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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Trade Questions
Subject:	Regulation addressing the effects of global overcapacity on the Union steel market - Presentation by the Presidency of the compromise proposal

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Danish Council Presidency

Compromise proposal - steel

Ambition

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- The European steel industry is vital to the Union and must be protected.
- The starting point for the Presidency has been to maintain the overall level of protection in the Commissions proposal.
- At the same time, the Presidency has noted the call of several delegations to ensure that the economic interest of the Unions downstream steel users is taken further into account.
- With this view, the Presidency has made revisions to increase the consideration towards downstream industries without undermining the level of protection offered for producers.
- These revisions include adding Union interest, increasing attention on the potential burdens of the melt-and-pour requirement, allowing carry-over of quotas and adding a price-competitiveness criterion for adjusting quotas.
- The Presidency has also sought to clarify the text on the process for implementing the melt and pour requirement and the relationship of the regulation with EU's FTA partners.

Summary of the main revisions

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1) Certain changes have been made to the structure of the recitals with the main aim of clarifying the relationship between the regulation and the Unions free trade partners. Besides this, the text has been revised to reflect the policy choices made below.

2) Union interest has been added as a guiding principle for the implementation of the regulation, which is reflected in the recitals as well as in article 4, 4a, 6, and 9(2).

3) Carry-over of quotas is allowed within the same yearly period of tariff quota administration.

4) The two-step implementation process for melt-and-pour has been clarified and revised. Step 1 on determining the type of information should be laid out by implementing acts. Step 2 on the decision to designate the country of melt-and-pour as the basis for utilising the country allocations should be carefully assessed under article 9(2) and if deemed necessary introduced by a separate proposal.

5) Boundaries will be added to the delegation of powers for adjusting quotas under article 6 and a new criterion has been added to take account of potential substantial price increases seriously undermining the competitiveness of downstream steel users.

6) Step 2 on melt-and-pour has been added to article 9(1) and the period for evaluation under article 9 (2) has been shortened.

(14a) This Regulation establishes a coherent framework to tackle the negative trade-related effects of overcapacity. In view of the serious disturbances in the steel sector and the rapidly worsening situation of the domestic steel industry, it is necessary to cover all third countries, including those with which the Union has concluded a free trade agreement and those benefiting from the Union generalised scheme of tariff preferences under Regulation (EU) No 978/2012 of the European Parliament and of the Council. The framework established under this Regulation should provide for, one the hand, the opening of tariff quotas and the setting of an out-of-quota duty and, on the other hand, the possibility, where appropriate, of imposing bilateral safeguard measures in respect of products from third countries with which the Union has concluded a free trade agreement. Where it is not appropriate to apply bilateral safeguard measures, products from third countries with which the Union has concluded a free trade agreement should be subject to the tariff quotas and the out-of-quota duty provided for in this Regulation. At the same time, the Union remains committed to keeping markets open and further strengthening its relationships with existing and future free trade partners.

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Recitals

- The Presidency has maintained the strong message from the Commissions proposal reflecting that the European steel industry must be protected from the negative effects of global overcapacity.
- Certain changes have been made to the structure of the recitals with the aim of clarifying the relationship between the regulation and the Unions free trade partners. These changes do not alter the Commissions proposal.
- Besides this and other minor clarifications, changes have been made to the recitals reflecting the policy choices made based on the discussions in working party regarding Union interest, carry-over of quotas, the melt-and-pour process, and the evaluations of the regulation.

Article 1

1. Tariff quotas of the Union are ***hereby*** opened, on an annual basis, in relation to imports into the Union of each of the product categories covered by this Regulation— as specified in Annex I ~~(defined by reference to the CN codes)~~.

2. For each product category, a specific volume of tariff quota is opened as provided under Annex II on a yearly basis.

3. Where the relevant tariff quota is exhausted or where imports of the product categories do not benefit from the relevant tariff quota, the imports of the product categories set out in Annex I shall be subject to a custom duty at the rate of 50% ad valorem.

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Article 1

- The Presidency has decided to maintain the fixed out-of-quota tariff level of 50 pct based on the discussion in working party.
- The current level will help protect the European steel industry and will support the negotiations opened under article 28 of the GATT-agreement.

*Article 1 ~~bis~~**a***

Article 1 shall ~~not~~ apply to ***all imports of the products concerned, including imports of*** products originating in ~~Norway, Iceland or Liechtenstein~~***a country with which the Union has concluded an agreement providing for tariff preferences or in a country benefitting from autonomous tariff preferences***.

By way of derogation, Article 1 shall not apply to products originating in:

(a) Iceland, Liechtenstein and Norway;

(b) countries in respect of which bilateral safeguard measures apply pursuant to Article 4a.

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Article 1 a

- The changes to article 1 a, formerly know as article 1 bis, are legal clarifications underlining that countries towards which the Union has decided to impose bilateral safeguards are subject to those safeguards and not the provisions of article 1 as well as GSP-countries.
- Changes have also been made to the recitals to underline, that the intention is to use bilateral safeguards when applicable to ensure that a coherent system of quotas and tariffs are applied towards all trading partners, excluding EEA-countries.
- The Presidency has based on the discussions in the working party decided not to suggest excluding other countries from article 1 with a view to maintaining the level of protection for the European steel industry.

Article 2

1. The tariff quotas set out in Article 1 shall be managed by the Commission and the Member States in accordance with the management system for tariff quotas provided for in Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

2. The tariff quotas shall be administered quarterly.

3. The drawings on each quarterly quota shall be stopped on the twentieth working day of the Commission following the end of the quarterly period.

4. The unused tariff quota volumes in one quarter shall ~~not~~ be carried over to the next quarter ***within the same yearly period of application of the tariff rate quota***.

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Article 2 – carry over

- The Presidency is committed to maintaining a high level of protection for the European steel industry including the decrease of overall tarrif quotas and increase of the out-of-quota tariff level.
- The Presidency has also taken careful note of the calls from many delegations to add more consideration and flexibility for downstream industries, incl. specifically on allowing carry-over of quotas.
- The Presidency has therefore revised the Commission's proposal to allow carry-over. This change provides more flexibility for users and helps ensure that all of the available quota volumes are utilized.
- Importantly, the quotas should only be carried over between quarters within the same yearly period of administration and not across years.

Article 3 - Melt and pour

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- Based on the discussions in the working party, the Presidency has decided to maintain its proposal regarding the implementation of the melt and pour requirement.
- As stated previously, The Presidency recognizes that implementing a melt and pour requirement is key to address potential circumvention of the offered protection for the steel industry.
- The Presidency also recognizes based on the discussions in working party that implementing such a requirement is a significant endeavour with significant implications for industry and government agencies as well existing customs legislations and the Unions international obligations.
- The Presidency firstly suggest that the determination of the type information required is most appropriately laid out by implementing acts.
- Secondly, the Presidency suggest that the decision to designate the country of melt and pour as the relevant country of origin for exhausting the country allocations should be carefully considered based on an assessment carried within two years at the latest and introduced by a separate legislative proposal.
- Thirdly, the Presidency suggest to add a brief transition period before entry into application of article 3 (1) to allow industry and customs agencies to adjust to the requirements with a view to ensure even implementation and prevent any undue disruption of supply chains.

The Commission shall ensure that the country allocation of country quotas laid down pursuant to the first subparagraph is compatible with any international agreement concluded by the Union under Article XXVIII of the General Agreement on Tariffs and trade 1994 concerning the tariff quotas opened in relation to products listed in Annex I.

Those implementing acts shall be adopted in accordance with the procedure referred to in Article 5(2).

Where the Commission has applied bilateral safeguard measures pursuant to Article 4a which entail tariff quotas, the implementing acts referred to in the first subparagraph shall not allocate an amount of tariff quotas corresponding to the tariff quotas opened as part of those bilateral safeguard measures.

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Article 4

- Besides adding Union interest as an overall parameter, the Presidency has removed the criterion on upholding agreements made under the article 28 negotiations from the list of criteria.
- The article 28-criterion has instead been added below the list of criteria to underline that the allocation of quotas should always respect any agreement made under these negotiations and not only be taken into account as one of several criteria.
- An element has also been added to clarify that any tariff quotas allocated and opened as part of bilateral safeguards established pursuant to article 4 (a) shall not be allocated under article 4. This is also reflected in the last sentence of recital 22a.

*Article ~~4 bis~~**4a***

~~1.~~ ***By way of derogation from Regulation (EU) 2019/287,*** the Commission may adopt implementing acts ~~imposing~~***applying*** bilateral safeguard measures on imports of products within the scope of this regulation originating in those countries with which the ~~European~~ Union has concluded a free trade agreement. Those safeguard measures shall comply with the ~~requirements of the~~ applicable agreement ~~and shall replace the tariff measures imposed pursuant to this regulation~~ ***and take into account the Union interest***.

~~2.~~ Those implementing acts shall be adopted in accordance with the procedure referred to in Article 5(2).

~~3.~~ On duly justified imperative grounds of urgency relating to the need to ensure that the bilateral safeguard measures may enter into force immediately upon the entry into force of this Regulation, the Commission may adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 5(3).

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Article 4 a

- Besides adding that Union interest should also be taken into account when imposing bilateral safeguards, only minor revisions have been made to this article.

Article 5

1. The Commission shall be assisted by the Trade Barriers Committee established by Article 7 of Regulation (EU) No 2015/1843 of the European Parliament and of the Council.

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

~~Where the Committee delivers no opinion, the Commission shall adopt the draft implementing act, subject to the provisions of the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011.~~

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011 in conjunction with Article 5 thereof, shall apply.

Regulation (EU) 2015/1843 of the European Parliament

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Article 5

- Article 5 has been revised slightly as the subparagraph of paragraph 2 is superfluous.
- The provision in article 2 still allows the Commission to adopt implementing acts if the Committee delivers no opinion.
- The Presidency has maintained this provision to help ensure that country allocations of quotas are implemented before the expiration of the current safeguard.

1. The Commission is empowered to adopt delegated acts in accordance with Article 7 to amend the volumes of tariff quotas set out in Annex II ~~taking into account the following elements:~~. ***When amending those volumes, the Commission shall ensure that their total value is not lower than [...] nor higher than [...]. The Commission shall take into account the Union interest and, as applicable, the following elements:***

(a) demand evolution;

(b) changes in the import market shares;

(c) significant developments in overcapacity;

(d) ***the*** evolution and extent of third country measures impacting imports of steel;

(e) potential issues of availability of supply in certain product categories;

(f) undue crowding out effects in certain tariff quotas;

(g) ***significant price increases seriously undermining the competitiveness of downstream industries***~~the bilateral safeguard measures imposed pursuant to Article 4bis~~.

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Article 6

- The Presidency is still working with the Commission to introduce a specific suggestion for the quota boundaries and will return with a revision as soon as possible.
- Based adding Union interest, the Presidency has based on the discussions in the working party added a new criterion to enable consideration towards significant price increases, that could seriously undermine the competitiveness of downstream industries as well.

2. The power to adopt delegated acts referred to in Article 6 shall be conferred on the Commission for ~~an indeterminate~~***a*** period of ~~time~~***5 years*** from [~~Publications Office: insert~~***date of*** the entry into force of this Regulation]. ***The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of that 5 year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.***

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Article 7

- The revision of article 7 paragraph 2 entails that due consideration to the delegation of powers under this regulation is made every five years at the latest without seriously calling into question the continuation of the measures under this regulation.

Article 9

1. By [~~Publications Office: insert the date~~ 2 years after the adoption of ~~this~~ draft Regulation]***, and every two years at the latest thereafter,*** the Commission shall assess the necessity of amending the product scope ~~of this Regulation,~~ and may submit a legislative proposal to amend this regulation. ***To this end, the Commission***~~This assessment~~ shall ~~be carried out periodically every two years after the first review~~***, by 1 December 2026, initiate a consultation process with relevant stakeholders, including economic operators and Member States***.

1a. By [2 years from the date of entry into force of this Regulation], the Commission shall, based on the information collected pursuant to Article 3, assess whether it is necessary to designate the country of "melt and pour" as the basis to benefit from the tariff quotas provided for in this Regulation. Based on that assessment, the Commission may submit a legislative proposal to that effect.

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Article 9 (1)

- The Presidency wishes to maintain the maximum evaluation period regarding the scope of the proposal to allow the Commission time to properly assess the situation and make a substantiated proposal.
- However, the Presidency has added a provision to ensure that a consultation process regarding possible amendments of the scope is initiated by December 1 2026 at the latest.
- Furthermore, as stated in slide 8, the Presidency has added an evaluation for the decision to use the country of melt and pour as the basis to benefit from the tariff quotas provided for in the regulation.

~~Before 1 July 2031~~***By [4 years after the adoption of this Regulation]***, and every ~~five~~***two*** years ***at the latest*** thereafter, the Commission shall evaluate the effectiveness of this Regulation. Such evaluation shall have regard to the persistence of the circumstances that justified the adoption of this Regulation and the ***Union interest, including the*** situation of the Union steel making industry ***and the impacts on upstream and downstream industries as well as the Union's final consumers***. Based on that evaluation, the Commission may submit a legislative proposal to amend or repeal this Regulation.

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Article 9 (2)

- The Presidency has taken note of the call from many delegations to shorten the evaluation period concerning the effects of the regulation as well as to add further consideration for downstream users.

- The Presidency has sought to reduce the initial evaluation period to four years and the subsequent period to two years.

- This will:

1) move the first assessment forward whilst allowing the regulation time to take effect and signalling stability towards steel producers and investors
2) Ensure that the Commission subsequently evaluates the regulation regularly and every two years at the latest.

Article 10

This Regulation shall enter into force on the ~~twentieth~~ day following that of its publication in the Official Journal of the European Union.

This Regulation shall apply from 1 July 2026. However, Article 3(2), Article 4, Article 4a, and Article 5 shall apply from [the date of entry into force]. Article 3(1) shall apply from 1 October 2026.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Strasbourg,

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Article 10

- The text has been revised to allow for entry into force on the day following the publication of the regulation in the Official Journal of the European Union.
- The Presidency further proposes that the date of application should be 1 July on the day following the expiration of the current safeguard.
- The Presidency also proposes, as stated in slide 8, that Article 3(1) shall apply from 1 October 2026 to allow time for economic operators and customs agencies to adjust to the new requirements.

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