

VAN BAEL & BELLIS

JEAN-FRANÇOIS BELLIS *1
PHILIPPE DE BAERE *1
ANDRZEJ W.J. KMIĘCIK 1 2
PETER L'ECLUSE *1
RICHARD W.D. LUFF *1
CATHERINE LONGEVAL *1
FABRIZIO DI GIANNI *3
BENOÎT SERVAIS *1
KRIS VAN HOVE *1
MARKUS WELLINGER *1
PORTER ELLIOTT *5
TIMOTHY M. KASTEN *6
YURIY RUDYUK *7
PABLO MUÑOZ *8
MICHEL BONNE *1
JOHAN VAN ACKER *1
DAVID W. HULL 1 2 5
MICHEL STRUYS 1 10
ANDREAS REINDL **9
GABRIELE COPPO 1 11
MICHAEL CLANCY *9
ISABELLE VAN DAMME *1

GENEVA OFFICE :

CLOTILDE DU PARC 1

LONDON OFFICE :

ALEX STRATAKIS 2 12 13
NICHOLAS LAWN 2

GLAVERBEL BUILDING
CHAUSSEE DE LA HULPE 166 TERHULPSESTEENWEG
B-1170 BRUSSELS, BELGIUM

TELEPHONE +32 (0)2 647 73 50
TELEFAX +32 (0)2 640 64 99

WWW.VBB.COM

STEPHANIE REINART *4
RESHAD FORBES *1 2
CHARLOTTE NASSOGNE *1
RICHARD BURTON *1 2
ETSUKO KAMEOKA *9
GABOR BATHORY **1
KATHARINA BONGS *4
KOEN T'SYEN *1
THIBAUT D'HULST *1
SARA BEUTELS **1
ALDO SCALINI *11

SRL/BV

1 AVOCAT/ADVOCAT
2 SOLICITOR (ENGLAND & WALES)
3 AVVOCATO CASSAZIONISTA
4 RECHTSANWÄLTIN
5 MEMBER OF THE GEORGIA BAR
6 MEMBER OF THE WISCONSIN BAR
7 MEMBER OF THE UKRAINIAN BAR
8 ABOGADO
9 MEMBER OF THE NEW YORK BAR
10 AVOCAT AU BARREAU DE PARIS
11 AVVOCATO
12 MEMBER OF THE ATHENS BAR
13 MEMBER OF THE IRISH BAR
* SRL/BV ** S.C.S./COMM.V.

European Commission

DG Trade, Directorate G, unit G5

Office CHAR 03/66

1049 Brussels

TRADE-SAFE009-REVIEW@ec.europa.eu

12 March 2021

By TRON

Open version

Dear Sirs,

RE: Safe009R4 – Review of steel safeguard measures in view of their possible extension

Common submission on behalf of the following 33 companies located in 12 EU Member States¹

- | | |
|--|--------------|
| ✓ COMPANY-1 | ✓ COMPANY-17 |
| ✓ ANORDICA (SWEDEN) AND ITS
SUBSIDIARIES IN POLAND AND
FINLAND | ✓ COMPANY-18 |
| ✓ COMPANY-3 | ✓ COMPANY-19 |
| ✓ COMPANY-4 | ✓ COMPANY-20 |
| ✓ COMPANY-5 | ✓ COMPANY-21 |
| ✓ COMPANY-6 | ✓ COMPANY-22 |
| ✓ COMPANY-7 | ✓ COMPANY-23 |
| ✓ COMPANY-8 | ✓ COMPANY-24 |
| ✓ COMPANY-9 | ✓ COMPANY-25 |
| ✓ COMPANY-10 | ✓ COMPANY-26 |
| ✓ COMPANY-11 | ✓ COMPANY-27 |
| ✓ COMPANY-12 | ✓ COMPANY-28 |
| ✓ COMPANY-13 | ✓ COMPANY-29 |
| ✓ COMPANY-14 | ✓ COMPANY-30 |
| ✓ COMPANY-15 | ✓ COMPANY-31 |
| ✓ COMPANY-16 | ✓ COMPANY-32 |
| | ✓ COMPANY-33 |

¹ Identities of the Companies have been provided and disclosed to the Commission in the Limited version of this letter. In the present, non-limited version of the letter, their identities are not disclosed in order to minimize the risk of retaliation.

1. INTRODUCTION

1. On 26 February 2021, the European Commission (“**Commission**”) published in the Official Journal of the EU a Notice of initiation of a review of the safeguard measures applicable to imports of certain steel products (“**Notice**”).² Prior to this review there were already two other reviews conducted, in 2019 and 2020, including COVID-19 and Brexit related reviews, all of which resulted in adaptation of the existing safeguard measures.

2. According to the Notice, the scope of the present review is to assess, *inter alia*, whether the steel safeguard measures should be extended for an additional period of time after their initial date of expiry (i.e. 30.06.2021) or if such measures should be allowed to lapse after that date.

3. The present common submission is filed on behalf of group of companies, independent importers and users of the product category 28 (“Non-Alloy Wire”, hereinafter the “**product category 28**” or the “**product concerned**”) forming part of the Companies Against Import Restrictions (hereinafter “**CAIR**” or the “**Companies**”).

4. Companies forming part of this group are involved in import and distribution, industrial use and production. Several of the Companies actively participated either in the framework of the original safeguard investigation (SFG009, 2018) and/or during the subsequent first review (SFG009R1, 2019), second review (SFG009R2, 2020) as well as Covid-19 related discussions (2020). In brief, the Companies concerned already voiced their strong opposition to the (initial) imposition and (subsequent) continuation of the safeguard measures in relation to the product category 28.

5. In the framework of the present review of the measures, the Companies submit that **the current safeguard measures with respect to product category 28 should expire on 30 June 2021**.

6. The present submission follows the structure requested in item 4.2 of the Notice with regard to the product-specific aspects of the present extension review investigation. At the same time, this submission should be read in conjunction with a common legal position prepared by Van Bael & Bellis³ on the legal aspects of the present review under both the EU and WTO jurisprudence regulating the application and extension of the safeguard measures.

7. In addition to the arguments presented in this submission, the Companies reserve their right to submit further comments throughout the course of this review, including during the rebuttal stage.

2. WHETHER THE MEASURE CONTINUES TO BE NECESSARY

8. The CAIR has previously demonstrated with abundant evidence that the applicable safeguard measures against imports of product category 28 were imposed in the circumstances that the EU wire industry was not suffering any serious injury and that there was no recent, sudden, sharp and significant

² Official Journal of the EU No. C 66/50 of 26.2.2021.

³ The Common Legal Submission prepared by Van Bael & Bellis on the EU and WTO legal aspects applicable to the present extension review is filed separately with the EU Commission in a non-confidential form on behalf of the client.

increase in imports.⁴ Indeed, the Commission didn't take into account at the definitive stage of the initial investigation the fact that the EU wire industry was demonstrating a steady or even improving production and financial results during the period concerned on almost all individual economic parameters.⁵ Moreover, the findings as far as the product category 28 were **made by the Commission in absence of cooperation of the EU wire producers** and their respective Association, which also does not appear to be requesting the extension of the present safeguard measures.⁶

9. Based on the publicly available information, it is only EUROFER that has been submitting information requesting the initiation of an extension review and **since EUROFER does not represent the steel wire industry of the EU**, there are therefore no grounds for the Commission to consider any further potential extension of already highly restrictive safeguard measure, which has already weakened the competitive position and caused important negative consequences for the EU processing companies. Any further extension of the measures will only **consolidate the already shifting balance** of interests to the detriment of the EU processing industry and will jeopardize continuation of its business operations (especially considering the growing pressure of the finished products of processed steel wire imported from abroad).

10. The situation with imports did not change following the imposition of definitive safeguard measures, with imports of product category 28 continuing to fall, from 802.930 MT in 2018 to 741.980 MT in 2019, or by 8%, and further to 600.024 MT in 2020, or by 25% compared to 2018:

Table 1: Imports of product category 28 to the EU27, tons (Source: Eurostat)

	2018	2019	2020
Volume of imports, tons	802.930	741.980	600.024
<i>Index</i>	100	92	75

11. While a drastic decrease of imports in 2020 can be attributed to a certain degree to the effects of Covid-19 pandemic, a significant decrease between 2018 and 2019, as shown above, cannot be explained by anything else than the safeguard measures.

12. In addition, the current safeguard measures cause **important disruptions in the market**. Indeed, they do not take into account the interests of independent importers and stimulate **dysfunctional and speculative operations** driven by speed and the interests of competing companies to make sure that their shipments are within the available quota. Once the quota has been exhausted, the shipments stop and the market enters into a long period of **unstable and unpredictable supply situation** when operators can rely only on the EU producers. These practices lead to losses of business for many of the independent importers and users who simply **cannot afford engaging into risky transactions** in view of application of the punitive safeguard duty of 25%. Such a market regulation introduced by the safeguard measures has to be discontinued and trading has to return to normal and sustainable conditions in which each importer can

⁴ See, letter of the CAIR dated 28 February 2020, in the framework of the second review of the safeguard measures (SFG009R2).

⁵ Regulation (EU) 2018/1013 of 17 July 2018 imposing provisional safeguard measures with regard to imports of certain steel products, pages 37-38 (with respect to product category 28).

⁶ The EU industry association of steel wire producers, i.e. EU Association of Wire-Drawing Industry (*Comité Européen de la Tréfilerie*) did not participate in the initial safeguard investigation and it also did not request the Commission to extend the application of the present safeguard measures.

plan its operations and does not need to take unmeasured risks on import operations because they could be suddenly confronted with a customs bill accounting for 25% import value of their transition.

13. **As a result, the CAIR strongly believes that the current measures are not necessary and should expire on 30.06.2021.**

3. UNION INTEREST CONSIDERATIONS

14. In the Notice of initiation of the present review the Commission noted that its focus would be, *inter alia*, on whether the prolongation of the measures after 30 June 2021 would be in the Union interest.⁷ In this connection, we submit that it is clearly in the Union interest as a whole to repeal the measures for the following reasons:

- increased cost for downstream processors and unpredictability of their operations;
- distortion of competition and efficiency in the EU market when no imports are available due to the quota exhaustion.

15. In addition, while the ongoing Covid-19 pandemic has some impact and limitation to the operation of economic operators involved in the importation and processing of product category 28, the overall demand for this product did not see any sharp decrease. At the same time, the EU downstream processors continue to suffer disruptions and limitations to their operational activity due to interruption with supplies of raw materials, and longer lead times from EU producers, further exacerbated by the existing safeguard measures.

16. This is unacceptable for a downstream industry which supplies very specific and demanding industries working on the basis of long-term contracts and which require regular and guaranteed supplies of the products.

4. CONCLUSION

17. In conclusion, the CAIR submits that the safeguard measures simply cannot be extended any further. The extension of safeguard measures in the present circumstances is not allowed under the existing EU and WTO norms⁸, and is not supported by the current market conditions which call for an uninterrupted, unrestricted supply of raw materials, such as the product category 28. The CAIR therefore respectfully urges the Commission not to extend the safeguard measures post 30 June 2021.

18. Should the Commission decide to extend the safeguard measures after 30 June 2021 for certain product categories, the CAIR submits that the extension should not cover the product category 28, as there is a clear and substantial decrease of imports of these products to the EU in the last three years and the Union interest does not call for prolongation of measures against imports of this product.

⁷ Notice of initiation of 26 February 2021, Section 2 "Scope and objective of the investigation".

⁸ See the Common Legal Submission prepared by Van Bael & Bellis on the EU and WTO legal aspects applicable to the present extension review is filed separately with the EU Commission in a non-confidential formal on behalf of the client.

19. We reserve our rights to file further comments in the framework of the present review, including at the rebuttal stage.
