

**Information gathering under Article 9 of the EU Enforcement Regulation regarding an announced U.S. tariff increase on imports of certain steel and aluminium products and possible EU commercial policy measures in response**

**The Commission seeks information and views regarding the EU's economic interests in accordance with Article 9 of Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014. The Commission expects to receive input from private stakeholders affected by an announced U.S. tariff increase on imports of certain steel and aluminium products and by possible EU commercial policy measures concerning certain products, in response.**

**The information gathering should provide the Commission with input to assist it in assessing the necessity and the parameters of possible commercial policy measures.**

**Your input is important in this process and we thank you in advance for your contribution. The Word document can be used to fill in your comments directly under the relevant points.**

*Context*

The United States of America announced on 8 March 2018 the imposition of a measure in the form of a tariff increase on imports of certain steel and aluminium products from, *inter alia*, the EU (at rates of 25% and 10%, respectively), applicable as from 23 March 2018.

Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 (the Enforcement Regulation)<sup>1</sup> provides for the legal basis for the EU to suspend concessions or other obligations under international trade agreements, with the intention of rebalancing concessions or other obligations in the trade relations with third countries, when the treatment accorded to goods from the EU is altered in a way that affects the EU's interests.

The Enforcement Regulation applies, in particular, for the rebalancing of concessions or other obligations, which is foreseen in Article 8 of the WTO Agreement on Safeguards.

Where action is necessary to safeguard the EU's interests in such cases, the Commission may take appropriate commercial policy measures in response, on the basis of objective criteria.

As envisaged in Article 5 of the Enforcement Regulation, the commercial policy measures may consist of, *inter alia*, the suspension of tariff concessions and the imposition of new or increased customs duties.

These commercial policy measures must be substantially equivalent to the level of concessions or other obligations affected by the third country's measure and must be determined on the basis of the following criteria, where relevant, in light of available information and of the EU's general interest:

---

<sup>1</sup> Regulation (EU) No 654/2014 of the European Parliament and of the Council of 15 May 2014 concerning the exercise of the Union's rights for the application and enforcement of international trade rules and amending Council Regulation (EC) No 3286/94 laying down Community procedures in the field of the common commercial policy in order to ensure the exercise of the Community's rights under international trade rules, in particular those established under the auspices of the World Trade Organization (OJ L 189, 27.6.2014, p. 50–58; 2014R0654 — EN — 05.11.2015 — 001.001)

- a) effectiveness in inducing compliance of third countries with international trade rules;
- b) potential to provide relief to economic operators within the EU, affected by third country measures;
- c) availability of alternative sources of supply for the goods concerned, in order to avoid or minimise any negative impact on downstream industries, contracting authorities or entities, or final consumers within the EU;
- d) avoidance of disproportionate administrative complexity and costs in the application of the measures;
- e) any specific criteria that may be established in international trade agreements.

### *Possible Commercial Policy Measures*

If action is necessary to safeguard the EU's interests and to preserve the EU's procedural rights of rebalancing of concessions or other obligations under Article 8 of the WTO Agreement on Safeguards, the Commission is required to take the respective steps under the Enforcement Regulation and the WTO Agreement on Safeguards.

In this regard, the Commission is currently assessing the necessity and the parameters of possible commercial policy measures.

The Commission is considering the following commercial policy measures, as envisaged in Article 5 of the Enforcement Regulation: as a first step, suspension of tariff concessions under Article 8 of the WTO Agreement on Safeguards, and, as a second step, subsequently and at the appropriate level, imposition of increased customs duties on certain products from the United States of America.

Article 8.2 of the WTO Agreement on Safeguards establishes a strict deadline of 90 days from application of the measures in question - in this case those taken by the United States of America - within which affected WTO Members must act to suspend the application of substantially equivalent concessions or other obligations towards the United States of America. A notification to the WTO Council for Trade in Goods to this effect must be sent at least 30 days ahead of the 90 days deadline. With regard to the second step, the actual imposition of increased customs duties on imports from the United States of America, it is noted that the United States of America's measures provide scope for potential exemptions. The Commission's intention is to ensure that applied additional customs duties are set at the appropriate level taking into account future developments including the final form of the United States of America's measures as regards application to imports from the EU. The suspension of concessions within the deadline provided for in Article 8 of the WTO Agreement on Safeguards is, therefore, without prejudice to a subsequent actual imposition of increased customs duties on imports from the United States of America. The notification to WTO Council for Trade in Goods should, nonetheless, indicate the maximum extent to which duties may be increased on certain products.

The Commission services have identified products originating in the United States of America that could potentially be subject to the possible suspension of concessions, as a first step, and to the possible additional import duties, as a second step. These products, or a subset of them, may be affected only if necessary and in a proportionate manner, in line with the requirements of the Enforcement Regulation described above.

The additional import duties on these products, or on a subset of them, may be applied in two phases, in line with the timing requirements of Article 8 of the WTO Agreement on Safeguards<sup>2</sup>.

- A. Part A of the list comprises products that may be affected by duties on imports from the United States of America in a first phase, and in response to the U.S. tariff on steel imports<sup>3</sup>.
- B. Part B of the list comprises products that may be affected by duties on imports from the United States of America in a second phase, and in response to the U.S. tariff on steel and aluminium imports<sup>4</sup>.

The products can be consulted in the enclosed document 'List of Products' uploaded on the DG TRADE webpage under the current Information gathering exercise.

### *Information gathering procedure*

In assessing the necessity and the parameters of possible commercial policy measures, the Commission seeks input from private stakeholders affected by an announced U.S. tariff increase on imports of certain steel and aluminium products originating in the EU (at rates of 25% and 10%, respectively) or by possible EU commercial policy measures, as outlined above, on the products listed in the document 'List of Products' uploaded on the DG TRADE webpage under the current Information gathering exercise.

Private stakeholders are invited to provide any views and information they consider relevant to EU economic interests affected by the announced US measures or to products which could be subject to possible EU commercial policy measures in response, as well as any other relevant input.

To receive full consideration, written comments should be as detailed as possible and include supporting documents.

Information received pursuant to Regulation (EU) No 654/2014 will be used only for the purpose for which it was requested.

Neither the European Parliament, nor the Council, nor the Commission, nor Member States, nor their respective officials shall reveal any information of a confidential nature received pursuant to Regulation (EU) No 654/2014, without specific permission from the supplier of such information.

The supplier of information may request that information supplied be treated as confidential. In such cases, it must be accompanied by a non-confidential summary which presents the information in a generalised form or a statement of the reasons why the information cannot be summarised. If it appears that a request for confidentiality is not justified and if the supplier is unwilling either to make the information public or to authorise its disclosure in generalised or summary form, the information in question may be disregarded. The confidential treatment will not preclude the disclosure of general information by the institutions of the EU and the

---

<sup>2</sup> According to this provision, the right of suspension may or may not be exercised for the first three years of the application of the third country's measure depending on whether certain conditions are present.

<sup>3</sup> In this regard, it is recalled that the announced U.S. measures are in the form of an increased tariff of 25%.

<sup>4</sup> It is recalled that the announced U.S. measures on aluminium are in the form of an increased tariff of 10%.

authorities of the Member States. Such disclosure must take into account the legitimate interest of the parties concerned in not having their business secrets divulged.

Information received pursuant to Regulation (EU) No 654/2014 may be subject to a request for access to documents under EU Regulation 1049/2001 on public access to European Parliament, Council and Commission documents<sup>5</sup>. In such cases, the request will be assessed against the conditions set out in Regulation 1049/2001 and in accordance with applicable data protection rules.

*Deadline*

Please fill in the form and submit it at the latest **by 26 March 2018, 12:00 am (UTC+01:00), Brussels**, to the following e-mail address:

[TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu](mailto:TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu)

*For more information:*

[TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu](mailto:TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu)

---

<sup>5</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43)

## INFORMATION GATHERING FORM

Please fill in this form and submit it at the latest **by 26 March 2018, 12:00 am (UTC+01:00), Brussels**, to the following e-mail address:

[TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu](mailto:TRADE-REG-654-2014-INFOGATHERING@ec.europa.eu)

1. Name:
2. Organisation:
3. Contact details:
4. Language of the submission:
5. Your views and information regarding the EU economic interests in steel and aluminium products originating in the EU that might be affected by a tariff increase, announced by the United States of America on 8 March 2018 and applicable as from 23 March 2018:
6. Your views and information regarding the EU economic interests in the products which could be subject to possible EU commercial policy measures in response to an announced U.S. tariff increase on certain steel and aluminium products originating in the EU, listed in the enclosed document 'List of Products':
7. Any other relevant input: