Official Journal of the European Union

L 103

English edition

Legislation

Volume 66

18 April 2023

Contents

[1] Text with EEA relevance.

EN

Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other acts are printed in bold type and preceded by an asterisk.

II

(Non-legislative acts)

REGULATIONS

COMMISSION IMPLEMENTING REGULATION (EU) 2023/823

of 13 April 2023

laying down detailed rules for implementing certain provisions of Council Directive 2011/16/EU as regards the assessment and determination of equivalence of information in an agreement between the competent authorities of a Member State and a non-Union jurisdiction

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC ([1]), and in particular Article 8ac(7), first subparagraph, thereof,

Whereas:

(1) Directive 2011/16/EU was amended by Council Directive (EU) 2021/514 ([2]) in order to improve the provisions that relate to all forms of exchanges of information and administrative cooperation by providing for a mandatory automatic exchange of information reported by platform operators.

(2) Given the nature and flexibility of digital platforms, the reporting obligation extends to those platform operators as defined in Annex V, Section IA, point 4(b) of Directive 2011/16/EU that perform commercial activity in the Union but are neither resident for tax purposes, nor incorporated or managed, nor have a permanent establishment in a Member State ('foreign platform operators'). This ensures a level playing field for all digital platform operators regardless of their place of establishment and prevents unfair competition within the Union.

(3) Directive 2011/16/EU lays down measures that are intended to reduce the administrative burden on foreign platform operators and the tax authorities of Member States, in cases where adequate arrangements exist which ensure that equivalent information is exchanged between a non-Union jurisdiction and a Member State.

(4) Article 8ac(7), first subparagraph, of Directive 2011/16/EU provides that the Commission is to, following a reasoned request by a Member State or on its own initiative, determine whether the information that is to be automatically received by a Member State is equivalent to that specified in Section III, paragraph B, of Annex V to that Directive. Article 8ac(7) also provides that this same procedure should apply where there is a necessity for determining that the information is no longer equivalent.

(5) This Regulation establishes the criteria for assessing and determining the extent to which the national law of a non-Union jurisdiction and an agreement between the competent authorities of a Member State and a non-Union jurisdiction ensures that the information that is to be automatically received by that Member State relates to the activities within the scope of Directive 2011/16/EU and is equivalent to the information required under the reporting rules set out in that Directive.

([1]) OJ L 64, 11.3.2011, p. 1.
([2]) OJ L 104, 25.3.2021, p. 1.

(6) At international level, the Organisation for Economic Cooperation and Development (OECD) published on 3 July 2020, Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy ([3]) ('Model Rules') and on 22 June 2021, an Optional Module extending the Model Rules to the sale of goods and the rental of means of transportation ([4]) ('Optional Module'). The Model Rules and Optional Module are not a minimum standard and, as a result, may be implemented in a different manner by jurisdictions. It is therefore necessary for the Commission to assess the national law transposing the Model Rules and Optional Module of the non-Union jurisdiction, on a case-by-case basis to determine the extent to which the activities in the scope of and the information required under the reporting rules of that national law are equivalent to the activities in the scope of directive 2011/16/EU and to the information required under that Directive. It should also remain possible to determine equivalence, where appropriate, concerning a bilateral instrument or the exchange relationship with an individual non-Union jurisdiction and its national law.

(7) The assessment and determination of such equivalence should take an approach that ensures that Member States receive the necessary information and prevents excessive burden on the platform operators that have already reported the relevant information in a non-Union jurisdiction. Therefore, the Commission should carry out the assessment in accordance with the corresponding criteria, as defined in Article 8ac(7) and with due consideration for the optional exclusions offered under the Model Rules and Optional Module.

(8) The European Data Protection Supervisor was consulted on the measures provided for in this Regulation in accordance with Article 42(1) of Regulation (EU) 2018/1725 ([5]) of the European Parliament and of the Council.

(9) The measures provided for in this Regulation are in accordance with the opinion of the Committee on Administrative Cooperation for Taxation,

HAS ADOPTED THIS REGULATION:

Article 1

Criteria for assessing and determining equivalence

The Commission shall apply the criteria set out in Articles 2 to 7 of this Regulation when determining whether the information that is required to be automatically exchanged pursuant to an agreement between competent authorities of a Member State and a non-Union jurisdiction is, within the meaning of subparagraph A(7) of Section I of Annex V to Directive 2011/16/EU, equivalent to that specified in paragraph B of Section III of Annex V to that Directive.

Article 2

Reporting Platform Operator

1. The Commission shall assess the definitions regarding reporting platform operator set out in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction, to determine their equivalence with the definitions set out in Section I, subparagraphs A(1) to A(4) of Annex V to Directive 2011/16/EU.

([3]) OECD (3 July 2020). Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy

([4]) OECD (22 June 2021). Model Reporting Rules for Digital Platforms: International Exchange Framework and Optional Module for Sale of Goods

([5]) Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

2. Where a non-Union jurisdiction does not consider as a reporting platform operator a Platform Operator that facilitates the provision of relevant activities for which, over the previous calendar year, the aggregate consideration at the level of the platform is less than EUR 1 million or less than an amount approximately equivalent to EUR 1 million in the local currency of that jurisdiction, a determination of equivalence shall only apply to reporting platform operators as defined in the national law of the relevant non-Union jurisdiction.

Article 3

Reportable Sellers

The Commission shall assess the definitions regarding reportable sellers set out in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction, to determine their equivalence with the definitions set out in Section I, subparagraphs B(1) to B(4), and C(1) and C(2), of Annex V to Directive 2011/16/EU.

Article 4

Relevant Activity

1. The Commission shall assess the definitions of relevant activity set out in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction, to determine their equivalence with the definitions set out in Section I, subparagraphs A(8), A(10), A(11), and C(9), of Annex V to Directive 2011/16/EU.

2. Where a non-Union jurisdiction does not include in its national law one or more of the relevant activities as defined in Section I, subparagraph A(8) of Annex V to Directive 2011/16/EU as a relevant activity, a determination of equivalence shall only apply to information in relation to a relevant activity as defined in the national law of that non-Union jurisdiction.

Article 5

Due diligence procedures

The Commission shall assess the due diligence procedures laid down in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction to determine their equivalence with the due diligence procedures set out in Section II of Annex V to Directive 2011/16/EU and the definitions set out in Section I, subparagraphs C(3) to C(7), of Annex V to Directive 2011/16/EU.

Article 6

Reporting requirements

The Commission shall assess the reporting requirements laid down in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction to determine their equivalence with the reporting requirements set out in Section III, subparagraphs A(1), A(2), A(5), A(6) and A(7), and paragraph B, of Annex V to Directive 2011/16/EU, and the definitions set out in Section I, subparagraphs C(3) to C(8), of Annex V to Directive 2011/16/EU.

Article 7

Effective implementation

The Commission shall assess the rules and administrative procedures laid down in the national law of a non-Union jurisdiction and pursuant to an agreement between the competent authorities of a Member State and the non-Union jurisdiction to ensure the effective implementation of, and compliance with, the due diligence procedures and reporting requirements, and to determine their equivalence with the provisions set out in Section IV, paragraphs A to D of Annex V to Directive 2011/16/EU.

Article 8

Determination of equivalence

Where the criteria referred to in Article 1 and assessed in accordance with Articles 2 to 7 are met, the information that is required to be automatically exchanged pursuant to an agreement between the competent authorities of the Member State and the non-Union jurisdiction concerned shall be considered equivalent. That determination of equivalence shall apply to the same agreement between the competent authorities of any other Member State and the non-Union jurisdiction concerned.

Without prejudice to Article 2(2), a Reporting Platform Operator as defined in Section I, subparagraph A(4), point (b), of Annex V to Directive 2011/16/EU that is not considered a reporting platform operator under the national law of the relevant non-Union jurisdiction, shall be obliged to register and report information to a single Member State in accordance with Article 8ac(4) and Section IV, subparagraph F(1) of Annex V to Directive 2011/16/EU.

Without prejudice to Article 4(2), a reporting platform operator as defined in Section I, subparagraph A(4), point (b), of Annex V to Directive 2011/16/EU, that facilitates the carrying out of any relevant activity that is not considered a relevant activity under the national law of the relevant non-Union jurisdiction, shall be obliged to register and report information on Reportable Sellers with respect to such relevant activity to a single Member State in accordance with Article 8ac(4) and Section IV, subparagraph F(1) of Annex V to Directive 2011/16/EU.

Article 9

Entry into force and application

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

Done at Brussels, 13 April 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION IMPLEMENTING REGULATION (EU) 2023/824

of 14 April 2023

amending Annexes V and XIV to Implementing Regulation (EU) 2021/404 as regards the entries for Canada, the United Kingdom and the United States in the lists of third countries authorised for the entry into the Union of consignments of poultry, germinal products of poultry and fresh meat of poultry and game birds

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law') ([1]), and in particular Articles 230(1) and 232(1) and (3) thereof,

Whereas:

(1) Regulation (EU) 2016/429 provides that consignments of animals, germinal products and products of animal origin must come from a third country or territory, or zone or compartment thereof, listed in accordance with Article 230(1) of that Regulation in order to enter the Union.

(2) Commission Delegated Regulation (EU) 2020/692 ([2]) lays down the animal health requirements that consignments of certain species and categories of animals, germinal products and products of animal origin, from third countries or territories, or zones thereof, or compartments thereof in the case of aquaculture animals, must comply with in order to enter the Union.

(3) Commission Implementing Regulation (EU) 2021/404 ([3]) establishes the lists of third countries, or territories, or zones or compartments thereof, from which the entry into the Union of the species and categories of animals, germinal products and products of animal origin falling within the scope of Delegated Regulation (EU) 2020/692 is permitted.

(4) More particularly, Annexes V and XIV to Implementing Regulation (EU) 2021/404 set out the lists of third countries, or territories, or zones thereof authorised for the entry into the Union, respectively, of consignments of poultry, germinal products of poultry, and of fresh meat from poultry and game birds.

(5) Canada has notified the Commission of an outbreak of highly pathogenic avian influenza in poultry in the province of Quebec, which was confirmed on 27 March 2023 by laboratory analysis (RT-PCR).

([1]) OJ L 84, 31.3.2016, p. 1.

([2]) Commission Delegated Regulation (EU) 2020/692 of 30 January 2020 supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards rules for entry into the Union, and the movement and handling after entry of consignments of certain animals, germinal products and products of animal origin (OJ L 174, 3.6.2020, p. 379).

([3]) Commission Implementing Regulation (EU) 2021/404 of 24 March 2021 laying down the lists of third countries, territories or zones thereof from which the entry into the Union of animals, germinal products and products of animal origin is permitted in accordance with Regulation (EU) 2016/429 of the European Parliament and of the Council (OJ L 114, 31.3.2021, p. 1).

(6) Additionally, the United States has notified the Commission of four outbreaks of highly pathogenic avian influenza in poultry in the states of Colorado (1) and New York (3), United States, which were confirmed between 22 March 2023 and 5 April 2023 by laboratory analysis (RT-PCR).

(7) Following those recent outbreaks of highly pathogenic avian influenza, the veterinary authorities of Canada and the United States established control zones of at least 10 km around the affected establishments and implemented a stamping-out policy in order to control the presence of highly pathogenic avian influenza and limit the spread of that disease.

(8) Canada and the United States have submitted information to the Commission on the epidemiological situation on their territory and the measures they have taken to prevent the further spread of highly pathogenic avian influenza. That information has been evaluated by the Commission. On the basis of that evaluation and in order to protect the animal health status of the Union, the entry into the Union of consignments of poultry and germinal products of poultry, and fresh meat of poultry and game birds from the areas under restrictions established by the veterinary authorities of Canada and the United States due to the recent outbreaks of highly pathogenic avian influenza should no longer be authorised.

(9) Furthermore, the United Kingdom has submitted updated information on the epidemiological situation on its territory in relation to nine outbreaks of highly pathogenic avian influenza in poultry establishments in the counties of Essex (6), Lincolnshire (1), Norfolk (1) and West Midlands (1) in England, United Kingdom, which were confirmed between 6 September 2022 and 11 November 2022.

(10) The Commission has evaluated the information submitted by the United Kingdom and concluded that the outbreaks of highly pathogenic avian influenza in poultry establishments have been cleared and that there is no longer a risk associated with the entry into the Union of poultry commodities from the zones in the United Kingdom, from which the entry into the Union of poultry commodities was suspended following those outbreaks.

(11) Annexes V and XIV to Implementing Regulation (EU) 2021/404 should be therefore amended to take account of the current epidemiological situation as regards highly pathogenic avian influenza in Canada, the United Kingdom and in the United States.

(12) Taking into account the current epidemiological situation in Canada, the United Kingdom and the United States as regards highly pathogenic avian influenza and the serious risk of its introduction into the Union, the amendments to be made to Annexes V and XIV to Implementing Regulation (EU) 2021/404 by this Regulation should take effect as a matter of urgency.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

Article 1

Annexes V and XIV to Implementing Regulation (EU) 2021/404 are amended in accordance with the Annex to this Regulation.

Article 2

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

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

Done at Brussels, 14 April 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

Annexes V and XIV to Implementing Regulation (EU) 2021/404 are amended as follows:

(1) Annex V is amended as follows:

(a) Section B of Part 1 is amended as follows:

(i) in the entry for Canada, the following row for the zone CAN-2.178 is added after the row for the zone CAN-2.177:

'**CA** Canada	CA-2.178	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		27.3.2023'	

(ii) in the entry for the United Kingdom, the row for the zone GB-2.141 is replaced by the following:

'**GB** United Kingdom	GB-2.141	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		6.9.2022	29.3.2023'

(iii) in the entry for the United Kingdom, the row for the zone GB-2.166 is replaced by the following:

'**GB** United Kingdom	GB-2.166	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		7.10.2022	29.3.2023'

(iv) in the entry for the United Kingdom, the rows for the zones GB-2.169 and GB-2.170 are replaced by the following:

'GB United Kingdom	GB-2.169	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		8.10.2022	29.3.2023
	GB-2.170		N, P1		7.10.2022	29.3.2023'

(v) in the entry for the United Kingdom, the rows for the zones GB-2.182 and GB-2.183 are replaced by the following:

'GB United Kingdom	GB-2.182	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		9.10.2022	29.3.2023
	GB-2.183		N, P1		13.10.2022	29.3.2023'

(vi) in the entry for the United Kingdom, the row for the zone GB-2.220 is replaced by the following:

‘**GB** United Kingdom	GB-2.220	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		26.10.2022	28.3.2023’

(vii) in the entry for the United Kingdom, the row for the zone GB-2.236 is replaced by the following:

‘**GB** United Kingdom	GB-2.236	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		2.11.2022	30.3.2023’

(viii) in the entry for the United Kingdom, the row for the zone GB-2.253 is replaced by the following:

‘**GB** United Kingdom	GB-2.253	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		11.11.2022	29.3.2023’

(ix) in the entry for the United States, the following rows for the zones US-2.447 to US-2.450 are added after the row for the zone US-2.446:

‘**US** United States	US-2.447	BPP, BPR, DOC, DOR, SP, SR, POU-LT20, HEP, HER, HE-LT20	N, P1		28.3.2023	
	US-2.448		N, P1		22.3.2023	
	US-2.449		N, P1		22.3.2023	
	US-2.450		N, P1		5.4.2023’	

(b) Part 2 is amended as follows:

(i) in the entry for Canada, the following description of the zone CA-2.178 is added after the description of the zone CA-2.177:

‘Canada	CA-2.178	Southern Quebec- Latitude 45.36, Longitude -72.93 The municipalities involved are: 3km PZ: Ange-Gardien and Saint-Césaire. 10km SZ: Ange-Gardien, Brigham, Farnham, Saint-Alphonse, Saint-Alphonse-deGranby, Saint-Césaire, Sainte-Brigide-d’Iberville, and Saint-Paul-d’Abbotsford’

(ii) in the entry for the United States, the following descriptions of the zones US-2.447 to US-2.450 are added after the description of the zone US-2.446:

‘United States	US-2.447	State of Colorado Yuma 01 Yuma County: A circular zone of a 10 km radius starting with North point (GPS coordinates: 102.6021809°W 40.0556963°N)

	US-2.448	State of New York Tompkins 01 Tompkins County: A circular zone of a 10 km radius starting with North point (GPS coordinates: 76.4228309°W 42.5338498°N)
	US-2.449	State of New York Queens 02 Queens County: A circular zone of a 10 km radius starting with North point (GPS coordinates: 73.8110491°W 40.7686723°N)
	US-2.450	State of New York Queens 03 Queens County: A circular zone of a 10 km radius starting with North point (GPS coordinates: 73.7654921°W 40.7913911°N)'

(2) Section B of Part 1 of Annex XIV is amended as follows:

(i) in the entry for Canada, the following rows for the zone CA-2.178 are added after the rows for the zone CA-2.177:

'**CA** Canada	CA-2.178	POU, RAT	N, P1		27.3.2023	
		GBM	P1		27.3.2023'	

(ii) in the entry for the United Kingdom, the rows for the zone GB-2.141 are replaced by the following:

'**GB** United Kingdom	GB-2.141	POU, RAT	N, P1		6.9.2022	29.3.2023
		GBM	P1		6.9.2022	29.3.2023'

(iii) in the entry for the United Kingdom, the rows for the zone GB-2.166 are replaced by the following:

'**GB** United Kingdom	GB-2.166	POU, RAT	N, P1		7.10.2022	29.3.2023
		GBM	P1		7.10.2022	29.3.2023'

(iv) in the entry for the United Kingdom, the rows for the zones GB-2.169 and GB-2.170 are replaced by the following:

'**GB** United Kingdom	GB-2.169	POU, RAT	N, P1		8.10.2022	29.3.2023
		GBM	P1		8.10.2022	29.3.2023
	GB-2.170	POU, RAT	N, P1		7.10.2022	29.3.2023
		GBM	P1		7.10.2022	29.3.2023'

(v) in the entry for the United Kingdom, the rows for the zones GB-2.182 and GB-2.183 are replaced by the following:

'**GB** United Kingdom	GB-2.182	POU, RAT	N, P1		9.10.2022	29.3.2023
		GBM	P1		9.10.2022	29.3.2023
	GB-2.183	POU, RAT	N, P1		13.10.2022	29.3.2023
		GBM	P1		13.10.2022	29.3.2023'

(vi) in the entry for the United Kingdom, the rows for the zone GB-2.220 are replaced by the following:

'**GB** United Kingdom	GB-2.220	POU, RAT	N, P1		26.10.2022	28.3.2023
		GBM	P1		26.10.2022	28.3.2023'

(vii) in the entry for the United Kingdom, the rows for the zone GB-2.236 are replaced by the following:

'**GB** United Kingdom	GB-2.236	POU, RAT	N, P1		2.11.2022	30.3.2023
		GBM	P1		2.11.2022	30.3.2023'

(viii) in the entry for the United Kingdom, the rows for the zone GB-2.253 are replaced by the following:

'**GB** United Kingdom	GB-2.253	POU, RAT	N, P1		11.11.2022	29.3.2023
		GBM	P1		11.11.2022	29.3.2023'

(ix) in the entry for the United States, the following rows for the zones US-2.447 to US-2.450 are added after the row for the zone US-2.446:

'**US** United States	US-2.447	POU, RAT	N, P1		28.3.2023	
		GBM	P1		28.3.2023	
	US-2.448	POU, RAT	N, P1		22.3.2023	
		GBM	P1		22.3.2023	
	US-2.449	POU, RAT	N, P1		22.3.2023	
		GBM	P1		22.3.2023	
	US-2.450	POU, RAT	N, P1		5.4.2023	
		GBM	P1		5.4.2023'	

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

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union [1] ('the basic Regulation'), and in particular Article 13 thereof,

Whereas:

1. PROCEDURE

1.1. Existing measures

(1) In October 2020, by Implementing Regulation (EU) 2020/1408 [2] the European Commission ('the Commission') imposed a definitive anti-dumping duty on imports of certain hot rolled stainless steel sheets and coils ('SSHR') originating in Indonesia, the People's Republic of China ('PRC') and Taiwan. The anti-dumping duties in force range between 9,2 % and 19 % for imports originating in the PRC, between 4,1 % and 7,5 % for imports originating in Taiwan and were set at 17,3 % for imports originating in Indonesia. The investigation that led to these duties ('the original investigation') was initiated in August 2019 [3].

1.2. Request

(2) On 17 June 2022, the Commission received a request pursuant to Articles 13(3) and 14(5) of the basic Regulation, to investigate the possible circumvention of the anti-dumping measures in force and to make imports of SSHR consigned from the Republic of Türkiye ('Türkiye'), whether declared as originating in Türkiye or not, subject to registration.

(3) The request was lodged by the European Steel Association 'EUROFER' ('the applicant').

(4) The request contained sufficient evidence of a change in the pattern of trade involving exports from Indonesia and Türkiye to the Union, which has taken place following the imposition of measures on SSHR. The data provided in the request showed a significant change in the pattern of trade including a significant increase in exports of stainless steel slabs, the main raw material for the production of SSHR, from Indonesia to Türkiye and a significant increase in exports of SSHR from Türkiye to the Union. This change appeared to stem from the consignment of SSHR from Türkiye to the Union, after having undergone assembly or completion operations in Türkiye. The evidence showed that such assembly or completion operations started at the time of the initiation of the anti-dumping investigation that led to the duties in force, and that there was insufficient due cause or economic justification other than the imposition of the duty for the practice in question.

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[1] OJ L 176, 30.6.2016, p. 21.

[2] Commission Implementing Regulation (EU) 2020/1408 of 6 October 2020 imposing a definitive anti-dumping duty and definitively collecting the provisional duty imposed on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia, the People's Republic of China and Taiwan (OJ L 325, 7.10.2020, p. 26).

[3] Notice of initiation of an anti-dumping proceeding concerning imports of certain hot rolled stainless steel sheets and coils originating in the People's Republic of China, Taiwan and Indonesia (OJ C 269 I, 12.8.2019, p. 1).

(5) Moreover, the request contained sufficient evidence showing that the stainless steel slabs originating in Indonesia constituted more than 60 % of the total value of the parts of SSHR, and that the value added to the parts during the assembly or the completion operations was lower than 25 % of the manufacturing cost.

(6) Furthermore, the request contained sufficient evidence showing that the practice, process or work was undermining the remedial effects of the anti-dumping duties in force in terms of quantity and prices. Significant volumes of imports of SSHR appeared to have entered the Union market. In addition, there was sufficient evidence tending to show that imports of SSHR were made at injurious prices.

(7) Finally, the request contained sufficient evidence that imports of SSHR were made at dumped prices in relation to the normal value previously established.

1.3. **Product concerned and product under investigation**

(8) The product concerned by the possible circumvention is flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, classified on the date of entry into force of Implementing Regulation (EU) 2020/1408 under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12 and originating in Indonesia ('the product concerned'). This is the product to which the measures that are currently in force apply.

(9) The product under investigation is the same as that defined in the previous recital, currently falling under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12, but consigned from Türkiye, whether declared as originating in Türkiye or not (TARIC codes 7219 11 00 10, 7219 12 10 10, 7219 12 90 10, 7219 13 10 10, 7219 13 90 10, 7219 14 10 10, 7219 14 90 10, 7219 22 10 10, 7219 22 90 10, 7219 23 00 10, 7219 24 00 10, 7220 11 00 10, and 7220 12 00 10) ('the product under investigation').

(10) The investigation showed that SSHR exported from Indonesia to the Union and SSHR consigned from Türkiye, whether originating in Türkiye or not, have the same basic physical and chemical characteristics and have the same uses, and are therefore considered as like products within the meaning of Article 1(4) of the basic Regulation.

(11) Following disclosure, Marcegaglia Specialties S.P.A. ('Marcegaglia'), a European SSHR importer and user, claimed that all its Turkish SSHR imports made from Indonesian slabs were black SSHR coils for which there was almost no free market in the Union. The company distinguished between white SSHR and black SSHR within the product concerned. Black SSHR coils need to be pickled and annealed before further processing, limiting their use exclusively to re-rollers. Marcegaglia claimed that they are the only independent, non-vertically integrated, re-roller in the Union. Thus, since the product imported from Türkiye was limited to black SSHR coils, there was no competition with white SSHR manufactured and sold by Union producers on the free market.

(12) The Commission recalled that the purpose of this investigation was to determine whether there was circumvention. There was no legal basis to revise the product scope of the measures in the context of this investigation. The product scope was established in the original investigation and all SSHR coils within the product definition were included. Specifically, in the original investigation it was concluded that black and white coils share the same basic physical and chemical characteristics, that they are interchangeable and fall within the product scope ([4]). Therefore, the claim was rejected.

(13) Following disclosure, Çolakoğlu Metalurji A.Ş. ('Çolakoğlu'), a Turkish exporting producer, and the Government of the Republic of Türkiye claimed that the Commission should have extended the scope of the investigation to include the processing of Indonesian stainless steel slabs into SSHR in the Union.

([4]) See recitals (44) to (46) of 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 (OJ L 110, 8.4.2020, p. 3), confirmed in recitals (20)–(28) and (31) of Commission Implementing Regulation (EU) 2020/1408.

(14) As explained in recital (31), the Commission recalled that, while this practice was out of the scope of this investigation, it took note of the claim and will further analyse whether this practice, if confirmed, should require further action from the Commission.

1.4. **Initiation**

(15) Having determined, after having informed the Member States, that sufficient evidence existed for the initiation of an investigation pursuant to Article 13(3) of the basic Regulation, the Commission initiated the investigation and made imports of SSHR consigned from Türkiye, whether declared as originating in Türkiye or not, subject to registration, by Commission Implementing Regulation (EU) 2022/1310 ([5]) ('the initiating Regulation').

1.5. **Comments on initiation**

(16) Çolakoğlu argued that the initiation of the investigation was not justified due to a lack of sufficient evidence, and the investigation should therefore be terminated.

(17) Çolakoğlu claimed that there is a lack of change in the pattern of trade since, in the absence of a decrease in imports of SSHR from Indonesia, the increase in imports of SSHR from Türkiye, in itself, which could not possibly substitute the imports from Indonesia, did not demonstrate the existence of a change in the pattern of trade.

(18) It also argued that the practice, process or work taking place in Türkiye did not fall within any of the categories of the fourth subparagraph of Article 13(1) of the basic Regulation. In particular, there was no positive evidence that consignment of SSHR originating in Indonesia via Türkiye to the Union took place, neither evidence of reorganisation of the patterns and channels of sales. Moreover, the practice, process or work could not be qualified as a slight modification, as the product under investigation is a downstream product and, as such, a different product than its input materials or an assembly operation, in particular since the product under investigation and the stainless steel slabs are not classified under the same tariff headings.

(19) Çolakoğlu claimed that there was an economic justification to invest in stainless steel making capacities given the demand for stainless steel products in Türkiye.

(20) Çolakoğlu also argued the absence of injury and that the remedial effects were not being undermined since (i) with a market share of 1 %, the Turkish imports were not significant to undermine the remedial effect of the duty; and (ii) should the remedial effects of the duty be undermined, this would not be because of SSHR imports from Türkiye but rather because of the imports of SSHR from Indonesia, which continued after the imposition of the measures, and SSHR processed by the Union producers from steel slabs imported from Indonesia.

(21) In addition, Çolakoğlu argued that extending the measures to Türkiye would be against the Union interest, as this would lead to a further increase of prices, which would ultimately affect negatively the end users and consumers.

(22) Finally, Çolakoğlu claimed that Union producers performed the same operations, that is the processing of Indonesian stainless steel slabs into SSHR in the Union, even at a larger extent than the operations taking place in Türkiye. Therefore, it requested to terminate the investigation or, alternatively, to expand the scope of the investigation to include the processing of Indonesian stainless steel slabs into SSHR in the Union.

(23) Similar comments were received from Marcegaglia, and from the Government of the Republic of Türkiye.

([5]) Commission Implementing Regulation (EU) 2022/1310 of 26 July 2022 initiating an investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2020/1408 on imports of certain hot rolled stainless steel sheets and coils originating in Indonesia by imports of certain hot rolled stainless steel sheets and coils consigned from Turkey, whether declared as originating in Turkey or not, and making such imports subject to registration (OJ L 198, 27.7.2022, p. 8).

(24) In addition, Marcegaglia claimed that the import of stainless steel slabs from Indonesia for further processing in Türkiye constituted an economically justified operation aimed at diversifying its sources of supply.

(25) The Commission considered that the request contained sufficient evidence that a change in the pattern of trade involving exports from Indonesia and Türkiye to the Union took place following the initiation of the original investigation and the imposition of measures. Specifically, the request contained data showing a change in the pattern of trade involving a significant increase in exports of stainless steel slabs, the main raw material for the production of SSHR, from Indonesia to Türkiye and a significant increase in exports of SSHR from Türkiye to the Union.

(26) Concerning the practice, process or work taking place in Türkiye, the Commission considered that the request contained sufficient evidence of the existence of assembly/completion operations, one of the practices specifically mentioned in Article 13(2) of the basic Regulation, in Türkiye, and that these operations were based on the use of stainless steel slabs, the main input material, from Indonesia. The tariff classification of the product under investigation and of its main input materials, or the change thereof, is irrelevant for determining whether an assembly/completion operation constitutes circumvention.

(27) In addition, the request provided sufficient evidence regarding the apparent lack of economic justification other than the imposition of the duties, in particular as the operations led to an increase in the complexity of logistical operations costs and service fees. The claims made by Çolakoğlu and Marcegaglia were further analysed during the investigation and addressed in Section 2.4 below.

(28) The Commission considered that the request also provided sufficient evidence suggesting that due to these practices, the remedial effects of the existing anti-dumping measures on SSHR were being undermined both in terms of quantity and prices. In particular, the request provided sufficient evidence that imports of SSHR were made at prices below the non-injurious price established in the original investigation. These claims, including the arguments concerning the share of Turkish imports, were further analysed during the investigation.

(29) Concerning Union interest claims, the Commission recalled that the Union interest is not a consideration for initiations under Article 13 of the basic Regulation.

(30) In view of the above, the Commission rejected the claims that the request did not contain sufficient evidence to warrant the initiation of the investigation.

(31) Concerning Çolakoğlu's comments that imports of Indonesian slabs into the Union might be processed into SSHR within the Union, the Commission noted that this practice fell out of the scope of this investigation. Indeed, the initiation Regulation limited the investigation to imports of SSHR into the Union from Türkiye and the processing operations taking place in Türkiye. However, the Commission took note of the claim provided by Çolakoğlu, and will further analyse whether imports of stainless steel slabs from Indonesia into the Union could be an element of a distinct circumvention practices. The Commission started monitoring the imports of stainless steel slabs from Indonesia into the Union and, according to Eurostat, these imports ceased in October 2022.

1.6. **Rights of defence**

(32) Following disclosure, Çolakoğlu claimed that the Commission violated its right of defence pursuant to Article 6(7) of the basic Regulation, Article 296 TFEU as well as its right to sound administration in accordance with Article 41 of the Charter of the Fundamental Rights of the European Union, by failing to consider many of the arguments that were submitted in the course of the investigation. In particular, Çolakoğlu considered that its right to sound administration was violated because the Commission did not expand the scope of the investigation to include stainless steel slabs from Indonesia imported directly into the Union.

(33) The Commission recalled that, on 30 January 2023, it disclosed to the interested parties the essential facts and considerations on the basis of which its conclusions were based. All parties were given 15 days to comment. All arguments made by Çolakoğlu and other interested parties were considered, but this does not mean that every single argument submitted needed to be addressed explicitly in the disclosure document. ([6]) The Commission needs to duly justify and explain in detail its findings and conclusions, as it did in the disclosure document. Following disclosure, Çolakoğlu submitted comments and was granted a hearing. The Commission duly considered all comments made, as specified below. With respect to the imports of Indonesian stainless steel slabs into the Union, the Commission recalled that it duly explained in the disclosure, mirrored in recital (31) above, the reasons why this alleged practice fell outside the scope of the investigation at hand. Also, contrary to what Çolakoğlu claimed, the Commission did not exercise any discretion as the initiation Regulation only allowed it to investigate other possible circumvention practices taking place outside the Union, in particular in Türkiye. Therefore, the Commission considered that Çolakoğlu's rights of defence were fully respected and rejected the claim.

1.7. **Investigation period and reporting period**

(34) The investigation period covered the period from 1 January 2018 to 30 June 2022 ('the investigation period' or 'IP'). Data were collected for the investigation period to investigate, inter alia, the alleged change in the pattern of trade following the imposition of measures on the product concerned, and the existence of a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the duty. More detailed data were collected for the period from 1 July 2021 to 30 June 2022 ('the reporting period' or 'RP') in order to examine if imports were undermining the remedial effect of the measures in force in terms of prices and/or quantities and the existence of dumping.

1.8. **Investigation**

(35) The Commission officially informed the authorities of Indonesia and Türkiye, the known exporting producers in those countries, the Union industry and the President of the EU- Türkiye Association Council of the initiation of the investigation.

(36) In addition, the Commission asked the Mission of Türkiye to the European Union to provide it with the names and addresses of exporting producers and/or representative associations that could be interested in participating in the investigation in addition to the Turkish exporting producers, which had been identified in the request by the applicant.

(37) Exemption claim forms for the producers/exporters in Türkiye, questionnaires for the producers/exporters in Indonesia, and for importers in the Union were made available on DG TRADE's website.

(38) Five companies established in Türkiye submitted exemption claim forms. These were:

— Saritas Celik San.ve tic. A.S. ('Saritas')

— Üças Paslanmaz Çelik iç ve tic. A.S. ('UCAS')

— AST Turkey Metal Sanayi ve tic. A.S.. ('AST')

— Poyraz Paslanmaz Sanayi ve diş ticaret Limited Sirk ('Poyraz')

— Çolakoğlu Metalurji A.Ş. ('Çolakoğlu').

(39) In addition, a Union importer and user, Marcegaglia, submitted a questionnaire reply.

(40) Interested parties were given the opportunity to make their views known in writing and to request a hearing within the time limit set in the initiating Regulation. All parties were informed that the non-submission of all relevant information or the submission of incomplete, false or misleading information might lead to the application of Article 18 of the basic Regulation and to findings being based on the facts available.

(41) A hearing with Marcegaglia was held on 4 October 2022.

([6]) See on this point judgement of 5 May 2021, *Acron v Commission*, T-45/19, ECLI:EU:T:2021:238, para. 95.

(42) Following disclosure on 30 January 2023, hearings were held with Marcegaglia on 8 February 2023 and with Çolakoğlu on 10 February 2023.

2. RESULTS OF THE INVESTIGATION

2.1. General considerations

(43) In accordance with Article 13(1) of the basic Regulation, the following elements should be analysed in order to assess possible circumvention:

— whether there was a change in the pattern of trade between the Indonesia, Türkiye and the Union,

— if this change stemmed from a practice, process or work for which there was insufficient due cause or economic justification other than the imposition of the anti-dumping measures in force,

— if there is evidence of injury or the remedial effects of the anti-dumping measures in force were being undermined in terms of the prices and/or quantities of the product under investigation, and

— whether there is evidence of dumping in relation to the normal values previously established for the product concerned.

(44) The request alleged the consignment of the product concerned from Türkiye to the Union after having undergone assembly/completion operations in Türkiye. In this regard, the Commission specifically analysed whether the criteria set out in Article 13(2) of the basic Regulation were met, in particular:

— whether the assembly/completion operation started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation and whether the parts concerned are from the country subject to measures, and

— whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs.

2.2. Cooperation and status of exporting producers

(45) As stated in recital (38), five companies established in Türkiye requested to be exempted from the measures, if extended to Türkiye.

(46) Three of them, Saritas, UCAS and AST, were considered not to be exporting producers. Following the analysis of the information provided in their respective requests, the Commission concluded that, while the companies were involved in the purchase and resale of the product under investigation, they did not produce or manufacture it. The product under investigation was purchased from other entities, which were the actual producers. These companies, consequently, could not be classified as producers. Article 13(4) of the basic Regulation provides the possibility only for producers to apply for exemption from the extension of anti-dumping duties. This was echoed in recital (27) of the initiation Regulation, which explicitly specified that exemptions can be granted only to producers of the product under investigation in Türkiye. Since these companies were found not to be producers, they were therefore not entitled to apply for an exemption.

(47) Regarding Poyraz, the Commission received a highly deficient reply with major parts of the exemption claim form questionnaire reply completely missing or incomplete. Following a deficiency letter, the company submitted a reply where the necessary information was still either highly deficient or missing. Therefore, the Commission informed the company that it intended to apply facts available in accordance with Article 18(1) of the basic Regulation when determining whether this company was a producer within the meaning of Article 13(4) of the basic Regulation. In

its reply, the company explained why it did not provide more complete information and invited the Commission to gather more data at their premises. The company did not submit any further information rectifying or completing the deficient parts of its questionnaire reply.

(48) However incomplete, the reply confirmed that Poyraz was buying SSHR coils predominantly in Indonesia, and then reselling them (possibly cut and sized) partly on the Union market. Whilst, the company was unable to provide the Commission with the costs of the transformation, if any, or a detailed sales listing to the Union, it is clear from the reply that Poyraz was buying and reselling the product concerned. In that Poyraz could not be considered a producer within the meaning of Article 13(4) of the basic Regulation and thus could not benefit from an exemption. The request for exemption was therefore rejected.

(49) Çolakoğlu cooperated during the entire investigation by submitting the exemption claim form and by providing replies to the deficiency letters sent to it. As a result, the overall level of cooperation from the Turkish exporting producers was relatively high, as Çolakoğlu's export volumes of SSHR to the Union accounted for [88 % to 93 %] of the total Turkish import volumes during the reporting period, as reported in the Eurostat import statistics.

(50) The Commission carried out a verification visit at the premises of Çolakoğlu, pursuant to Article 16 of the basic Regulation. Çolakoğlu imported almost all its main input material (stainless steel slabs) from Indonesia.

(51) The Union importer and user Marcegaglia also cooperated and provided information concerning the purchase of Indonesian stainless steel slabs, the subsequent processing in Türkiye and the imports of SSHR into the Union. Marcegaglia requested to be treated as an exporting producer. It justified its request based on the nature of its operations since it was engaged in the purchase of the slabs from Indonesia, had these slabs subsequently hot rolled under a tolling agreement with Çolakoğlu in Türkiye, and later imported the coils (SSHR) into the Union. Accordingly, Marcegaglia was the owner of the raw material (slabs) and of the final product (SSHR) during the entire operation, which was confirmed by the investigation. However, because the actual production/processing activities took place at the premises of Çolakoğlu ([7]) in Türkiye, the Commission concluded that Marcegaglia could not be considered as an exporting producer entitled to request an exemption.

2.3. **Change in the pattern of trade**

2.3.1. *Imports of SSHR*

(52) Table 1 below shows the development of imports of SSHR from Indonesia and Türkiye in the investigation period.

Table 1

Imports of SSHR to the Union in the investigation period (in tonnes)

	2018	2019	2020	2021	Reporting period
Indonesia	44 647	81 041	3 695	105 784	128 191
Index (base = 2018)	*100*	*182*	*8*	*237*	*287*
Türkiye	1 611	2 137	21 500	33 236	50 015
Index (base = 2018)	*100*	*133*	*1 335*	*2 064*	*3 106*

Source: Eurostat.

([7]) See for a similar conclusion Commission Decision of 27 June 2012 terminating the anti-dumping proceeding concerning imports of certain concentrated soy protein products originating in the People's Republic of China (OJ L 168, 28.6.2012, p. 38), rec. (79).

(53) Table 1 shows that the volume of imports of SSHR from Türkiye into the Union increased from 1 611 tonnes in 2018 to 50 015 tonnes in the reporting period. The most significant increase in the volume of imports took place from 2019 to 2020, when the volume multiplied more than ten times, from 2 137 tonnes in 2019 to 21 500 tonnes in 2020. This increase coincided in time with the initiation of the original investigation, in August 2019, and the imposition of definitive measures in October 2020. From 2020 the volume of imports from Türkiye continued increasing strongly to reach 50 015 tonnes during the reporting period. Overall the volume of imports from Türkiye increased more than 30 times during the investigation period.

(54) At the same time, the volume of imports of SSHR from Indonesia increased from 44 647 tonnes in 2018 to 128 191 tonnes in the reporting period. The volume of imports increased from 2018 to 2019 by 82 %. From 2018 to 2020, during the original investigation, the volume of imports of SSHR from Indonesia diminished significantly. In 2020 the volume of imports decreased to less than one twentieth of the volume of 2019. From 2021 to the reporting period the volume of imports of SSHR from Indonesia recovered and started increasing again (by more than 50 %) compared to the levels of 2019. Overall, the volume of imports of SSHR from Indonesia into the Union almost tripled during the investigation period, but that increase was, in relative terms, much less significant than the increase of imports from Türkiye.

2.3.2. *Export volumes of stainless steel slabs from Indonesia to Türkiye*

(55) Table 2 below shows the development of the volume of imports of stainless steel slabs from Indonesia to Türkiye, based on the Turkish import statistics from the GTA database ([8]).

Table 2

Imports of stainless steel slabs from Indonesia to Türkiye in the investigation period (in tonnes)

	2018	2019	2020	2021	Reporting period
Indonesia	0	6 368	14 172	60 684	40 513
Index (base = 2019)	*0*	*100*	*223*	*953*	*636*

Source: GTA.

(56) The main input material for the production of SSHR is stainless steel slabs. This input material is then further processed, that is hot rolled, to produce SSHR. The evidence available to the Commission showed that the SSHR exported to the Union from Türkiye was produced mainly from stainless steel slabs.

(57) Table 2 shows that the imports of stainless steel slabs from Indonesia to Türkiye substantially increased, from zero in 2018 to 40 513 tonnes in the reporting period. The imports from Indonesia represented around 99,9 % of the total volume of imports of stainless steel slabs to Türkiye each year in the period from 2019 until the reporting period. Moreover, the significant increase of imports of stainless steel slabs from Indonesia to Türkiye also coincided in time with the start of the supply by Çolakoğlu to its Union customer (Marcegaglia) from 2019 onwards, leading to an increased consumption of stainless steel slabs in Türkiye for the production of SSHR. Furthermore, the Commission established that the totality of imports of stainless steel slabs from Indonesia to Türkiye arrived at the premises of Çolakoğlu.

(58) The significant increase in import volumes of stainless steel slabs from Indonesia to Türkiye indicated an increasing demand for such input materials in Türkiye, which could, to a large extent, be explained by the increase in the production and exports of SSHR from Türkiye during the reporting period. This was also corroborated by the information provided by Çolakoğlu.

([8]) https://www.gtis.com/gta/.

(59) Following disclosure, Çolakoğlu claimed that there was no change in the pattern of trade, given the increase of Indonesian imports and the lack of substitution of imports of Indonesian SSHR by imports of Turkish SSHR. It also claimed that, in the absence of import substitution, the Commission deviated from its usual practice in the establishment of existence of change in the pattern of trade.

(60) The Commission noted that Article 13 of the basic Regulation does not require a full substitution of imports from the country subject to measures by imports from other sources in order to establish a change in the pattern of trade. Also, the conclusion of the Commission about the change in the pattern of trade did not deviate from Commission's usual practice, since in some previous cases the existence of a change in the pattern of trade was also established, despite an increase of imports from the country subject to the anti-dumping measures ([9]).

2.3.3. *Conclusion on the change in the pattern of trade*

(61) While imports of SSHR from Türkiye did not substitute imports from Indonesia, which also experienced an increase, the investigation established that the significant volumes of stainless steel slabs imported from Indonesia, were further processed into SSHR in Türkiye to be later exported to the Union. The increase of exports of SSHR from Türkiye to the Union seen in Table 1, together with the significant increase of exports of stainless steel slabs from Indonesia into Türkiye in the investigation period, as shown in Table 2, constituted a change in the pattern of trade between Indonesia, Türkiye and the Union within the meaning of Article 13(1) of the basic Regulation.

2.4. **Practice, process or work for which there is insufficient due cause or economic justification other than the imposition of the anti-dumping duty**

(62) The investigation revealed the existence of a tolling agreement between Marcegaglia and Çolakoğlu under which Marcegaglia purchased stainless steel slabs from Indonesia, shipped those to Türkiye in order to be further processed into SSHR by Çolakoğlu, to be later imported into the Union by Marcegaglia. This tolling agreement was negotiated at the end of 2018, prior to the initiation of the original investigation.

(63) Table 3 shows the evolution of the Çolakoğlu exports of SSHR to the Union falling under the tolling agreement with Marcegaglia.

Table 3

SSHR exports of Çolakoğlu to the Union (in tonnes)

	2018	2019	2020	2021	RP
Çolakoğlu Exports of SSHR to the Union	0	5–10	10 000–15 000	25 000–30 000	40 000–50 000

Source: verified companies' data.

(64) Table 3 shows that the exports of Çolakoğlu substantially increased, from zero in 2018 to over 40 000 tonnes in the reporting period.

(65) The investigation also revealed that almost the entire exports of Çolakoğlu to the Union were made under the tolling agreement with Marcegaglia. Similarly, almost the totality of the slabs imported into Türkiye from Indonesia were further transformed into SSHR by Çolakoğlu under the tolling agreement established between both companies.

([9]) See for example, Commission Implementing Regulation (EU) 2022/302 of 24 February 2022 extending the definitive anti-dumping duty imposed by Implementing Regulation (EU) 2020/492, as amended by Implementing Regulation (EU) 2020/776, on imports of certain woven and/or stitched glass fibre fabrics ('GFF') originating in the People's Republic of China ('the PRC') to imports of GFF consigned from Morocco, whether declared as originating in Morocco or not, and terminating the investigation concerning possible circumvention of the anti-dumping measures imposed by Implementing Regulation (EU) 2020/492 on imports of GFF originating in Egypt by imports of GFF consigned from Morocco, whether declared as originating in Morocco or not (OJ L 46, 25.2.2022, p. 49), rec. (50)–(54).

(66) Even though there might have been other reasons to set up the scheme than the measures in place, i.e. to ensure security of supply for Marcegaglia, and to supply the stainless steel market in Türkiye, other elements strongly point to a connection with the imposition of the duties:

— The tolling agreement, although negotiated prior to initiation of the original investigation, did not fully materialise before the initiation of the original investigation.

— The practice under the tolling agreement substantially increased only after the start of the original investigation and significantly increased after the imposition of the definitive measures.

(67) The Commission noted that the tolling agreement was set up with a view to supply the Union market and not the Turkish domestic market. In fact, Çolakoğlu sold less than 2 % of SSHR, produced from slabs imported from Indonesia, on the Turkish domestic market.

(68) The Commission also analysed Marcegaglia's claim that the tolling agreement was set up to ensure security of supply, because demand increased significantly and could not be met by the Union industry. In this regard it was established that the assembly/completion operations in Türkiye started in significant volumes only after the initiation of the original investigation against Indonesia. The agreement did not merely concern securing a supply from Türkiye, but due to its tolling nature, 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 case the anti-dumping duty on imports of SSHR from Indonesia.

(69) Following disclosure, Marcegaglia and Çolakoğlu claimed that their business relationship was not dependent on the existence of the anti-dumping duty against imports of SSHR from Indonesia. Both companies argued that the tolling agreement between Marcegaglia and Çolakoğlu was negotiated prior to the initiation of the original investigation, and that the two companies had a longstanding business relationship, which started more than 10 years ago. Their tolling agreement was part of a wider agreement, whereby Çolakoğlu would process both stainless steel products and carbon steel products.

(70) The Commission noted that, even considering that Marcegaglia and Çolakoğlu had a business relationship for more than 10 years and allegedly their tolling agreement was part of a wider agreement, as also stated in recital (66) above, the practice subject to this investigation, i.e. to process stainless steel slabs from Indonesia into SSHR in Türkiye which subsequently was exported to the Union, did not fully materialise before the initiation of the original investigation. The practice increased after the start of the original investigation and further increased significantly after the imposition of the definitive measures. In other words, the start of the practice at stake, despite the longstanding relationship, coincided in time with the initiation of the original investigation and the later imposition of measures, and did not materialise at any earlier stage. Therefore, the Commission rejected this claim.

(71) Çolakoğlu claimed that there was an economic justification linked to the existence of demand for Turkish SSHR, both in the EU and in Türkiye. This demand would justify the investments, made prior to the initiation of the original investigation, to develop production of SSHR in Türkiye.

(72) The Commission noted at the outset that the practice that was found to be circumventing the anti-dumping duties in force was not the production of SSHR in Türkiye as such. The practice that was found to be circumventing was importing stainless steel slabs from Indonesia into Türkiye, rolling them into SSHR and selling them on the Union market. Therefore, whether the investments in the capacity development were economically justified was immaterial from the point of view of the Commission's findings of circumvention. Moreover, the Commission noted that, while Çolakoğlu developed the capacity to produce its own stainless steel slabs in Türkiye, this production was very limited. In fact, as stated in recital (91) below, slabs of Turkish origin accounted, in the reporting period, for less than 0,5 % of the slabs used by Çolakoğlu for the production of SSHR exported to the

Union. Therefore, irrespective of whether there were reasons for Çolakoğlu's investments on stainless steel production facilities other than to circumvent the measures, the investments in question were not used to supply SSHR to the Union produced from slabs of Turkish origin since almost all exports of Çolakoğlu were based on SSHR produced from Indonesian slabs during the reporting period. Therefore, the claim was rejected.

(73) Following disclosure, Marcegaglia claimed that there was an economic justification given its business model, which was based on, first, the diversification of sources of supply and, second, on the need of flexibility to cope with the availability of SSHR in the market depending on the fluctuations of demand for downstream products. The fact that there was limited availability of black SSHR on the Union market, including from imports from third countries, allegedly justified Marcegaglia's strategy of purchasing stainless steel slabs from Indonesia to be processed into black SSHR through tolling agreements. Moreover, Marcegaglia argued that the Commission did not address the fact that Indonesia has the largest capacity of stainless steel slabs in the world and, unlike other countries, is willing to supply the quality and quantities of slabs needed by Marcegaglia. Allegedly other countries either focus on SSHR or have a strong demand of SSHR for downstream products.

(74) The Commission noted that, while considering the business model as described above, this claim did not render the arguments set out above in recitals (66) to (68) invalid. In addition, Indonesian SSHR was available on the Union market following the payment of the anti-dumping duties, which was shown by the increase of imports from Indonesia. Furthermore, there was no evidence that the alleged fluctuations of the availability of downstream products would affect only the availability of SSHR, but not its immediate upstream input, the stainless steel slabs, resulting in abundancy of Indonesian slabs and scarcity of Indonesian SSHR. Moreover, the allegation that all other countries, except Indonesia, were unable or unwilling to supply sufficient quantities of quality slabs to Marcegaglia was not backed by any evidence. Therefore, this claim was rejected.

(75) Following disclosure, Marcegaglia argued that the economic justification of the tolling agreement with Çolakoğlu was confirmed by the recent significant investments made by Marcegaglia. In January 2023 Marcegaglia acquired a steel mill in the United Kingdom. Marcegaglia claimed that this acquisition of a plant for the production of stainless steel slabs was driven by the need of securing a reliable and stable own source of supply of SSHR. However, since the acquired steel mill produces stainless steel slabs but does not have hot rolling facilities, Marcegaglia argued that in the future it would need the partnership of another plant in order to process the stainless steel slabs produced in the United Kingdom into SSHR, either in or outside the Union. In this respect, Çolakoğlu has proven to be a reliable and efficient partner which could potentially be used also for the processing of slabs produced in the United Kingdom into SSHR. Furthermore, Marcegaglia pointed out that, as it would soon be able to meet its demand of stainless steel slabs by means of the production of slabs in the United Kingdom, no further imports SSHR of slabs from Indonesia could be expected in the future.

(76) The Commission considered that this recent development may very well result in a change of sources of supply of stainless steel slabs in the near future. However, this acquisition took place in January 2023, i.e. after the reporting period, and did not contain any guarantee as to whether or when the established circumvention practice would come to an end.

(77) Concerning the alleged future change of circumstances the Commission noted that, after one year from the extension of the measures, either Marcegaglia or Çolakoğlu could request a review of the anti-circumvention measure under Article 11(3) of the basic Regulation, in case of the change being of a lasting nature. Indeed, such change could be linked to the purchase of stainless steel slabs produced in the United Kingdom replacing the purchase of stainless steel slabs from Indonesia, provided it can be demonstrated that such change would be of a lasting nature.

(78) In light of all these elements, the Commission concluded that there was insufficient due cause or economic justification other than the imposition of the duty, for the completion operation by Çolakoğlu. The change in the pattern of trade was a result of the fact that the operation started and then substantially increased after the initiation of the original investigation.

2.5. **Start or substantial increase of operations**

(79) Article 13(2)(a) of the basic Regulation requires the assembly or completion operation to have started or substantially increased since, or just prior to, the initiation of the anti-dumping investigation, and the parts concerned to be mainly from the countries subject to anti-dumping measures.

(80) As described in Section 2.4 above, Çolakoğlu substantially increased its export sales during the investigation period, and almost all purchases of the main input material, stainless steel slabs, were imported from Indonesia.

(81) Therefore, the Commission concluded that the assembly or completion operation substantially increased since the initiation of the original investigation, as required by Article 13(2)(a) of the basic Regulation.

2.6. **Value of parts and value added**

(82) Article 13(2)(b) of the basic Regulation states that, as far as assembly or completion operations are concerned, a condition to establish circumvention is that the parts from the countries subject to measures constitute 60 % or more of the total value of the parts of the assembled product and that the added value of the parts brought in, during the assembly or completion operation, is less than 25 % of the manufacturing cost.

(83) Following disclosure, Çolakoğlu reiterated its claim that the practice, process or work does not fall within the meaning of Articles 13(1) and 13(2) of the basic Regulation since the product under investigation, SSHR, is a different product than its input material, stainless steel slabs. Slabs are classified under different tariff headings than SSHR as the processing operations are substantial and confer a non-preferential Turkish origin to SSHR. Also, Çolakoğlu argued that while rules of origin are regulated at WTO level, no agreement on circumvention has been reached at WTO level. Therefore, a decision to extend the existing measures to imports of SSHR from Türkiye would undermine the Union's position as a leading proponent of global trade convergence. Furthermore, the Çolakoğlu referred to the *Steel Wire Ropes and Cables (India)* case ([10]), where the Commission took the view that the non-preferential origin rules were relevant in determining whether the anti-dumping duties applied or not.

(84) The Commission considered that the tariff classification and the origin of the product under investigation and of its main input materials, or the change thereof, is irrelevant for determining whether an assembly/completion operation constitutes circumvention. The legal basis for an anti-circumvention investigation is Article 13 of the basic Regulation, and not customs legislation regarding origin. Indeed, the Court of Justice of the European Union has held that the sole purpose of a Regulation extending an anti-dumping duty is to ensure the effectiveness of that duty and to prevent its circumvention ([11]). To asses possible circumvention, as described in recital (82), the Commission therefore analysed whether the criteria set out in Article 13(2)(b) of the basic Regulation were met. In particular whether the parts constitute 60 % or more of the total value of the parts of the assembled product and whether the value added of the parts brought in, during the assembly or completion operation, was greater than 25 % of the manufacturing costs. Also, while the WTO Members explicitly acknowledged the problem of circumvention of anti-dumping measures ([12]), there are no uniform rules on circumvention at WTO level that would render the Union rules in this respect incompatible. Finally, the Commission Decision referred to by Çolakoğlu did not concern the application of Article 13 as such, but rather the collection of anti-dumping duties in the case of non-compliance with the terms of an undertaking. Moreover, the case-law has clarified that the use of 'from' rather than 'originating in' in Article 13 of the basic Regulation implies that '*the EU legislature has deliberately chosen to distance itself from rules of origin under customs law and that, therefore, the concept of "from" […] possesses an autonomous and distinct meaning from that of the concept of "origin" under customs law*' ([13]). The claim was therefore rejected.

([10]) 2006/38/EC Commission Decision of 22 December 2005 amending Commission Decision 1999/572/EC accepting undertakings offered in connection with the anti-dumping proceedings concerning imports of steel wire ropes and cables originating, inter alia, in India (OJ L 22, 26.1.2006, p. 54), recitals (42)–(44).

([11]) Judgment of 12 September 2019, *Commission* v *Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 96 and the case-law cited.

([12]) Uruguay Round Agreement, Decision on Anti-Circumvention.

([13]) Judgment of 12 September 2019, *Commission/Kolachi Raj Industrial*, C-709/17 P, ECLI:EU:C:2019:717, para. 90.

2.6.1. *Value of parts*

(85) The main input material to produce SSHR is stainless steel slabs. Almost 100 % of the stainless steel slabs processed by Çolakoğlu were imported from Indonesia. Through a hot rolling process carried out, which was a completion operation in Türkiye, these stainless steel slabs were further processed into SSHR. According to the submitted and verified information by Çolakoğlu, the stainless steel slabs, constituted almost 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic Regulation.

(86) Following disclosure, Çolakoğlu reiterated its claim that manufacturing SSHR from stainless steel slabs does not constitute an 'assembly of parts by an assembly operation' within the meaning of Article 13(2) of the basic Regulation, since there is only one part in the production of SSHR. It also argued that reference to 'completion of operations' in Article 13(2) of the basic Regulation should be read in the context of value added after the assembly has been concluded. Therefore, and given that the operations carried out by Çolakoğlu did not qualify as an assembly operation, the conditions laid down in Articles 13(2)(a) and 13(2)(b) of the basic Regulation were not met, according to Çolakoğlu.

(87) The Commission rejected these claims. The practice described in recital (82) was considered to be a completion operation that fell within the concept of assembly operations under Article 13(2) of the basic Regulation, as also referred to in recital (44). In addition, other elements were considered, as explained below.

(88) The basic Regulation does not define the terms 'assembly operation' or 'completion operation'. However, the way Article 13(2) of the basic Regulation is constructed favours an interpretation of the term 'assembly operation' as, according to Article 13(2)(b), also meant to encapsulate explicitly 'completion operation'. It follows that 'assembly operation' within the meaning of Article 13(2) is meant to cover not only operations that consist of assembling parts of a composite article, but may also involve further processing, i.e. finishing of a product.

(89) As noted in recital (84), the purpose of investigations conducted in accordance with Article 13 of the basic Regulation is to ensure the effectiveness of anti-dumping duties and to prevent their circumvention. Consequently, the purpose of Article 13(2) of the basic Regulation is to capture the practices, processes or works that use predominantly parts from the country that is subject to the measures and assemble or finish them by adding limited value to these parts.

(90) Following disclosure, Çolakoğlu claimed that SSHR produced with slabs of Turkish origin fell outside the scope of the investigation. Therefore, the extension of the measures should only be related to SSHR produced from Indonesian slabs and not SSHR produced from slabs of Turkish origin. Çolakoğlu also claimed that origin could be checked by national customs authorities given the existence of a viable and practicable way to verify its Turkish origin. Specifically, the obtainment of a EUR.1 Certificate, which grants preferential origin, should provide assurance with sufficient guarantees that the SSHR to which it related were processed from slabs of Turkish origin.

(91) Article 13(1) of the basic Regulation provides for extension of the duties to imports from third countries of the like product, if the conditions are met. Pursuant to Article 13(4), exemptions from the extension of the measures may be granted to producers of the product concerned that are found not to be engaged in circumvention practices. In its analysis, the Commission was bound to take into account all the sales to the Union of the product under investigation by the exporting producer in question, including those manufactured from slabs with Turkish origin, and not only the sales of the product manufactured with Indonesian slabs. In this respect, the investigation confirmed that Çolakoğlu exported to the Union SSHR manufactured predominantly with Indonesian slabs. Specifically, the investigation established that during the reporting period out of the [40 000 – 50 000] tonnes of SSHR exported by Çolakoğlu to the union only [20 – 200] tonnes were SSHR produced with slabs of Turkish origin, accounting at its maximum level for 0,5 % of the parts. Accordingly, the parts, stainless steel slabs, imported from Indonesia, accounted in the reporting period for more than 99,5 % of all parts used in the total production of SSHR. Consequently, the claim was rejected.

(92) Following disclosure, Çolakoğlu argued that its rights of defence were breached, in particularto Article 6(7) of the basic Regulation and Article 296 TFEU because its initial exemption request concerned not only SSHR produced with Indonesian slabs but also, separately, SSHR produced with slabs of Turkish origin. This element was not addressed in the disclosure, according to Çolakoğlu.

(93) As indicated in recital (85) above, under Article 13(1) of the basic Regulation, the extension concerns imports from third countries of the like product and Article 13(4) allows for exemptions for '*producers […] that are found not to be engaged in circumvention practices*'. The Commission stated in the disclosure document that for the purpose of the assessment of the 60 % criterion, it took into account all slabs processed by Çolakoğlu, and that almost 100 % of the stainless steel slabs processed by it were imported from Indonesia. Thus, those slabs constituted almost 100 % of the total value of the parts of the assembled/completed product in the sense of Article 13(2)(b) of the basic Regulation. Based on this assessment, Çolakoğlu was found to be engaged in circumvention practices within the meaning of Article 13(4) of the basic Regulation and thus could not be granted an exemption pursuant to that provision. Furthermore, following disclosure, in recital (91) above, the Commission confirmed that SSHR produced from slabs with Turkish origin had to be taken into account in its analysis and could not be excluded from the scope of the investigation. Consequently, the Commission considered that Çolakoğlu's rights of defence were fully respected and rejected the claim.

(94) The Commission therefore concluded that the 60 % criterion set out in Article 13(2)(b) of the basic Regulation was met.

2.6.2. *Value added*

(95) The average value added established during the reporting period was found to be lower than 5 %, that is far below the 25 % threshold set by Article 13(2)(b) of the basic Regulation. The Commission therefore concluded that the value added to the parts brought in, during the assembly or completion operation, was less than 25 % of the manufacturing cost, as required by Article 13(2)(b) of the basic Regulation for these operations to constitute circumvention.

2.7. **Undermining of the remedial effect of the anti-dumping duty**

(96) In accordance with Article 13(1) of the basic Regulation, the Commission examined whether the imports of the product under investigation, both in terms of quantities and prices, undermined the remedial effects of the measures currently in force.

(97) Based on the submitted and verified data of Çolakoğlu and Marcegaglia, Çolakoğlu exported 40 000 – 50 000 tonnes during the reporting period. At the same time, the free sales Union consumption was estimated by the applicant to be about 1 200 000 tonnes for the reporting period. Therefore, the market share of the imports from Türkiye represented around 4 % of the free sales Union consumption during the reporting period and more than 3 % of the free sales Union consumption established in the original investigation period. Furthermore, as the Commission established a substantive spare capacity in Çolakoğlu's hot-rolling mill, the company could substantially increase its export volumes in the future.

(98) Regarding prices, the Commission compared the average non-injurious price, as established in the original investigation, with the weighted average export CIF prices determined on the basis of Eurostat statistics, duly adjusted to include post clearance costs. The Commission used Eurostat statistics since the transactions between Çolakoğlu and Marcegaglia were based on a tolling agreement, thus constituting a service fee and not reflecting a market price. This price comparison showed that the imports from Çolakoğlu undersold the Union prices by more than 13 %.

(99) Following disclosure, Marcegaglia, Çolakoğlu and the Government of the Republic of Türkiye claimed that, given the increase of imports of Indonesian, the existing measures on Indonesian imports did not have any remedial effect that could potentially be undermined by imports from Türkiye, which were considerably lower in absolute terms.

(100) Çolakoğlu also claimed that, should any imports be undermining the remedial effects, those would not be the SSHR Turkish imports, but rather the imports of slabs allegedly being processed into SSHR in the Union given its substantial higher volumes.

(101) The Commission recalled that, while imports of slabs from Indonesia into the Union were indeed bigger in volume than SSHR from Turkey, this, however, did not alter the findings of the investigation that imports of SSHR from Turkey undermined the remedial effects of the measures, namely that these imports represented more than 4 % of the total Union consumption during the reporting period and undersold the Union prices by more than 13 %. Furthermore, the continuation of imports of Indonesian SSHR did not imply that the original measures were inefficient. Indeed, the purpose of the measures was not to remove imports, but rather to level the playing field. Imports of Indonesian SSHR into the Union continued and even increased, but are subject to a duty that is meant to remove the effects of injurious dumping.

(102) As to the imports of Indonesian slabs into the Union, the Commission noted that whether there are other factors that might undermine the remedial effect of the measures was irrelevant for the findings in the case at hand. Furthermore, Article 13(1) of the basic Regulation does not require the Commission to analyse other factors, if any, that could additionally be undermining the remedial effects of the duty.

(103) Following disclosure, Marcegaglia claimed that, giving its limited market, imports of black SSHR from Türkiye did not undermine the remedial effects of the measures in force against imports of Indonesian SSHR.

(104) As stated in recital (12), the Commission noted that in the original investigation it was concluded that black and white coils share the same basic physical and chemical characteristics, they are in competition between each and fall within the product scope. The claim was, therefore, rejected.

(105) In view of the above considerations, the Commission concluded that the existing measures were undermined in terms of quantities and prices by the imports from Türkiye, subject to this investigation.

2.8. **Evidence of dumping**

(106) In accordance with Article 13(1) of the basic Regulation, the Commission also examined whether there was evidence of dumping in relation to the normal values previously established for the like product.

(107) To this end, the Commission compared the average export prices from Türkiye, based on Eurostat statistics, to the normal values established during the original investigation, adjusted for the price increase of SSHR coils in Indonesia as reported in public databases ([14]). The comparison of normal values and export prices showed that SSHR were exported at dumped prices during the reporting period.

3. **MEASURES**

(108) Based on the above findings, 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.

(109) Given that the level of cooperation was high, as the reported export sales of Çolakoğlu represented [88 % to 93 %] of the total import volumes from Türkiye into the Union during the reporting period, and that no other Turkish producer within the meaning of Article 13(4) of the basic Regulation came forward requesting an exemption, the Commission concluded that the findings of circumvention practices in respect of Çolakoğlu were representative with respect to all imports from Türkiye.

(110) Therefore, in accordance with Article 13(1) of the basic Regulation, the anti-dumping measures in force on imports of SSHR originating in Indonesia should be extended to imports of the product under investigation.

([14]) The Commission took as references the increase in prices of SSHR coils in East Asia according to Metal Bulletin, largely covering prices of SSHR from Indonesia. The same price increase was confirmed by the GTA data of worldwide imports of SSHR from Indonesia.

(111) Pursuant to Article 13(1), second paragraph of the basic Regulation, the measure to be extended should be the one established in Article 1(2) of Implementing Regulation (EU) 2020/1408, for 'all other companies', which is a definitive anti-dumping duty of 17,3 % applicable to the net, free-at-Union-frontier price, before customs duty.

(112) Pursuant to Article 13(3) of the basic Regulation, which provides that any extended measure should apply to imports that entered the Union under registration imposed by the initiating Regulation, duties are to be collected on those registered imports of the product under investigation.

4. **REQUEST FOR EXEMPTION**

(113) As described above, Çolakoğlu was found to be involved in circumvention practices. Therefore, an exemption, pursuant to Article 13(4) of the basic Regulation, could not be granted to this company.

(114) As mentioned in Section 2.2 above, Saritas, UCAS and AST were considered not to be exporting producers, and therefore not entitled to apply for an exemption. Similarly, given its deficient reply, the Commission was not able to establish whether Poyraz was a genuine producer and thus eligible for an exemption.

(115) In view of the above none of the companies should be exempted from the extension of measures.

5. **DISCLOSURE**

(116) On 30 January 2023, the Commission disclosed to all interested parties the essential facts and considerations leading to the above conclusions and invited them to comment. Comments were received from Çolakoğlu, Marcegaglia and the Government of the Republic of Türkiye and were duly considered.

(117) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 15(1) of Regulation (EU) 2016/1036,

HAS ADOPTED THIS REGULATION:

Article 1

1. The definitive anti-dumping duty imposed by Implementing Regulation (EU) 2020/1408, on imports of flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, originating in Indonesia, the People's Republic of China and Taiwan, is hereby extended to imports of flat-rolled products of stainless steel, whether or not in coils (including products cut-to-length and narrow strip), not further worked than hot-rolled and excluding products, not in coils, of a width of 600 mm or more and of a thickness exceeding 10 mm, currently classified under HS codes 7219 11, 7219 12, 7219 13, 7219 14, 7219 22, 7219 23, 7219 24, 7220 11 and 7220 12, consigned from Türkiye, whether declared as originating in Türkiye or not (TARIC codes 7219 11 00 10, 7219 12 10 10, 7219 12 90 10, 7219 13 10 10, 7219 13 90 10, 7219 14 10 10, 7219 14 90 10, 7219 22 10 10, 7219 22 90 10, 7219 23 00 10, 7219 24 00 10, 7220 11 00 10, and 7220 12 00 10).

2. The extended duty is the anti-dumping duty of 17,3 % applicable to 'all other companies' in Indonesia (TARIC additional code C999).

3. The duty extended by paragraphs 1 and 2 of this Article shall be collected on imports registered in accordance with Article 2 of Implementing Regulation (EU) 2022/1310.

4. Unless otherwise specified, the provisions in force concerning customs duties shall apply.

Article 2

Customs authorities are directed to discontinue the registration of imports established in accordance with Article 2 of Implementing Regulation (EU) 2022/1310, which is hereby repealed.

Article 3

The exemption requests submitted by Saritas Celik San.ve tic. A.S., Üças Paslanmaz Çelik iç ve tic. A.S., AST Turkey Metal Sanayi ve tic. A.S., Poyraz Paslanmaz Sanayi ve diş ticaret Limited Sirk and Çolakoğlu Metalurji A.Ş. are rejected.

Article 4

1. Requests for exemption from the duty extended by Article 1 shall be made in writing in one of the official languages of the European Union and must be signed by a person authorised to represent the entity requesting the exemption. The request must be sent to the following address:

European Commission
Directorate-General for Trade
Directorate G Office:
CHAR 04/39
1049 Bruxelles/Brussel
BELGIQUE/BELGIË

2. In accordance with Article 13(4) of Regulation (EU) 2016/1036, the Commission may authorise the exemption of imports from companies which do not circumvent the anti-dumping measures imposed by Implementing Regulation (EU) 2020/1408, from the duty extended by Article 1.

Article 5

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

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

Done at Brussels, 17 April 2023.

For the Commission
The President
Ursula VON DER LEYEN

COMMISSION REGULATION (EU) 2023/826

of 17 April 2023

laying down ecodesign requirements for off mode, standby mode, and networked standby energy consumption of electrical and electronic household and office equipment pursuant to Directive 2009/125/EC of the European Parliament and of the Council and repealing Commission Regulations (EC) No 1275/2008 and (EC) No 107/2009

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2009/125/EC of the European Parliament and of the Council of 21 October 2009 establishing a framework for the setting of ecodesign requirements for energy-related products ([1]), and in particular Article 15(1) thereof,

Whereas:

(1) Under Directive 2009/125/EC the Commission is to set ecodesign requirements for energy-related products which account for significant volumes of sales and trade in the EU, have a significant environmental impact and present significant potential for improvement through design in terms of their environmental impact, without entailing excessive costs.

(2) Communication COM(2016)773 ([2]) sets out the working priorities under the ecodesign and energy labelling framework for 2016-2019. The 2016 ecodesign working plan sets out the energy-related product groups to be considered as priorities for undertaking preparatory studies and possibly adopting implementing measures, and provides for a review of Commission Regulation (EC) No 1275/2008 ([3]).

(3) The energy consumption of electrical and electronic household and office equipment in off mode, standby mode and networked standby is one of the measures listed in the Communication, with an estimated 4 TWh of annual final energy savings by 2030, corresponding to reducing greenhouse gas emissions by 1,36 million tonnes of CO_2 equivalent.

([1]) OJ L 285, 31.10.2009, p. 10.
([2]) Communication from the Commission of 30 November 2016, Ecodesign working plan 2016-2019, COM(2016) 773 final.
([3]) Commission Regulation (EC) No 1275/2008 of 17 December 2008 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for standby and off mode, and networked standby, electric power consumption of electrical and electronic household and office equipment (OJ L 339, 18.12.2008, p. 45).

(4) The Commission established ecodesign requirements for off mode and standby mode energy consumption of electrical and electronic household and office equipment in Regulation (EC) No 1275/2008 and added requirements for networked standby energy consumption in Commission Regulation (EU) No 801/2013 ([4]). Under those Regulations the Commission is to review the ecodesign requirements in the light of technological progress.

(5) The Commission has reviewed Regulation (EC) No 1275/2008 and analysed the technical, environmental and economic aspects of energy consumption of electrical and electronic household and office equipment in off mode, standby mode, and networked standby, as well as real-life user behaviour. The review was carried out in close cooperation with stakeholders and interested parties from the Union and third countries. The results of the review were made public and presented to the Consultation Forum established by Article 18 of Directive 2009/125/EC.

(6) The review shows the benefit of continued and improved requirements, adapted to technological progress, regarding the energy consumption of electrical and electronic household and office equipment in off mode, standby mode, and networked standby.

(7) The annual energy consumption in off mode, standby mode and networked standby of products subject to this Regulation in the EU was estimated in the review at 59,4 TWh in 2015, corresponding to 23,8 million tonnes of CO_2 equivalent greenhouse gas emissions. In a business-as-usual scenario, that energy consumption is projected to decrease by 2030, mostly because of the gradual application of ecodesign requirements introduced by Regulation (EU) No 801/2013. However, that decrease is expected to slow down unless the applicable ecodesign requirements are updated.

(8) The application of this Regulation should be limited to products corresponding to household and office equipment intended for use in the domestic environment, which, for information technology equipment, corresponds to class B equipment as set out in the EN 55022:2010 standard.

(9) Operating modes not covered by this Regulation, such as the ACPI S3 mode of computers, should be considered in product-specific implementing measures under Directive 2009/125/EC.

(10) Requirements on off mode, standby mode, and networked standby should be set out in product-specific implementing measures under Directive 2009/125/EC where possible, taking into account the specificities of each product group and the possibility to deliver additional energy and greenhouse gas emission savings.

(11) Products equipped with low voltage external power supplies, which were exempted from the scope of Regulation (EC) No 1275/2008 by Commission Regulation (EC) No 278/2009 ([5]), are rapidly evolving in terms of their functionalities and are being placed on the EU market in increasing numbers. They should therefore be included in scope of this Regulation to ensure further energy savings and provide a level playing field for manufacturers.

(12) Portable battery-operated products with a recharging circuit that have to be plugged in to recharge should be covered by this regulation, because they depend on energy input from the mains.

(13) Products containing a recharging circuit, where the power is consumed in off mode and standby mode while the battery is not being charged, should be included in the scope of this regulation to ensure energy savings.

([4]) Commission Regulation (EU) No 801/2013 of 22 August 2013 amending Regulation (EC) No 1275/2008 with regard to ecodesign requirements for standby, off mode electric power consumption of electrical and electronic household and office equipment, and amending Regulation (EC) No 642/2009 with regard to ecodesign requirements for televisions (OJ L 225, 23.8.2013, p. 1).

([5]) Commission Regulation (EC) No 278/2009 of 6 April 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for no-load condition electric power consumption and average active efficiency of external power supplies (OJ L 93, 7.4.2009, p. 3).

(14) Printing equipment that generates printed output from electronic input on paper or other media should be covered by this Regulation to ensure energy savings, while three-dimensional printing equipment should be excluded for the time being from this Regulation.

(15) Simple set-top boxes covered by Commission Regulation (EC) No 107/2009 ([6]) are no longer significant part of the market and their remaining standby and off mode power consumption should be covered by this Regulation. Regulation (EC) No 107/2009 should therefore be repealed.

(16) Motor-operated adjustable furniture operated by electric means and motor-operated building elements spend extensive amounts of time in off mode, standby mode, and networked standby and so offer significant potential for improved energy consumption while in those modes. Therefore, they should also be included in scope of this Regulation.

(17) Ecodesign requirements should align across the EU, levels of the energy consumption by electrical and electronic household and office equipment in off mode, standby mode, and networked standby. This will contribute to the functioning of the single market. It should also improve the environmental performance of electrical and electronic household and office equipment.

(18) The relevant product parameters should be measured using reliable, accurate and reproducible methods. Those methods should take into account recognised state-of-the-art measurement methods including, where available, harmonised standards adopted by the European standardisation organisations, listed in Annex I to Regulation (EU) No 1025/2012 of the European Parliament and of the Council ([7]).

(19) In accordance with Article 8 of Directive 2009/125/EC, this Regulation should specify the applicable conformity assessment procedures.

(20) In order to improve the effectiveness and credibility of this Regulation and protect consumers, products that automatically alter their performance in test conditions with the objective of reaching a more favourable level for any of the parameters specified in this Regulation should not be allowed to be placed on the market.

(21) In addition to the requirements laid down in this Regulation, benchmarks for best available technologies should be identified to make information on products' environmental performance over their life cycle subject to this Regulation widely available and easily accessible, in accordance with point 2 of Part 3 of Annex I to Directive 2009/125/EC.

(22) A review of this Regulation should assess the appropriateness and effectiveness of its provisions in achieving its goals.

(23) In view of the scope of new and modified ecodesign requirements set out in this Regulation and in order to ensure better clarity, Regulation (EC) No 1275/2008 should be repealed.

(24) The measures provided for in this Regulation are in accordance with the opinion of the Committee established by Article 19(1) of Directive 2009/125/EC,

([6]) Commission Regulation (EC) No 107/2009 of 4 February 2009 implementing Directive 2005/32/EC of the European Parliament and of the Council with regard to ecodesign requirements for simple set-top boxes (OJ L 36, 5.2.2009, p. 8).

([7]) Regulation (EU) No 1025/2012 of the European Parliament and of the Council of 25 October 2012 on European standardisation, amending Council Directives 89/686/EEC and 93/15/EEC and Directives 94/9/EC, 94/25/EC, 95/16/EC, 97/23/EC, 98/34/EC, 2004/22/EC, 2007/23/EC, 2009/23/EC and 2009/105/EC of the European Parliament and of the Council and repealing Council Decision 87/95/EEC and Decision No 1673/2006/EC of the European Parliament and of the Council (OJ L 316, 14.11.2012, p. 12).

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation establishes ecodesign requirements related to off mode, standby mode, and networked standby energy consumption for the placing on the market or putting into service of electrical and electronic household and office equipment.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

(1) 'electrical and electronic household and office equipment' or 'equipment' means any energy-related product listed in Annex II which fulfils the following conditions:

(a) it is dependent on energy input from the mains power source in order to work as intended;

(b) it is designed for use with a nominal voltage rating of 250 V or below;

(2) 'mains' means the electricity supply from the grid of 230 (± 10 %) volts of alternating current at 50 Hz;

(3) 'standby mode' means a condition where the equipment is connected to the mains power source, depends on energy input from the mains power source to work as intended and provides only one or more of the following functions, which may persist for an indefinite time:

(a) reactivation function;

(b) reactivation function and only an indication of enabled reactivation function;

(c) information or status display;

(4) 'reactivation function' means a function that via a remote switch, a remote control, an internal sensor or timer provides a switch from standby mode to another mode, including active mode, providing additional functions;

(5) 'main function' means a function delivering the main service(s) for which the equipment is designed, tested and marketed, and which corresponds to the intended use of the equipment;

(6) 'information or status display' means a continuous function providing information or indicating the status of the equipment on a display, including clocks. A simple light indicator is not considered a status display;

(7) 'active mode' means a condition in which the equipment is connected to the mains power source and at least one of the main functions has been activated;

(8) 'off mode' means a condition in which the equipment is connected to the mains power source and is not providing any function, or it is in a condition providing only:

(a) an indication of off mode condition;

(b) functionalities intended to ensure electromagnetic compatibility under Directive 2014/30/EU of the European Parliament and of the Council ([8]);

(9) 'network' means a communication infrastructure with a topology of links, an architecture, including the physical components, organisational principles, communication procedures and formats (protocols);

([8]) Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

(10) 'networked standby' means a condition in which the equipment is able to resume a function by way of a remotely initiated trigger from a network connection;

(11) 'remotely initiated trigger' means a signal that comes from outside the equipment via a network;

(12) 'model identifier' means a code, usually alphanumeric, which distinguishes a specific equipment model from other models with the same trade mark or the same manufacturer's, importer's or authorised representative's name;

(13) 'equivalent model' means an equipment model which has the same technical characteristics relevant for the technical information to be provided in accordance with Annex II, but which is placed on the market or put into service by the same manufacturer, importer or authorised representative as another equipment model with a different model identifier;

(14) 'declared values' means the values provided by the manufacturer, importer or authorised representative for the stated, calculated or measured technical parameters in accordance with Article 4, for the verification of compliance by the Member State authorities.

Article 3

Ecodesign requirements

The ecodesign requirements are set out in Annex III.

Article 4

Conformity assessment

1. The conformity assessment procedure referred to in Article 8 of Directive 2009/125/EC shall be the internal design control system set out in Annex IV to that Directive or the management system set out in Annex V to that Directive.

2. For the purposes of conformity assessment under Article 8 of Directive 2009/125/EC, the technical documentation shall contain the information set out in point 3(b) of Annex III to this Regulation and the details and results of the calculations made in accordance with Annex IV to this Regulation.

3. Where the information included in the technical documentation for that particular model has been obtained, alternatively:

(a) from a model that has the same technical characteristics relevant for the technical information to be provided in accordance with Annex III to this Regulation but is produced by a different manufacturer;

(b) by calculation on the basis of design or extrapolation from another model of the same or a different manufacturer, or both,

the technical documentation for a model shall include the details and results of the calculations or extrapolations, the assessment made by the manufacturer to verify the accuracy of the calculations and, where appropriate, the declaration of identity between the models of different manufacturers.

The technical documentation shall include a list of equivalent models referred to in the first and second subparagraph, including the model identifiers.

4. The technical documentation shall include the information listed in point 3(a) of Annex III to this Regulation.

Article 5

Verification procedure for market surveillance purposes

Member States' authorities shall apply the verification procedure laid down in Annex V to this Regulation where they perform the market surveillance checks referred to in Article 3(2) of Directive 2009/125/EC.

Article 6

Circumvention and software updates

The manufacturer, importer or authorised representative shall not place on the market equipment designed to be able to detect they are being tested, including by recognising the test conditions or test cycle, and to react specifically by automatically altering their performance during the test to reach a more favourable level for any of the parameters in the technical documentation or included in any of the documentation provided.

The energy consumption of the equipment and any of the other declared parameters shall not deteriorate after a software or firmware update where measured with the same test standard originally used for the declaration of conformity, unless the user explicitly consents to this before the update. No performance change shall occur as result of rejecting the update.

A software update shall not have the effect of changing the equipment's performance in a way that makes it non-compliant with the ecodesign requirements applicable for the declaration of conformity.

Article 7

Indicative benchmarks

The indicative benchmarks for the best-performing equipment and technologies available on the market at the time of adopting this Regulation are set out in Annex VI.

Article 8

Review

The Commission shall review this Regulation in the light of technological progress and present the results of this review to the Consultation Forum, no later than 9 May 2027.

The review shall in particular assess the appropriateness of:

(a) the requirements for standby, off mode and networked standby;

(b) the requirements for networked standby for HiNA equipment and equipment with HiNA functionality and their distinction with non-HiNA equipment;

(c) including in the scope of this Regulation other relevant product groups, including products used in the services sector;

(d) setting requirements for the battery maintenance mode of battery chargers.

Article 9

Repeal

Regulation (EC) No 1275/2008 is repealed with effect from 9 May 2025.

Regulation (EC) No 107/2009 is repealed with effect from 9 May 2025.

Article 10

Entry into force and application

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

It shall apply from 9 May 2025. However, Article 6 first paragraph shall apply when the Regulation enters into force.

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

Done at Brussels, 17 April 2023.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX I

DEFINITIONS

1. 'Information technology equipment' means any equipment which has a main function of either entry, storage, display, retrieval, transmission, processing, switching, or control of data or telecommunication messages, or a combination of those functions, and which can be equipped with one or more terminal ports typically operated for information transfer;

2. 'Domestic environment' means an environment where the use of broadcast radio and television receivers may be expected within a distance of 10 m of the equipment concerned;

3. 'Network port' means a wired or wireless physical interface of the network connection located on the equipment through which the equipment can be remotely activated;

4. 'Logical network port' means the network technology running over a physical network port;

5. 'Physical network port' means the physical (hardware) medium of a network port. A physical network port can host two or more network technologies;

6. 'Network availability' means a capability of the equipment to resume functions after a remotely initiated trigger has been detected by a network port;

7. 'Networked equipment' means equipment that can connect to a network and has one or more network ports;

8. 'Networked equipment with high network availability' or 'HiNA equipment' means equipment with one or more of the following functionalities, but no other, as the main function(s): those of a router, network switch, wireless network access point, hub, modem, VoIP telephone, video phone;

9. 'Networked equipment with high network availability functionality' or 'equipment with HiNA functionality' means equipment that has the functionality of a router, network switch, wireless network access point or combination thereof included, but not being HiNA equipment;

10. 'Router' means a network device whose main function is to determine the optimal path along which network traffic should be forwarded. Routers forward packets of data from one network to another, based on network layer information (L3);

11. 'Network switch' means a network device whose main function is to filter, forward and distribute frames based on the destination address of each frame. All switches operate at least at the data link layer (L2);

12. 'Wireless network access point' means a network device whose main function is to provide IEEE 802.11 (Wi-Fi) connectivity to multiple clients;

13. 'Hub' means a network device that contains multiple ports and is used to connect segments of a Local Area Network;

14. 'Modem' means a network device whose main function is to transmit and receive digitally modulated analogue signals over a wired network;

15. 'Printing equipment' means equipment that generates printed output from electronic input on paper or other media. Printing equipment may provide additional functions, such as scanning and copying and can be marketed as a multifunctional device or a multifunctional product;

16. 'Large format printing equipment' means printing equipment designed for printing on A2 media and larger, including equipment designed to accommodate continuous-form media of at least 406 mm width;

17. 'Household coffee machine' means a non-commercial equipment for brewing coffee;

18. 'Drip filter household coffee machine' means a household coffee machine which uses percolation to extract the coffee;

19. 'Games console' means equipment which is designed to provide video game playing as its principal function. A games console is typically designed to provide output to an external electronic display as the main game-play display and typically utilises handheld controllers or other interactive controllers as the primary input device. Games consoles typically include central processing unit(s), graphics processing unit(s), system memory, and internal data storage options. Handheld gaming devices, with an integrated display as the main game-play display, and which primarily operate on an integrated battery or other portable power source rather than via a direct connection to the mains, are considered to be a type of games console;

20. 'Motor-operated adjustable furniture' means furniture that includes motors or actuators and a control unit to adjust height, position or form. Those adjustments are operated by the end-user through cabled and/or wireless controls, via a network or controlled automatically with the use of sensors;

21. 'Motor-operated building element' means opening or comfort equipment in buildings, excluding ventilation equipment, that can move or rotate, or both, by using input from the mains power source. The motor-operated building element incorporates an electric motor or an actuator and a control unit, and is operated by the end-user through cabled and/or wireless control(s), via a network, or controlled automatically with the use of sensors;

22. 'Media streaming device' means a hardware device that delivers any media content, live or recorded, to end-user devices over a network and played back in real time.

ANNEX II

LIST OF ENERGY-RELATED PRODUCTS COVERED BY THIS REGULATION

1. Appliances designed, tested and marketed for household use:
   - tumble dryers and other clothes dryers;
   - electric ovens including when incorporated in cookers;
   - electric hobs and hot plates;
   - microwave ovens;
   - toasters;
   - fryers;
   - coffee machines;
   - grinders;
   - equipment for opening or sealing containers or packages;
   - electric knives;
   - other appliances for cooking and other processing of food, preparing beverages, cleaning, and maintenance of clothes, but excluding household dishwashers covered by Commission Regulation (EU) 2019/2022 ([1]), and household washing machines and household washer-dryers covered by Commission Regulation (EU) 2019/2023 ([2]);
   - appliances for hair cutting, hair drying, hair treatments, tooth brushing, shaving, massage and other body care appliances;
   - scales.

2. Information technology equipment intended primarily for use in the domestic environment, including printing equipment, but excluding desktop computers, integrated desktop computers and notebook computers covered by Commission Regulation (EU) No 617/2013 ([3]), servers and data storage products covered by Commission Regulation (EU) 2019/424 ([4]), as well as electronic displays covered by Commission Regulation (EU) 2019/2021 ([5]).

3. Consumer equipment:
   - radio sets;
   - video cameras;
   - video players;
   - hi-fi players;
   - audio amplifiers;
   - audio speakers;

([1]) Commission Regulation (EU) 2019/2022 of 1 October 2019 laying down ecodesign requirements for household dishwashers pursuant to Directive 2009/125/EC of the European Parliament and of the Council amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EU) No 1016/2010 (OJ L 315, 5.12.2019, p. 267).

([2]) Commission Regulation (EU) 2019/2023 of 1 October 2019 laying down ecodesign requirements for household washing machines and household washer-dryers pursuant to Directive 2009/125/EC of the European Parliament and of the Council, amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EU) No 1015/2010 (OJ L 315, 5.12.2019, p. 285).

([3]) Commission Regulation (EU) No 617/2013 of 26 June 2013 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for computers and computer servers (OJ L 175, 27.6.2013, p. 13).

([4]) Commission Regulation (EU) 2019/424 of 15 March 2019 laying down ecodesign requirements for servers and data storage products pursuant to Directive 2009/125/EC of the European Parliament and of the Council and amending Commission Regulation (EU) No 617/2013 (OJ L 74, 18.3.2019, p. 46).

([5]) Commission Regulation (EU) 2019/2021 of 1 October 2019 laying down ecodesign requirements for electronic displays pursuant to Directive 2009/125/EC of the European Parliament and of the Council, amending Commission Regulation (EC) No 1275/2008 and repealing Commission Regulation (EC) No 642/2009 (OJ L 315, 5.12.2019, p. 241).

— home theatre systems;

— media streaming devices;

— musical instruments;

— complex set top boxes and simple set-top boxes;

— other equipment for the purpose of recording or reproducing sound or images, including signals or other technologies for the distribution of sound and image other than by telecommunications, but excluding electronic displays covered by Regulation (EU) 2019/2021 and projectors with mechanisms for exchanging the lenses with others with different focal length.

4. Toys, leisure and sports equipment:

— electric trains or car racing sets;

— games consoles;

— sports equipment;

— other toys and leisure equipment.

5. Motor-operated adjustable furniture:

— height-adjustable desks;

— elevation beds and chairs, excluding medical devices and wheelchairs;

— other motor-operated adjustable furniture.

6. Motor-operated building elements:

— shutters;

— blinds;

— screens;

— awnings;

— pergolas;

— curtains;

— doors;

— gates;

— windows;

— skylights;

— other motor-operated building elements.

ANNEX III

ECODESIGN REQUIREMENTS

1. Energy efficiency requirements:

   (a) Power consumption in off mode:

   Power consumption of equipment in off mode shall not exceed 0,50 W. Two years after the application of this Regulation, the power consumption of equipment in off mode shall not exceed 0,30 W.

   (b) Power consumption in standby mode:

   The power consumption of equipment in any condition providing only a reactivation function, or providing only a reactivation function and an indication of enabled reactivation function, shall not exceed 0,50 W.

   The power consumption of equipment in any condition providing only information or status display, or providing only a combination of reactivation function and information or status display, or providing only a reactivation function and an indication of enabled reactivation function and information or status display shall not exceed 0,80 W, except for household tumble driers covered by Commission Regulation (EU) No 932/2012 ([1]) for which this value shall be 1,00 W.

   Networked equipment that has one or more standby modes shall comply with the requirements for those standby modes when all wired network ports are disconnected and all wireless network ports are deactivated.

   (c) Power consumption in networked standby:

   The power consumption of HiNA equipment or equipment with HiNA functionality, in networked standby shall not exceed 8,00 W. Two years after the application of this Regulation, the power consumption of HiNA equipment or equipment with HiNA functionality in networked standby shall not exceed 7,00 W.

   The power consumption of networked equipment, other than HiNA equipment or equipment with HiNA functionality, in networked standby shall not exceed 2,00 W.

   The power consumption limits shall not apply to:

   — large format printing equipment;

   — desktop thin clients, workstations, mobile workstations, and small-scale servers as defined in Regulation (EU) No 617/2013.

2. Functional requirements:

   (a) Availability of off mode and standby mode:

   Unless this is inappropriate for the intended use, equipment shall provide one or more of the following conditions:

   — off mode,

   — standby mode,

   — another condition which does not exceed the applicable power consumption requirements for off mode or standby mode when the equipment is connected to the mains power source.

   (b) Power management function for all equipment other than networked equipment:

   (1) Unless inappropriate for the intended use, equipment shall provide a power management function. When equipment is not providing a main function, and another energy-related product is not dependent on its functions, the power management function shall switch equipment, after the shortest possible period appropriate for the intended use of the equipment, automatically into either of the following conditions:

   — standby mode,

([1]) Commission Regulation (EU) No 932/2012 of 3 October 2012 implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for household tumble driers (OJ L 278, 12.10.2012, p. 1).

— off mode,

— another condition which does not exceed the applicable power consumption requirements for off mode or standby mode when the equipment is connected to the mains power source.

(2) For household coffee machines, the period referred to in point (1) shall be as follows:

— for drip filter household coffee machines storing the coffee in an insulated jug, a maximum of five minutes;

— for drip filter household coffee machines storing the coffee in a non-insulated jug, a maximum of 40 minutes;

— for household coffee machines other than drip filter household coffee machines, a maximum of 30 minutes.

(3) For other equipment, the period referred to in point (1) shall not exceed 20 minutes.

(4) The power management function described in point (1) shall be activated when the equipment is placed on the market or put into service and activated with its initial setup after the equipment is reset to its factory default settings.

(5) The equipment may offer the user the option to deactivate the power management function. In such cases the users shall be warned about the increased energy consumption of that action. That warning shall be included in the instruction manuals and, where applicable, be made available on the displays integrated in or connected to the equipment, excluding information or status displays. That option shall not be part of the installation procedure of the equipment and shall require a separate user action on the equipment.

(c) Power management for networked equipment:

Unless inappropriate for the intended use, equipment shall provide a power management function. When equipment is not performing a main function, and another energy-related product is not dependent on its functions, the power management function shall switch equipment, after the shortest possible period appropriate for the intended use of the equipment, automatically into networked standby. That period shall not exceed 20 minutes.

In networked standby, the power management function may switch equipment automatically into standby mode or off mode or another condition, which does not exceed the applicable power consumption requirements for standby or off mode.

The power management function shall be available for all network ports of the networked equipment.

Unless all network ports are deactivated, the power management function shall be activated when the equipment is placed on the market or put into service. After the equipment is reset to its factory default settings, the power management function shall be activated if any of the network ports is activated.

The equipment may offer the user the option to deactivate the power management function. In such cases, the user shall be warned about the increased energy consumption of that action. That warning shall be included in the instruction manuals and, where applicable, be made available on the displays integrated in or connected to the equipment. That option shall not be part of the installation procedure of the equipment and shall require a separate user action on the equipment.

Networked equipment other than HiNA equipment shall comply with the requirements set out in point 2(b) when all wired network ports are disconnected and all wireless network ports are deactivated.

(d) Possibility of deactivating wireless network connections:

Any networked equipment that can be connected to a wireless network shall offer the user the possibility to deactivate the wireless network connections. That requirement does not apply to equipment that relies on a single wireless network connection for intended use and have no wired network connection.

(e) The indication 'standby' and its translations in all Union official languages shall not be used in describing, either alone or in combination with other information, any condition in which the equipment is not compliant with the requirements set out in points 1(b) or 1(c).

3. Information requirements

(a) The instruction manuals for end-users, and free access websites of manufacturers, importers or authorised representatives shall include the following information for all equipment, as applicable:

(1) for each off mode, standby mode (or another condition which does not exceed the applicable power consumption requirements for off mode or standby mode) and networked standby into which the equipment is switched by the power management function or similar function:

— the power consumption expressed in watts rounded to the first decimal place;

— the period after which the equipment reaches automatically standby mode, off mode or networked standby in minutes and rounded to the nearest minute;

(2) the power consumption of the equipment in networked standby if all wired network ports are connected and all wireless network ports are activated;

(3) For equipment that needs an external power supply, but it is placed on the market without one, the manufacturer, importer or authorised representative shall provide information on the technical characteristics of the product model of the external power supply to be used with that equipment.

(4) guidance on how to activate and deactivate wireless network ports.

As an alternative, information in points (1), (2) and (3) can be provided in the instruction manuals for end-users in the form of a link to this information in the free access websites of manufacturers, importers or authorised representatives.

(b) The technical documentation for the purposes of conformity assessment pursuant to Article 4 shall contain the following elements:

(1) category of equipment:

— specification whether it is networked or non-networked equipment;

— for networked equipment, specification whether it is HiNA equipment, equipment with HiNA functionality, or other networked equipment; where no information is provided, the equipment is not considered HiNA equipment or equipment with HiNA functionality;

(2) for each off mode, standby mode and networked standby:

— the declared value of the power consumption in watts rounded to the first decimal place;

— the measurement method used;

— a description of how the equipment mode was selected or programmed;

— the sequence of events leading to the condition where the equipment automatically changes modes;

— any notes regarding the operation of the equipment, e.g. information on how the user switches the equipment into networked standby;

— if applicable, the default time needed for the equipment to reach the applicable low power mode or condition in minutes and rounded to the nearest minute;

(3) for networked equipment:

— the number and type of network ports and, with the exception of wireless network ports, where those ports are located on the equipment; in particular it shall be declared if the same physical network port accommodates two or more types of network ports;

— whether all network ports are deactivated before the equipment is placed on the market or put into service;

— whether there are ports relying on active wired connections for the intended use, and the procedure used for deactivating those ports;

— the power consumption of the equipment in networked standby if all wired network ports are connected and all wireless network ports are activated;

— guidance on how to activate and deactivate wireless network ports;

(4) for each type of network port:

— the period after which the power management function switches the equipment into networked standby;

— the remotely initiated trigger that is used to reactivate the equipment;

— the (maximum) performance specifications;

— the (maximum) power consumption of the equipment in networked standby into which the power management function will switch the equipment, if only that port is used for remote activation;

— the communication protocol used by the equipment;

(5) test conditions for measurements:

— ambient temperature;

— test voltage in V and frequency in Hz;

— total harmonic distortion of the electricity supply system;

— description of the instrumentation, set-up and circuits used for electrical testing;

(6) the equipment characteristics relevant for assessing conformity with the requirements set out in points 2(a), 2(b) and 2(c), as applicable, including the declared value of the time taken to automatically reach networked standby, standby mode or off mode, or another condition which does not exceed the applicable power consumption requirements for off mode or standby mode in minutes, rounded to the nearest minute.

(7) If applicable, a technical justification shall be provided that the requirements set out in point 2(a), 2(b), 2(c) and 2(d) are inappropriate for the intended use of equipment. The need to maintain one or more network connections or to wait for a remotely initiated trigger is not considered a technical justification for exemption from the requirements set out in point 2(b) in the case of equipment that is not defined as networked equipment by the manufacturer. For the requirements set out in point 2(c), the technical justification shall, in particular, provide evidence on why a main function needs to remain always active. In addition, where applicable, the packaging shall mention explicitly that:

(a) the equipment does not have a standby mode or other equivalent state in terms of energy efficiency requirements, power management function or the ability to deactivate wireless network connections mode;

(b) the power consumption of the equipment is likely to be higher than other equipment models meeting these functional requirements.

(8) the description of the equipment's main functions.

ANNEX IV

MEASUREMENT METHODS AND CALCULATIONS

Measurements and calculations shall be made using harmonised standards, the reference numbers of which have been published for this purpose in the *Official Journal of the European Union*, or other reliable, accurate and reproducible methods, which take into account the generally recognised state of the art.

The following general conditions shall apply when testing networked equipment:

(a) To measure the energy consumption in standby mode of networked equipment that has such mode, all network ports of the unit shall be deactivated or disconnected, as applicable.

(b) If the equipment relies on active wired connection to one or more network ports for the intended use, manual deactivation of those network ports is allowed instead of wire disconnection.

(c) The following procedure shall be used for measuring energy consumption in networked standby and for testing the power management function:

(1) If the equipment has one type of network port and if two or more ports of that type are available, one of those ports is randomly chosen and that port is connected to the appropriate network complying with the port's maximum specification. If the equipment has multiple wireless network ports of the same type, the other wireless ports shall be deactivated if possible. If the equipment has multiple wired network ports of the same type, the other network ports shall be disconnected. If only one network port is available, that port is connected to the appropriate network complying with the port's maximum specification.

The tested unit is switched on. The device that provides the remotely initiated trigger that will reactivate the tested unit is connected to the appropriate network, switched on, and ready to provide the trigger when required to. Once the tested unit is switched on and working properly, it is allowed to go into networked standby and the power consumption is measured. Then the appropriate trigger is given to the unit through the network port and a check is made on whether the equipment is reactivated.

(2) If the equipment has more than one type of network port, for each type of network port the following procedure is repeated. If two or more network ports of a type are available, one port is chosen randomly for each type of network port and that port is connected to the appropriate network complying with the port's maximum specification.

If for a certain type of network port only one port is available, that port is connected to the appropriate network complying with the port's maximum specification. Wired network ports not used shall be disconnected and wireless ports not used shall be deactivated.

The tested unit is switched on. The device that provides the remotely initiated trigger that will reactivate the tested unit is connected to the appropriate network, switched on, and ready to provide the trigger when required to. Once the tested unit is switched on and working properly, it is allowed to go into networked standby and the power consumption is measured. Then the appropriate trigger is given to the unit through the network port and a check is made on whether the equipment is reactivated. If one physical network port is shared by two or more types of (logical) network ports, that procedure is repeated for each type of logical network port, with the other logical network ports being logical-disconnected.

(d) For all types of household coffee machines, the measurements shall be performed after completion of the last brewing cycle, or, where applicable, after completion of a descaling process, self-cleaning process or any operation performed by the user, unless an alarm has been triggered requiring user intervention to prevent possible damage or accident.

ANNEX V

VERIFICATION PROCEDURE FOR MARKET SURVEILLANCE PURPOSES

The verification tolerances defined in this Annex apply only to the verification by Member State authorities of the declared values. They shall not be used by the manufacturer, importer or authorised representative as an allowed tolerance for establishing the values in the technical documentation or in interpreting those values with a view to achieving compliance or for communicating better performance by any means.

Where a model is not in conformity with the requirements laid down in the first paragraph of Article 6 of this Regulation, the model and all equivalent models shall be considered not compliant.

As part of verifying the compliance of an equipment model with the requirements laid down in this Regulation pursuant to Article 3(2) of Directive 2009/125/EC, for the requirements referred to in this Annex, the authorities of the Member States shall apply the following procedure:

1. The Member State authorities shall verify one single unit of the model.

2. The model shall be considered to comply with the applicable requirements if all the following conditions are met:

   (a) the values given in the technical documentation pursuant to point 2 of Annex IV to Directive 2009/125/EC (declared values), and, where applicable, the values used to calculate those values, are not more favourable for the manufacturer, importer or authorised representative than the results of the corresponding measurements carried out pursuant to point 2(g) of that Annex;

   (b) the declared values meet any requirements laid down in this Regulation, and any required product information published by the manufacturer, importer or authorised representative does not contain values that are more favourable for the manufacturer, importer or authorised representative than the declared values;

   (c) when Member State authorities check the unit of the model the manufacturer, importer or authorised representative has put in place a system that complies with the requirements in the second paragraph of Article 6;

   (d) when Member State authorities check the unit of the model, it complies with the functional requirements in point 2 of Annex III and with the information requirements in point 3 of Annex III;

   (e) when Member State authorities test the unit of the model, the determined values (the values of the relevant parameters as measured in testing and the values calculated from those measurements) comply with the respective verification tolerances as set out in Table 1.

3. If the conditions set out in point 2(a), (b), (c) or (d) are not met, the model and all equivalent models shall be considered not to comply with this Regulation.

4. If the condition set out in point 2(e) is not met, the Member State authorities shall select three additional units of the same model for testing. As an alternative, the three additional units selected may be of one or more equivalent models.

5. The model shall be considered to comply with the applicable requirements if, for those three units, the arithmetical mean of the determined values complies with the respective verification tolerances given in Table 1.

6. If the result referred to in point 5 is not achieved, the model and all equivalent models shall be considered not to comply with this Regulation.

7. The Member State authorities shall provide all relevant information to the authorities of the other Member States and to the Commission without delay after a decision is taken on non-compliance of the model pursuant to points 3 or 6, or the second paragraph of this Annex.

The Member State authorities shall use the measurement and calculation methods set out in Annex IV.

For the requirements referred to in this Annex, Member State authorities shall apply only the verification tolerances set out in Table 1 below and shall use only the procedure described in points 1 to 7 above. For the parameters in Table 1, no other tolerances, such as those set out in harmonised standards or in any other measurement method, shall be applied.

Table 1

Verification tolerances

Parameters	Verification tolerances
Power consumption in off mode	The determined value (*) shall not exceed the declared value by more than 0,10 W.
Power consumption in standby mode	The determined value (*) shall not exceed the declared value by more than 0,10 W.
Power consumption in networked standby	The determined value (*) shall not exceed the declared value by more than 0,10 W if the declared value is smaller than 1 W and by more than 10 % otherwise.
Time needed for the equipment to reach the applicable low power mode or condition	The determined value (*) shall not exceed the declared value by more than 10 %

(*) If three additional units are tested as provided for in point 4, the determined value means the arithmetical mean of the values determined for those three additional units.

ANNEX VI

BENCHMARKS

At the time of entry into force of this Regulation, the best available technology on the market in terms of power consumption in off mode, standby mode and networked standby was identified as follows:

(a) Off mode: 0 W – 0,2 W with hard-off switch on the primary side, depending, inter alia, on the characteristics related to electromagnetic compatibility under Directive 2014/30/EU of the European Parliament and of the Council [1].

(b) Standby mode: 0,1 W with reactivation function; 0,1 W with simple or low power LEDs information or status display (larger displays – e.g. for clocks – require more power).

(c) Networked standby: 3 W for HiNA equipment; 1 W or less for non-HiNA equipment.

[1] Directive 2014/30/EU of the European Parliament and of the Council of 26 February 2014 on the harmonisation of the laws of the Member States relating to electromagnetic compatibility (OJ L 96, 29.3.2014, p. 79).

ISSN 1977-0677 (electronic edition)
ISSN 1725-2555 (paper edition)

Publications Office
of the European Union
L-2985 Luxembourg
LUXEMBOURG

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