 2023, <https://www.federalregister.gov/documents/2023/03/29/2023-06500/stainless-steel-sheet-and-strip-from-the-peoples-republic-of-china-final-scope-ruling-and-final>.



In tonnes	2019	2020	2021	2022
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(70) Vietnam is an important exporter of SSCR to the Union, most of which concerns indirect imports from Indonesia. The country has no melting capacity and all SSCR exported to the Union is thus by definition melted in a third country. While the volume of indirect imports was stable and limited between 2019 and 2020, it increased as from 2021 and skyrocketed in 2022. This increase largely coincide with the EU investigation and measures, and the subsequent decline in imports from Indonesia. The increase in imports between 2020 and 2021 and, more significantly between 2021 and 2022 therefore marks a change in the pattern of trade.

(71) The exporting producers of SSCR in Vietnam maintain close links with Tsingshan. As evidenced by the US investigation, capacities in Vietnam are routinely used (and possibly dedicated) to circumvent trade measures, including on Indonesian SSCR. Despite marginal domestic consumption, Vietnam is home to no less than three re-rollers, mostly focusing on exports.

(72) The main exporting producer in Vietnam is Chinese producer Yongjin. A close associate of Tsingshan, Yongjin is one of its primary partners in China for cold-rolling Indonesian products,

notably in the province of Fujian. Yongjin and Tsingshan maintain extensive supply agreements and participate together in a joint venture which supplies Yongjin's Guangdong (China) 680.000 tonne steel factory.²⁹

- The Company has started construction, in 2020, of a new factory in Long Giang Industrial park in Tien Giang, Vietnam. The capacity of the plant amount to 250.000 tonnes of SSCR fed exclusively from imported SSHR. The plant started operation in 2022³⁰ and its purpose is to "*increase production further and develop overseas market*".³¹
- In 2022, the same Yongjin announced another Vietnam factory for stainless steel, this time in Tan Viet.³² The project concerns a 125 million USD investment on an area of about 12,6 hectares. In total, the projected SSCR output is 260.000 tonnes each year.

(73) It is unlikely that these project primarily aim to serve the domestic market. Already in 2019, local steel producers protested the establishment of the Tien Giang factory because Vietnam already had stainless overcapacities: "*The total designed capacity of the domestic cold-rolled steel industry reached more than 700,000 tonnes, so local producers now can only run at about half of their designed capacity, according to the petition. The local demand for stainless steel will continue to be met with an oversupply of 229,000 tonnes up until 2021, according to global market analysis by CRU Group calculated on the assumption of 8.4 per cent positive average growth per year.*"³³ The SSCR produced by Yongjin, soon up to 510.000 tonnes per year, is thus likely produced from Indonesian SSHR and meant for export.

(74) Two other SSCR producers also operate in Vietnam.

- South Korean owned POSCO VST has a cold-rolling line with a capacity of [between 200 000 and 400 000 tonnes. The Applicant also included confidential information on Posco feedstock].³⁴
- Vietnamese producer Inox Hoa Binh has a cold-rolling line with a capacity of [between 150 000 and 220 000 tonnes. The Applicant also included confidential information on Inox feedstock].³⁵

²⁹ Please see Annex - Exporting producers in third countries and capacities.

³⁰ Kallanish, Yongjin Vietnam sees first coil production, 22 March 2022, <https://www.kallanish.com/en/news/steel/market-reports/article-details/yongjin-vietnam-sees-first-coil-production-0322/>.

³¹ Asian Metal, Yongjin starts construction of precision stainless steel plate and strip project in Vietnam, 28 October 2020, <https://www.asianmetal.com/news/1591383/Yongjin-starts-construction-of-precision-stainless-steel-plate-and-strip-project-in-Vietnam>.

³² Nghe An Portal, Granting the Investment Registration Certificate for Tan Viet Metal Science and Technology Plant project, 9 November 2022, <https://nghean.gov.vn/new-events/granting-the-investment-registration-certificate-for-tan-viet-metal-science-and-technology-plant-539706>.

³³ Vietnam Investment Review, New steel projects bewilder producers, 14 June 2019, <https://vir.com.vn/new-steel-projects-bewilder-producers-68495.html>.

³⁴ Please see Annex - Exporting producers in third countries and capacities.

³⁵ Please see Annex - Exporting producers in third countries and capacities

5.3 The change stems from a practice for which there is insufficient due cause or economic justification other than the imposition of the duty

5.3.1 Practice, process or work

5.3.1.1 The change stems from a practice for which there is insufficient due cause or economic justification other than the imposition of the duty.

(75) As set out above, the change in the pattern of trade consists of substituting a significant share of imports of Indonesian SSCR by imports of SSCR produced from Indonesian stainless steel slabs and SSHR in the targeted countries. These indirect imports result from the re-organisation of trade flows between Indonesia, their original source and their final destination - the European Union. This pattern involves the Indonesian exporting producer targeted by the original investigation.

(76) This segmentation of the production process combined with the reorganisation of the trade flow between Indonesia and the EU, constitutes a 'practice, process or work' through which the EU measures are circumvented, within the meaning of Article 23 of the basic AS Regulation. The practice of slightly modifying Indonesian stainless steel inputs into the product concerned also constitutes an assembly or completion operation, as set out in recent Commission findings on SSHR from Turkey.³⁶ It is obvious that this behaviour is explained by the desire to avoid countervailing duties on Indonesian SSCR, and that the reorganisation of the pattern of trade has insufficient due cause or economic justification.

5.3.1.2 Practice, process or work

(77) For lack of an exhaustive list of the practices susceptible to constitute circumvention under the basic AS Regulation, processing Indonesian stainless steel slabs and SSHR into SSCR stands at the halfway point between the 'slight modification' and 'consignment' via a third country. This operation is undoubtedly a practice, process or work with the meaning of the basic Regulation, following the example recently found by the Commission to constitute an assembly or completion operation. Despite its very limited cost, this operation is sufficient to avoid EU duties on Indonesian SSCR by taking advantage of the EU rules on non-preferential origin, as set out in Annex 22-01 of Regulation 2015/2446.³⁷

(78) This reorganisation of trade flows, transferring processing phases which require production facilities but generate limited costs of productions to third countries, essentially serves the purpose of avoiding measures. That cold-rolling (and sometimes hot- and cold- rolling) takes place in a third country, along traditional sea roads to the EU, confirms that the overall purpose of the operation is to ensure delivery free of countervailing duties of a product normally subject to measures on the EU market.

(79) The change in the pattern of trade of SSCR between Indonesia and the EU therefore stems from a practice, process or work within the meaning of Article 23 of the basic AS Regulation. It is not

³⁶ 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

³⁷ Introductory notes and list of substantial processing or working operations conferring non-preferential origin of the COMMISSION DELEGATED REGULATION (EU) 2015/2446 of 28 July 2015 supplementing Regulation (EU) No 952/2013 of the European Parliament and of the Council as regards detailed rules concerning certain provisions of the Union Customs Code.

the accidental outcome of a resurgence in fair imports following the imposition of the EU CVD measures, nor the result of exogenous economic factors.

5.3.2 Assembly operation

- (80) As found by the Commission in recent investigations, including on SSHR from Turkey, circumvention of a measure may stem from an assembly or completion operation when (i) the operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation and when (ii) the parts concerned from the country subject to measures constitute 60% or more of the total value of the parts of the assembled product and the value added to the parts brought in, during the assembly or completion operation, is lower than 25% of the manufacturing cost.
- (81) The figures provided show, both at cumulated and country-specific level, that the practice became substantial only after the initiation of the investigations on imports from Indonesia. It is also apparent that it developed in parallel to the investigation, further increasing after imposition of the measures.

60% threshold

- (82) As indicated in the description of the production process, stainless steel slabs and, directly downstream, SSHR are the sole "part" used in the production of SSCR, and therefore in the "assembly" or "completion" operation resulting into SSCR. These "parts" therefore necessarily represent 100% of the total value of the parts of the completed products. As a consequence, the parts used in the production process necessarily "*constitute 60 % or more of the total value of the parts of the assembled product*" with regard to indirect imports from Indonesia.
- (83) In line with the intrinsic logic of the assembly or completion test, the 60% threshold must be assessed at the level of the circumventing product itself rather than at the level of the entire production of the like product in a company or a country. Doing otherwise would unduly extend the requirements under the assembly test and set an acceptable level of circumvention in relation to the proportion of legitimate exports by a producer. Such an approach would unduly limit the efficiency of the anti-circumvention tool with regard to producers already active in the production of the like product and who are active both in circumvention and legitimate production.
- (84) It is in any event obvious, in view of the volume of indirect imports from the countries targeted, that the Indonesian stainless steel semi-products, slabs and or SSHR, represent a large majority or a substantial part of the input used by the exporting producer in the targeted third countries engaging in circumvention of the EU measures. As such, it is clear that exporters processing Indonesian SSHR and slabs into SSCR before exporting them to the EU engage in circumvention of the EU measures.
- (85) The value of the Indonesian inputs used in the production in the targeted countries is a further indication of the extent of the circumvention. However, should the Commission find it necessary to assess the share that this value represents over the total input used in targeted countries or companies, the Applicant has also prepared a specific assessment.
- (86) For Taiwan and Vietnam, the Applicant has estimated the share of Indonesian inputs used in the production of SSCR, as an indication for the share of Indonesian input used in the SSCR exported to the EU.

<i>Share of Indonesian inputs in the production of:</i>	SSCR
Taiwan	62,3%
Vietnam	60,4%

Annex 6 - Assessment of the 60% threshold in production of SSCR

- (87) This assessment does not account for the fact as the parts imported from Indonesia "*still benefit from the subsidy*" within the meaning of Article 23 of the basic AS Regulation, the Commission should adjust the value of the Indonesian inputs to reflect the subsidisation findings. Accounting for the substantial subsidy margin found by the Commission in the original investigation, an assessment based on a fair value of the Indonesian inputs highlights an even higher value share of Indonesian inputs.
- (88) For Turkey, the Applicant has identified that one of the Turkish re-roller, Trinox, [business confidential information not susceptible to public summary]. In view of the high level of imports of Indonesian inputs in Turkey and of the recent findings of the Commission on circumvention of the product directly upstream,³⁸ the confirm the high likelihood that exporters in Turkey circumvent the measures.

<i>Share of Indonesian inputs in the production of:</i>	SSCR
Trinox (Turkey)	[more than 90%]

- (89) This therefore further confirms the likelihood that, in the targeted countries, Indonesian inputs represent above 60% of the value of inputs used in the SSCR imported to the EU. It also confirms that virtually all exporters from those countries are likely to engage, to varying extents, in circumvention. Due account should also be taken of any behaviour funnelling specifically SSCR produced from Indonesian inputs to the EU and of any specific pricing patterns on export prices to the EU that would reflect the use of those subsidised parts by exporting producers.
- (90) The above notwithstanding, the Applicant insists that the fact that exporting producers in the targeted countries also export SSCR to the EU produced from non-Indonesian input is irrelevant to the circumvention assessment. It should have no bearing on the findings that they engage in circumvention if they export to the EU SSCR produced from Indonesian inputs.

25% Threshold

- (91) In addition, the assessment of the respective costs of production of stainless steel slabs, SSHR and SSCR reveals that completion of these items into SSCR only bring a limited added value, in any event significantly below 25%. It has been found in previous EU investigations that downstream processing of stainless steel slabs only bears limited added costs, notably the processing of slabs into SSHR. Similarly, processing stainless steel slabs or SSHR into SSCR represent a very limited addition to the costs of manufacturing.
- (92) Figures of the Union producers and estimates of the cost of manufacturing of Asian exporters, with significantly lower energy and labour cost, reveal that in 2022, accounting for yield and

³⁸ 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.

recovery of internal scrap, the processing of white SSHR into SSCR only brings an added value of about 5%. Processing of black SSHR into SSCR represents less than 8% of the cost of manufacturing of that product. Production of SSCR from stainless steel slabs only require about 10% of added value.

Product stage	Added value share
Slabs	[10-14]%
Black SSHR	[4-8]%
White SSHR	[2-6]%
SSCR	

Annex 7 - Assembly operation test

- (93) As for the value of the Indonesian inputs, it is important, in the analysis of the added value in the production of SSCR exported to the EU from third countries, to account for the fact that the parts imported from Indonesia *"still benefit from the subsidy"*. Consequently, due account should be taken of the fact that the value of these inputs is likely to be artificially low. It is therefore necessary to replace it with a fair value to reach representative conclusions on the extent of the circumvention practice.

Conclusion

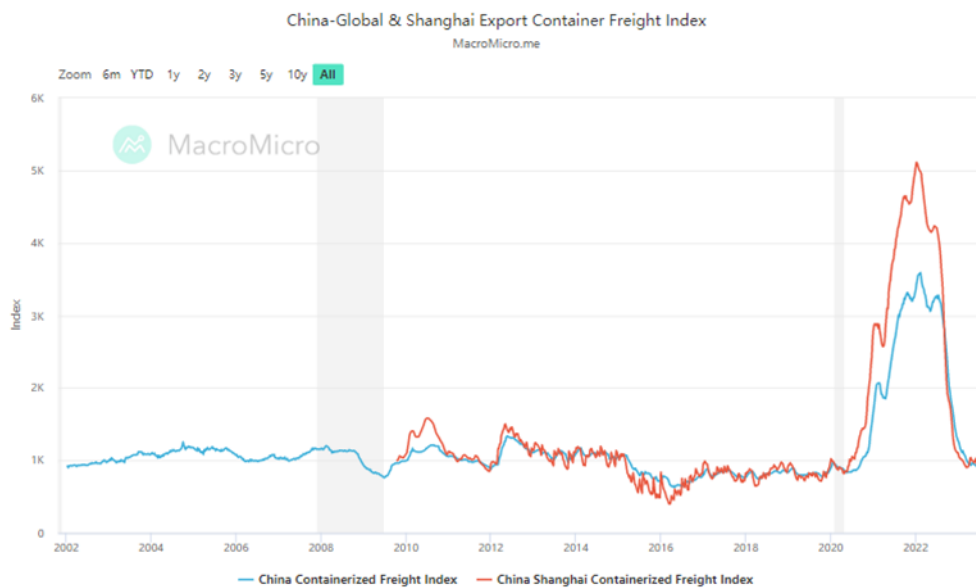
- (94) It is therefore obvious that the part imported from the country subject to the measures – the Indonesian slab or SSHR – represents significantly more than 60% of the parts of SSCR. In the meantime, the value brought by the completion operation – the cold-rolling, potentially complementing hot-rolling – is considerably lower than 25% of the manufacturing cost of the SSCR. The indirect import from Indonesia via third countries of SSCR therefore constitutes a circumvention within the meaning of Article 23 of the basic Regulation.

5.3.3 Insufficient due cause or economic justification other than the imposition of the duty

- (95) Before the initiation of the investigation and the imposition of the measures, EU importers bought their SSCR directly from Indonesia, already cold-rolled. The import numbers set out above are proof of this: Indonesian imports from 2019 were high, increased in 2020 despite COVID, plateaued in 2021 parallel to the initiation of the investigation, and then steeply declined in 2022 once the Commission imposed measures on imports of Indonesian SSCR.
- (96) Exporting SSCR directly from Indonesia was demonstrably the most efficient trade pattern before the imposition of duties, and is indeed the most logical and efficient way to obtain Indonesian SSCR. However, the imposition of the countervailing measures caused a limited part of the production process of SSCR to move to various third countries, as a way to reroute Indonesian imports destined for the Union market. There is no economically sound reason why the relevant players would separate a production process normally completed in Indonesia into various stages all over the world. To the contrary: it adds a needlessly complex, displaced step to an otherwise fairly straightforward and completely vertically integrated production process.
- (97) In fact, from a production point of view, the main difference between the new pattern of trade and the former is that it induces significant additional inefficiencies. Instead of a single direct shipment of SSCR from Indonesia to the EU, the new pattern of trade implies a myriad of new shipping

routes to the third countries and then shipping to the EU. As such, it requires at least two distinct shipping operations for every third country, which in turn at least doubles the number of loading and unloading operations. It also requires additional road transportations in the third country in question: transporting the semi-finished product from the third country port to the cold-rolling plant (and sometimes the hot-rolling plant), and back to the port with finished SSCR.

- (98) Those additional logistic steps were exceptionally inefficient in 2022, a year with very high freight rates. Throughout the year, rates stayed well above those of previous years, as a consequence of worldwide supply chain bottlenecks and the war in Ukraine. The graph below shows that spot rates in Asia remained at unprecedented heights throughout 2022, and that each additional container of freight could dramatically increase production costs.



*Freight rates*³⁹

- (99) Elsewhere, operators dealt with this by increasing local supply (thus avoiding overseas freight costs and minimising transport). The extremely high prices in the beginning of 2022, for example, translated to higher railway freight volumes, which only decreased when container prices decreased slightly at the end of 2022.⁴⁰ Indeed, this is a logical and efficient reaction to high maritime freight prices.
- (100) Crucially, indirect imports of Indonesian SSCR show a completely opposite reaction. As shown above, imports from Indonesia decreased in 2021 and 2022 (years with extremely high maritime freight prices), and indirect imports, which require exporting Indonesian SSHR or slabs to a third, overseas country which then in turn re-exports the finished SSCR to the EU, became a much more popular option. Rather than directly exporting SSCR from Indonesia, the preferred option was adding an additional, overseas journey, with all the costs and availability risks that entailed. This additional journey had the purpose of generally adding less than 10% of the value of SSCR, an operation for which Indonesia had ample capacities (reaching up to [1 150 000 - 1 700 000

³⁹ Source: <https://en.macromicro.me/charts/947/commodity-ccfi-scfi>.

⁴⁰ Uply, China-EU rail freight: a highly sensitive market, 21 February 2023, <https://market-insights.uply.com/en/china-eu-rail-freight-a-highly-sensitive-market>.

tonnes] annually in 2022)⁴¹ - as evident from the massive volumes of direct imports in 2020 and 2021. This unnecessary, risky, expensive complication has the purpose of avoiding the Union's import duties - which significantly exceed the cost of processing Indonesian inputs in third countries.

- (101) Besides the additional freight cost, the new pattern also creates a completely separate range of inefficiencies. One of such inefficiency relates to the replacement of an integrated and calibrated industrial process by a process in separate stages, where each actor requires adequate remuneration. Another relates to the limited added value of the processing operations themselves, which would normally seriously limit the competitiveness of re-rollers when exporting beyond their domestic market. This is in particular true when re-rolling facilities lack facilities for initial annealing and pickling and require the use of white SSHR. Along other industrial inefficiencies, separating the melting phase from the hot-rolling phase also prevents energy gains related to proximity from the melting and casting. Similarly, separation of the hot-rolling and/or cold-rolling phase from the melting means that internal scrap and dust resulting from yield cannot be re-melted directly but has to be collected and sold to the market, or even represent net losses for actors.
- (102) On top of these production issues, those new patterns also requires that exporting producers, despite the limited additional value of the last production steps, develop oversea subsidiaries or supply agreements, as well as coordinate the production schedule of multiple producing entities in various third countries. Importers, in turn, must account for increased lead times and an increased likelihood of supply disruptions, and are faced with additional risks of technical defects as a result of the number of actors involved.
- (103) The multiplication of re-rolling activities in third countries, far beyond the need of domestic consumption, as a way to splinter the production process solely to avoid duties is an increasingly common feature of the steel trade flows. Stainless steel is not spared from this fate: recent circumvention findings both in the US on the product concerned and in the EU on the directly upstream product confirm that these investments are driven by the wish to avoid of duties on the main export market. This is further evidenced by the close links between the main Indonesian exporter and many of the re-rollers and by the fact that that these intermediate actors, despite an organically lower level of efficiency, are able to successfully target long range export markets.
- (104) All these elements very plainly show what is happening: the Indonesian SSCR exports are still ending up on the Union market, widely subsidised, only this time they are taking a *pro forma* detour through third countries. Moving this marginal part of the production process through these third countries is costly, inefficient and redundant – until one takes the duties into account, which then plainly become the only possible reason for such a manoeuvre to take place. Despite all these inefficiencies, such pattern allows continuation of unfairly low priced imports of Indonesian stainless steel in the EU as the additional costs incurred remain significantly lower than paying the countervailing duties on Indonesian SSCR.
- (105) In the absence of the duties, there would be no justification and no economic benefit for EU users to rely on such a complex pattern rather than importing SSCR directly from Indonesia. Consequently, it is apparent that the change in the pattern of trade stems from a practice for which there is no due cause or economic justification.

⁴¹ See annex Exporting producers and capacities

6. CIRCUMVENTION UNDERMINES THE REMEDIAL EFFECTS OF THE EU MEASURES

(106) The purpose of the countervailing duties is to protect the Union Industry against the damaging effect of imports from a third country engaging in injurious subsidisation. In the original investigation, the Commission highlighted the significant subsidisation of Indonesian SSCR and decided to countervail these subsidies through substantial countervailing duties. The circumvention of the measures via the countries concerned effectively negates that protection to the detriment of the Union Industry, as it allows for a significant volume of imports of SSCR at remarkably low prices.

6.1 Significant volume of imports undermining the remedial effect of the measures

(107) As shown above, after an initial decline, the indirect imports of Indonesian SSCR into the Union have increased at a staggering pace. Between 2020 and 2022, they increased massively, almost four-fold. This increase clearly coincided with the investigation and the measure, hence their explosion in 2022, when ostensibly the new routes planned out after the initiation of the investigation fully started to get used.

(108) As a result of their massive increase, the indirect imports represent a significant share of the overall imports of SSCR in the EU and an increasing share of the overall imports of SSCR from the targeted countries, significantly outpacing their growth. With imports from the targeted countries representing 35,6% of imports of SSCR in the EU, indirect imports reached an estimated and conservative level of 14,3% of the imports in 2022. The true extent of how indirect imports undermine the remedial effect thus lies somewhere between these two numbers.

In tonnes	2019	2020	2021	2022
Imports of SSCR from Indonesia in the EU	72.768	106.488	107.364	51.379
Index	100	146	148	71
Imports of SSCR from the targeted countries in the EU	310.436	234.241	375.951	463.195
Index	100	75	121	149
of which indirect imports	76.898	55.915	120.059	186.578
Index	100	73	156	243

Annex 8 - Effect on the EU market: volumes and market share

(109) That trend is also visible on a country per country level. In each of the targeted countries, the estimated indirect imports also represent a significant share of the total imports of SSCR in the EU. The assessment proposed by the Applicant shows that these indirect imports represent no less than a third of the imports in the EU of SSCR from the third countries and sometimes significantly more. As the methodology of the Applicant is conservative and likely underestimates the volume of these indirect imports, the actual volume from those countries provides a good indication of the potential extent of the indirect imports, in terms of volumes. That share is even more prevalent and exceeds 60% on average for austenitic stainless steel.

In tonnes, in 2022	Imports from targeted countries	Of which Indirect imports	Share
Taiwan	251.418	96.454	38,4%
Turkey	125.057	39.142	31,3%
Vietnam	86.720	50.983	58,8%
Total imports	463.195	186.578	40,3%

- (110) In addition, this massive increase of imports in terms of volume is particularly telling when compared to the overall imports of SSCR in the EU. First, because the imports from the targeted countries and in particular the estimated indirect imports represent a massive and quickly increasing share of overall imports. Second, because the speed at which they have increased starkly contrasts with the increase of other imports. This is all the more true as most of the increase of other imports originate in China, through which the Applicant suspects that indirect imports could also occur. This clearly shows that the volume concerned of relevant imports is of a nature to affect the situation on the EU market.

In tonnes	2019	2020	2021	2022
Total imports of SSCR in the EU	928.993	776.245	893.946	1.300.417
Index	100	84	96	140
Imports of SSCR from the targeted countries in the EU	310.440	234.156	375.936	463.195
Index	100	75	121	149
Of which Indirect imports	76.898	55.915	120.059	186.578
Index	100	73	156	243
Imports of SSCR from other countries (excluding China) in the EU	608.341	528.097	483.486	528.822
Index	100	87	79	87
Imports of SSCR from China in the EU	10.212	13.992	34.524	308.400
Index	100	137	338	3.020

- (111) Evidently, the high volumes of imports from the targeted countries, including the indirect imports, make up a significant and vastly increased share of the EU consumption of the product concerned. Overall, the market share of imports from the targeted countries has grown substantially to reach nearly 12% of the EU market share, an increase evidently achieved on the back of growing indirect imports. Once again, this share and its growth is even more substantial when considering austenitic stainless steel in particular.

EU consumption, market share (in tonnes and %)	2019	2020	2021	2022
SSCR EU market	3.628.501	3.325.321	3.853.431	4.088.315
EU mills deliveries	2.699.508	2.549.076	2.959.485	2.787.898
Total Imports of SSCR in the EU	928.993	776.245	893.946	1.300.417
Of which imports of SSCR from the targeted countries	310.440	234.156	375.936	463.195
Of which indirect imports	76.898	55.915	120.059	186.578
Market share EU mills	74,4%	76,7%	76,8%	68,2%
Market share imports of SSCR in the EU	25,6%	23,3%	23,2%	31,8%
Of which imports of SSCR from the targeted countries	8,6%	7,0%	9,8%	11,3%
Of which indirect imports	2,1%	1,7%	3,1%	4,6%

- (112) That market share remains very significant when assessed at the level of the EU market as a whole, showing the disruptive impact of the indirect imports on the EU market and their ability to undermine the remedial effect of the measures. The market share of imports from the targeted countries, including indirect imports in particular, has significantly increased over the last four years. It is significant enough to allow the indirect imports to have a major shaping power on

supply and prices on the EU market. For reference, the combined market share of India and Indonesia in the original measures was found to amount to 5,5-5,8% of the EU market.⁴² The market share for imports from Indonesia peaked in 2020 amounted to 3,2% for SSCR as a whole and 4,0% for austenitic SSCR before declining in 2021 and more significantly in 2022.⁴³

- (113) Imports from the targeted countries (including indirect imports) represent collectively, in 2022, a major share of EU imports. This is also true on an individual basis. As for the volume of indirect imports, these shares are conservative estimates and are likely higher in reality. Unsurprisingly, these shares are even more substantial when focusing solely on the EU market for austenitic stainless steel.

Market share, in 2022	Imports from the targeted countries	Of which indirect imports
Taiwan	6,1%	2,4%
Turkey	3,1%	1,0%
Vietnam	2,1%	1,2%
Total imports	11,3%	4,6%

- (114) The above reveal both the extent of the circumvention pattern identified and its ability to undermine imports on the basis of sheer volumes imported in the EU. It reveals the utmost necessity for the Commission to address the circumvention pattern and to take all necessary measures to prevent the continuation of alternative flows of indirect imports. In any event, the indirect flow of imports seriously affects the usefulness of one of the most innovative countervailing measures adopted by the Commission, threatening the integrity of that measure on imports from Indonesia and of the Union's TDI policy overall.

6.2 Low prices undermining the remedial effect of the measures

- (115) It was found over the course of the investigation that imports of SSCR from Indonesia undercut EU prices by 12,4%.⁴⁴ In the parallel anti-dumping investigation, the Commission had identified that the depreciating impact of the price of Indonesian imports went beyond that undercutting. It calculated injury margins of above 30%.⁴⁵
- (116) When assessing the price effect of the indirect imports on the EU market, it is crucial that costs and prices of SSCR worldwide and in the EU have skyrocketed since the imposition of the measures. A massive increase in the cost of raw materials (nickel in particular) and general inflationary pressure on other inputs, pushed up prices for SSCR in line with costs. This means that although prices are significantly higher than during the original IP, this does not prevent them from undermining the EU measures.

⁴² 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, Table 5.

⁴³ See annex Effect on the EU market - volumes and market share

⁴⁴ 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, rec. 968.

⁴⁵ 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, rec. 150.

- (117) This general increase in prices reflects in particular the increase in cost of the main raw materials. Between 2019 and 2022, the cost of nickel, the main driver of the cost of production, almost doubled, increasing by about 85%. This translated into an increase by nearly 50% of the cost of production of the Union Industry. This worldwide price increase dwarfs the increase in cost of energy suffered by the Union Industry over the same period and is the main driver of the increase in the costs and selling prices of the Union Industry since the original investigation period.

	EU COP of SSCR (EUR/tonne)	World Nickel price (USD/tonne)
2019	2.331	13.907
2022	3.609	25.638
Variation	+54,8%	+84,4%

Annex 9 - Variation of cost of production, raw materials and inputs

- (118) Against this backdrop of significantly increased prices and costs of the Union producers, the import prices from the targeted countries significantly undercut EU prices, even if 2022 prices exceeded those of Indonesian imports during the original IP. The Applicant has assessed the existence of undercutting both for the overall imports from the targeted countries and based on an estimated level of price of the indirect imports.
- (119) To provide a meaningful comparison, the Applicant has accounted for the difference in the product mix between EU producers and third country exporters in the undercutting calculations based on the imports from the targeted countries as a whole. The Applicant has assessed the price of indirect imports specifically conservatively, based on the price difference between austenitic SSHR inputs from Indonesia and from other sources. When necessary, it also accounted for the existing anti-dumping duties on imports of SSCR from the countries concerned, at the level of the higher residual duty.

2022	Imports from the targeted countries	Of which indirect imports
Undercutting	13,5%	18,3%

Annex 10 - Effect on the EU market: undercutting

- (120) That overall significant level of undercutting for imports from the targeted countries already shows, a priori, how indirect imports undermine the efficiency of the EU measure by allowing the persistence of imports at a price significantly lower than that of the EU producers in 2022. It is also particularly telling that the overall level of undercutting exceeds the level established for imports from Indonesia over the initial investigation period. This price pressure and clear undercutting can also be established on an individual basis for each of the third countries via which the indirect imports of SSCR reach the EU market.

2022	Imports from the targeted countries	Of which indirect imports
Undercutting by import from Taiwan	13,7%	18,5%
Undercutting by import from Turkey	14,5%	19,7%
Undercutting by import from Vietnam	11,2%	16,8%

- (121) As mentioned above, the average prices for imports from the third countries include both indirect imports of SSCR and "normal imports" from those third countries without established links with Indonesian inputs, slabs or SSHR. As a consequence, it is likely that the actual levels of undercutting are substantially higher for the indirect imports made from processed Indonesian

subsidised inputs. This is reflected in the estimated prices for indirect imports assessed on the basis of the differential in price between Indonesian and non-Indonesian inputs. Multiple examples of abnormally low priced imports from the targeted countries confirm that the approach adopted by the Applicant is reasonable.

Annex 11 - Illustration of low priced imports from third countries

- (122) The protection granted to the Union industry by the original measures has largely been rendered insufficient by the developments of flows of low priced indirect imports. The indirect import prices are about a fifth below the average comparable EU prices, making any fair competition impossible.
- (123) The subsidies granted by the Indonesian government therefore continue through indirect imports, entering the EU in significant volumes and at unfairly low prices to disrupt the Union market and prices through indirect imports. The indirect imports of SSCR to the EU thus undermine the remedial effect of the measures, initially intended to prevent the main Indonesian exporting producer from leveraging its subsidies to capture the EU market.

7. SUBSIDISATION IN RELATION WITH THE LIKE PRODUCT FROM THIRD COUNTRIES

- (124) As shown above, prices of SSCR from the targeted countries significantly undercut EU prices at levels similar to or exceeding those of Indonesian imports over the original investigation period. That ability to sell significantly below fair prices on the EU market stems from the subsidisation occurring in Indonesia for the production of stainless steel, evidenced in the investigation leading to the imposition of the circumvented measures.
- (125) Over the course of the original investigation, the Commission found that the Indonesian exporting producer of SSCR benefited from massive subsidisation, in virtually all aspects of its activities. As a consequence, the Commission imposed a subsidy margin of 21.4% on Tsingshan imposed countervailing duties at that level.⁴⁶ The subsidisation findings related largely to the provision of nickel ore and land for less than adequate remuneration, support for capital investments, non-market loans and preferential fiscal and custom regimes. The subsidisation affected all sales of the products, regardless of the customer, with some additional subsidisation limited to export to third countries, including but not limited to the EU.
- (126) Because of its very nature, and because the purpose of that support was always to establish from scratch a fully integrated Indonesian stainless steel industry, these subsidies were provided to cover the entire production chain of SSCR; from the raw material until the end-products. This is particularly obvious for the provision of nickel ore at less than adequate remuneration, as set out in recital 532-534 of the original investigation. The same is true for significant financing provided to Tsingshan group's company Sulawesi Mining Investment, active on the upstream stages of the production process, NPI and melting of slabs,⁴⁷ through Reed International.

⁴⁶ 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, Article 1.

⁴⁷ Commission Implementing Regulation (EU) 2020/508 of 7 April 2020 imposing a provisional anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan, Recital 51.

- (127) The subsidisation found over the course of the original IP has continued. The Brazilian authorities have confirmed this in their investigation targeting Indonesia. They imposed countervailing duties of 18,79% on imports of certain SSCR from Indonesia, as recently as 1 December 2022. These findings identify the provision of nickel ore at less than adequate remuneration, affecting the direct inputs for SSCR.

Annex 12 - Findings of the Brazilian authorities

- (128) The Commission itself has also found that the subsidisation continues, for example when it held that benefit from the subsidies identified should be spread "*on the useful life of the assets*" found to be subsidised,⁴⁸ based on the depreciation period of the loans,⁴⁹ or on the amortisation duration of the machines.⁵⁰ Consequently, besides the recurring subsidies identified by the Commission which continue to apply in Indonesia, even one-off subsidies continue to affect the production and sales of SSCR in Indonesia, including for the upstream inputs.
- (129) As shown above, worldwide nickel prices have significantly increased since the original investigation period. In these circumstances, the benefit granted to Indonesian stainless steel producers through the provision of nickel ore at less than adequate remuneration mathematically increases, reinforcing the incentives and the means to circumvent the EU measures. That logic is further reinforced by the Indonesian's numerous announcements of its intent to complete its nickel policy with measures restricting the exports of NPI to increase the domestic production of stainless steel and to provide it with a supplementary advantage over overseas competitors. Similar to the measures on nickel ore, this will further increase domestic availability of NPI, reducing the costs of inputs for the exporting producers. Updated calculations reveal that in any event, Indonesian nickel remains priced at a level significantly lower than the available benchmark, confirming that subsidisation persist.

Annex 13 - Ni ore subsidy calculation

- (130) It is sufficient, for the purpose of demonstrating circumvention under Article 23 of the basic AS Regulation to establish that "*parts [of the imported like product] still benefit from the subsidy*". As the subsidisation covers all aspects of the production process, it is clear from the above that the "parts" assembled or rather completed in the third countries, the SSHR and/ or the slabs, still benefit from the subsidies. It should also be noted that in view of the close nature of the relationship between Tsingshan Indonesia and the exporting producers in the third countries, those parties are effectively in several cases related. This is evidenced by the comprehensive partnership agreement, corporate links and the overarching influence of the Chinese government. Consequently, in several occurrences subsidies are passed through from the

⁴⁸ 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, rec. 799 for example.

⁴⁹ 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, rec. 800 for example.

⁵⁰ 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, rec. 908.

Indonesian producer to the operator in the third country, eventually exporting the SSCR to the EU.

- (131) It is therefore clear that the subsidisation of the exporting producer in Indonesia extends to the indirect imports of SSCR to the EU. As a result of the indirect imports of SSCR, the EU market and the EU industry remain significantly affected by the Indonesian subsidisation, preventing the countervailing duties on Indonesia to achieve their intended purpose.

8. IMPLEMENTATION OF A MILL CERTIFICATE REQUIREMENT

- (132) The emergence of the indirect imports, as detailed above, have exposed a serious shortcomings in the application of the measure, as evidenced in the present anti-circumvention. That flaw is the ease with which non-preferential rules of origin for stainless steel, in particular the rules of list provided in Annex 22-01 of the Union Custom Code Delegated Act, allow a change in origin of the targeted goods with near minimal processing operations. Consequently, as shown above when assessing the existence of an assembly operation, the processing of slabs or SSHR into SSCR despite transformation costs less than 15% (usually 5%) and allows SSCR to acquire the non-preferential origin of the country where that last processing occurred.
- (133) Whereas that flow of indirect imports was difficult to anticipate at the stage of the initial investigation, the recent developments described in this application would justify the adoption, under Article 24(3) of the basic AS Regulation, of "*special provisions, in particular with regard to the common definition of the concept of origin*" to ensure the efficiency of the measures. The Commission has notably relied on that provision in the past to ensure the efficiency of measures when the sole implementation of the non-preferential rules of origins prevented the measure to achieve their expected purposes. Those special provisions derive from the fact that, in trade defence investigation, custom rules apply only in so far that they allow to achieve the objectives set in the basic Regulations.
- (134) That special provision could be implemented by means of an obligation to present at customs a mill certificate providing the plant of melting. Such information is commonly provided by exporters, together with the heat numbers to allow control of grades and follow-up of claims.
- (135) If the Commission finds that the indirect imports indeed circumvent the measures, the mill certificate requirement should be imposed on imports from companies found not to engage in circumvention from the targeted third countries. Acting in complement to the measures on circumventing exporters, that requirement would constitute a proportionate safeguard against circumvention by companies that could easily switch their supply to (or in the case of an holistic assessment, increase their supply of) Indonesian semi-products if cleared from circumvention. It would also limit the risk of multiplication of anti-circumvention action.
- (136) Eurofer therefore respectfully requests the Commission use the possibilities granted by the EU legislator to ensure the efficiency of trade measures. This is instrumental to ensure a correct implementation of the measure and to limit the burden on the Union Industry to document each and every example of evasion of the duties.

9. CONCLUSION

- (137) As reported in this Application, there is clear and consistent evidence that, in order to avoid duties on Indonesian SSCR, substantial volumes of Indonesian stainless steel slabs and SSHR are imported in third countries where they undergo hot-rolling and/or cold-rolling before being exported to the EU, in conditions undermining the remedial effect of the EU measures and benefiting from Indonesian subsidies. It is also apparent that this change in the pattern of trade aims precisely at exploiting the blind spots of the EU countervailing measures on imports of SSCR from Indonesia.
- (138) The Commission should therefore act decisively to ensure the sturdiness and reliability of the EU measures in the face of that challenge of the EU Trade Defence measures. In view of the above, Eurofer therefore respectfully requests that the Commission:
- Exeditiously initiates an investigation on imports of SSCR from Taiwan, Turkey and Vietnam under Article 23 of the basic AS Regulation;
 - Registers imports of SSCR from Taiwan, Turkey and Vietnam as from the initiation of the investigation, with a view to applying retroactive duties from that date;
 - Imposes countervailing duties at a level of 21.4% on imports of SSCR from Taiwan, Turkey and Vietnam;
 - If necessary, implements under Article 24(3) of the basic AS Regulation a control of mill certificate for imports of SSCR by the exporting producers exempted from the exemption of the measures to prevent recurrence of circumvention.

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