

Diana Acconcia
Head of Unit G5
DG TRADE
European Commission
Rue de la Loi 170, 1049 Brussels

29 September 2022

Subject: Orgalim comments on the reopening of the safeguard investigation following the ruling of a Panel established under the WTO Dispute Settlement Body (DSB)¹ on the EU safeguard measures on imports of certain steel products.

Dear Ms Acconcia,

Orgalim welcomes the reopening of the investigation on the safeguard measures applicable to imports of certain steel products into the EU², following the ruling (WT/DS595/R) of a Panel established under the WTO DSB dated 31 May 2022.

Orgalim notes with concern that the safeguard measures, imposed definitively since January 2019³, were found inconsistent with specific provisions of the GATT and of the WTO Agreement on Safeguards, i.e.:

- **Article XIX:1(a) of the GATT 1994**, because the European Commission did not ascertain that the increase in imports took place as a result of the unforeseen developments it had identified, and did not identify in its published reports the obligations whose effect resulted in the increase in imports;
- **Article 4.1(b) of the Agreement on Safeguards**, because two central elements of the European Commission's determination of a threat of serious injury were not "based on facts" as required by that provision.

We also note that Turkey, the WTO member who initiated the dispute, called for the DSB Panel to suggest that the EU implement the ruling by revoking the safeguard measures.

Orgalim has consistently and repeatedly challenged the necessity of the safeguard measures since their provisional imposition in 2018, while warning about the risks of potential retaliation by EU trade partners. In

¹ Panel report available at <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/595R.pdf&Open=True>

² See [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0824\(02\)&from=EN](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022XC0824(02)&from=EN)

³ See [Commission Implementing Regulation \(EU\) 2018/1013 of 17 July 2018 imposing provisional safeguard measures with regard to imports of certain steel products https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.181.01.0039.01.ENG&toc=OJ.L:2018:181:TOC](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2018.181.01.0039.01.ENG&toc=OJ.L:2018:181:TOC)

Orgalim represents Europe's technology industries, comprised of 770,000 innovative companies spanning the mechanical engineering, electrical engineering, electronics, ICT and metal technology branches. Together they represent the EU's largest manufacturing sector, generating annual turnover of over €2,076 billion, manufacturing one-third of all European exports and providing 11.33 million direct jobs. Orgalim is registered under the European Union Transparency Register – ID number: 20210641335-88.

parallel, we have joined forces with other downstream industries to bring to the attention of the European Commission the severe negative impact that the safeguard measures have had on Europe's steel users, therefore calling for the termination of such measures.

We believe that the DSB ruling fundamentally supports the arguments that Orgalim has made over the past years. The ruling calls into question, for example, whether the determination of a "threat of serious injury" for the EU domestic industry was "based on facts" and hence whether such measures were justified at the time of their definitive imposition in 2019. In the light of the ruling, we urge the Commission to take into account the interests of the EU downstream steel users, therefore **revoking the safeguard measures to allow more steel imports and to stabilise Europe's technology industries' supply chains.**

The growth prospects of our industry are currently threatened by an extremely volatile international environment. Raw materials prices worldwide have been increasing and their availability has been significantly reduced due to supply chains disruptions since the second half of 2020. In Europe, the situation has been considerably exacerbated by the war in Ukraine, which has caused further disruption to supply chains as well as an unprecedented rise in energy prices, further reducing profit margins for Europe's technology companies, most of which are SMEs and micro businesses.

Steel, specifically, has followed the trend of other industrial raw materials, showing an extraordinary increase in price between Q3 2020 and the beginning of Q2 2022⁴. This caused severe difficulties for our industry to source steel. While more recently steel prices have decreased, the outlook remains extremely volatile and sourcing difficulties will likely remain in the near future. As a consequence of the war in Ukraine, the EU has implemented a ban on steel imports from Russia, while several Ukrainian steel producers have been forced to stop their production due to the war. In 2021, under normal circumstances, Ukraine and Russia accounted for approximately 20% of EU imports of steel⁵. However, it should be noted that for specific countries and steel products that percentage was much higher. For example, an Italian market study⁶ showed that before the war 92% of Italy's imports of steel slabs (a semi-finished steel product) originated from Ukraine and Russia. Therefore, disruptions to the Russian and Ukrainian supplies have further tightened the already strained steel market in the EU.

In this context, the system of quotas and high out-of-quota tariffs created by the safeguard measures constitutes a completely unjustified additional burden for European steel users, further restricting the availability of steel at competitive prices. In particular, our members have reported the following:

- Quotas for specific countries created under the safeguard measures are insufficient and exhaust quickly, forcing companies to pay the 25% out-of-quota duty.
- A number of key steel products are not produced in sufficient quantity in the EU. Despite the safeguard measures, the EU steel industry has not increased production to a level which could meet demand from our industry. In fact, EU steel production decreased by approximately 5% between 2017 and 2021⁷, and this trend is unlikely to reverse in the short term given that the EU steel industry will face rising production costs due to the current energy crisis.

⁴ See Annex I on steel data.

⁵ <https://www.eurofer.eu/assets/publications/brochures-booklets-and-factsheets/european-steel-in-figures-2022/European-Steel-in-Figures-2022-v2.pdf> (p. 41)

⁶ <https://nordesteconomia.gelocal.it/economia/2022/04/13/news/acciaio-russia-e-ucraina-fornivano-il-92-delle-bramme-ai-laminatoi-italiani-nordest-primi-acquirenti-1.41372023>

⁷ <https://www.eurofer.eu/assets/publications/brochures-booklets-and-factsheets/european-steel-in-figures-2022/European-Steel-in-Figures-2022-v2.pdf> (p. 16)

- Importing steel under the quota system represents a considerable administrative burden and a complex task (e.g. as regards the application of art. 1(5) of Commission Implementing Regulation (EU) 2019/159, providing rules for the transfer of quotas⁸), which is especially unfair to SMEs.

We believe that the DSB Panel ruling has essentially called into question whether the EU domestic steel industry was actually facing a “threat of serious injury”, that would have justified the imposition of safeguard measures. Therefore, the burden created by the system of quotas for steel users appears completely unjustified. **We therefore call on the European Commission to implement the DSB Panel ruling by revoking the steel safeguard measures as soon as possible.** Timely action is essential to preserve the competitiveness of Europe’s technology industries – representing a third of Europe’s manufacturing base with over 11.5 million direct jobs, especially in the context of the Russian invasion of Ukraine.

Yours sincerely,



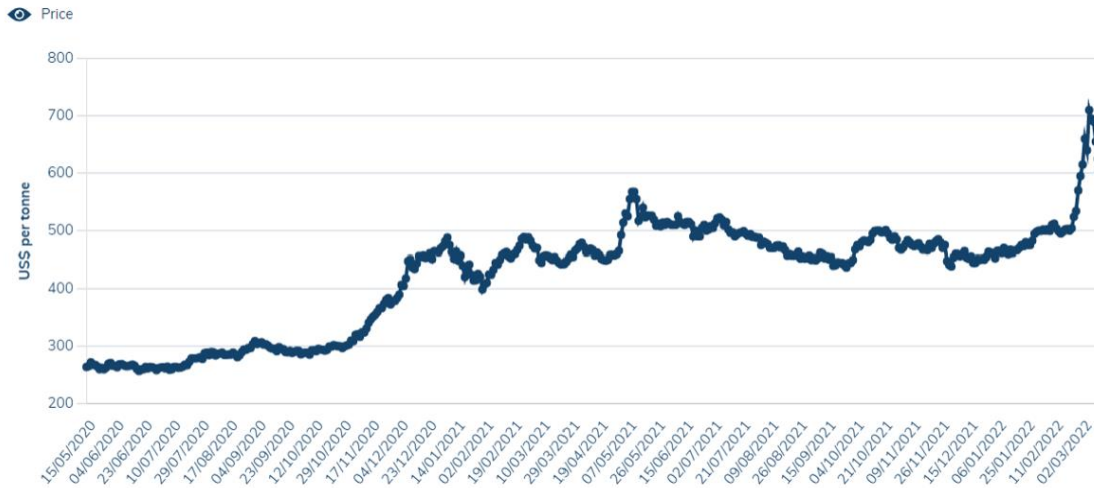
Malte Lohan
Director General, Orgalim

⁸ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products

Annex I on steel data

Recent evolution of steel scrap

Steel scrap is a secondary raw material that is well suited to measure steel prices in international markets. From May 2020 to the beginning of March 2022, prices increased by over 117%.



Data

Source: Steel Scrap Price; London metal exchange (LME)

Recent evolution of hot rolled coil in China

From May 2020 to the beginning of March 2022, prices rose by 102%.

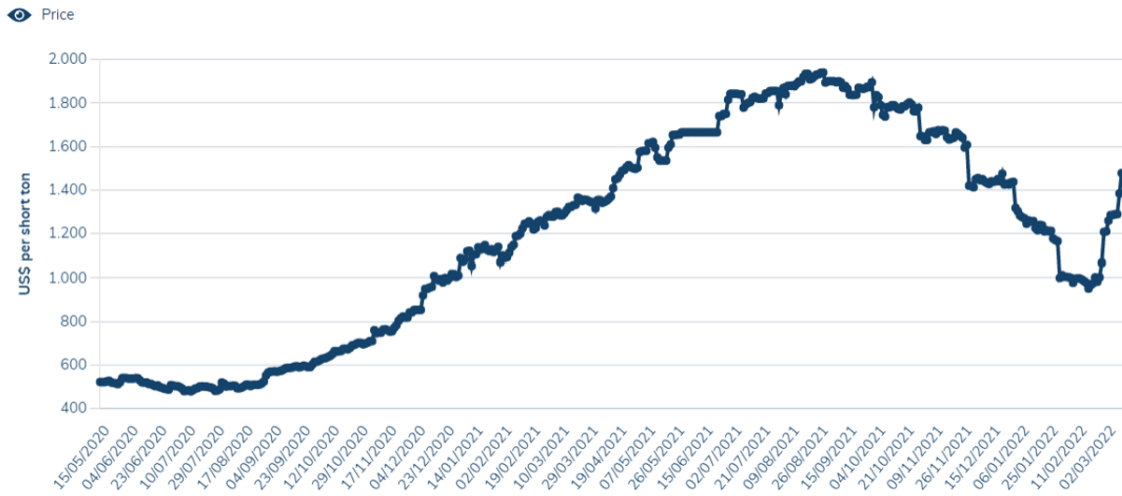


Data

Source: Hot rolled coil China; London metal exchange (LME)

Recent evolution of steel hot rolled coil in North America

From May 2020 to the beginning of March 2022, prices went up by 182%.



Data Source: Steel hot rolled coil N. America; London metal exchange (LME)

Recent evolution of Steel rebar

From May 2020 to the beginning of March 2022, prices increased by 115%.



Data Source: Steel rebar; London metal exchange (LME)