



## EUROPEAN COMMISSION

*Brussels, 30.09.2016*

*C(2016) 6217 final*

*Mr Norbert LAMMERT  
President of the Bundestag  
Platz der Republik 1  
D – 11011 Berlin*

*Dear President,*

*The Commission would like to thank the Bundestag for its Opinion regarding the EU steel industry and the challenges it is facing in the current difficult trading environment.*

*The Commission is fully aware of the key position that the steel industry holds in the EU, in its value chains and in terms of its innovation, efficiency and employment. Beyond the immediately tangible importance of the steel industry, which the Commission fully recognises, and its far reaching direct and indirect linkages with suppliers and downstream users as well as other sectors, one needs not to forget, as the Bundestag so rightly notes, the vital importance of this sector to the wider economy.*

*In view of the particularly difficult situation in which the EU steel industry currently finds itself, due to significant steel overcapacities worldwide and specifically in China, which have resulted in unprecedented surges of imports and pressure on prices, the Commission has taken and will continue to implement in a timely manner the concrete actions set out in the Commission's Communication "Steel: Preserving sustainable jobs and growth in Europe" of 16 March 2016<sup>1</sup>.*

*Turning to the effectiveness and efficiency of the EU's trade defence instruments, the Commission tabled a proposal in April 2013 to modernise the EU's trade defence system<sup>2</sup>. The main element of this proposal concerns the non-application of the lesser duty rule in cases of anti-dumping investigations where structural raw material distortions are found, and in anti-subsidy investigations, which may result in higher duty levels. Raw material distortions are of major concern for the EU steel industry.*

*Whilst the European Parliament has adopted its position at first reading through a legislative resolution in April 2014, discussions in the Council have been blocked since 2014. The main area*

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<sup>1</sup> COM(2016) 155 final.

<sup>2</sup> COM(2013) 192 final.

*of contention among the Member States remains the proposed amendment of the lesser duty rule. As a result of the ongoing steel crisis, discussions in the Council on the Commission's proposal to modernise the trade defence instruments have started again and the Commission has and will continue facilitating a compromise in the Council, notably on the lesser duty rule.*

*Pending the outcome of the modernisation proposal, the Commission has used all means or other tools currently available under the Basic Anti-dumping Regulation<sup>3</sup>, such as registering imports, retroactive imposition of measures, prior surveillance of imports or investigations initiated on threat of injury. The Commission has also endeavoured to reduce the length of its investigations and has been able to impose provisional duties faster in certain cases.*

*As regards the expiry on 11 December 2016 of certain provisions of Section 15 of China's Protocol of Accession to the World Trade Organization (WTO) and its impact on the EU's trade defence instruments, the Commission would like to clarify that drawing the consequences of this expiry (often referred to wrongly as "granting market economy status" to China) does not constitute the formal recognition of China as a market economy. The issue at stake concerns mainly the methodology that will be used to calculate dumping in investigations concerning China after 11 December 2016.*

*The College of Commissioners held an orientation debate on 20 July 2016 on this issue and discussed the political, economic and legal implications resulting from the expiry and what consequences to draw from this. Three options were examined: (1) leaving the EU legislation unchanged; (2) removing China from the list of "non-market economies" and applying the standard methodology for dumping calculations; or (3) changing the antidumping methodology with a new approach which would maintain a strong trade defence system, while giving effect to the EU's international obligations. The College agreed that the Commission must make sure that Europe has effective and efficient trade defence instruments that can deal with the current realities – notably existing overcapacities – in the international trading environment, while respecting the EU's international obligations in the WTO legal framework. At the same time, it stressed that China should make significant and verifiable cuts in industrial over-capacity based on a clear timeline of commitments and an independent monitoring mechanism. To achieve this goal, the Commission will continue to deliver on its action plan for addressing the overcapacity issue in the steel sector through bilateral and multilateral contacts with China and other partners. The Commission will revert to the matter before the end of this year and any related legislative proposal will be subject to the ordinary legislative procedure involving both the European Parliament and the Council, in which your government is represented.*

*The Commission is also coordinating on this issue with its major trading partners such as Japan, the United States of America and Canada. At the G20 Summit of 4-5 September in Hangzhou, the EU's efforts and President Juncker's personal engagement helped deliver an important step*

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<sup>3</sup> Council Regulation (EC) No 1225/2009 ; OJ L 343, 22.12.2009, p. 51-73.

*forward as G20 members, including China, agreed to form a Global Forum on steel excess capacity facilitated by the OECD to cooperate and exchange information with a view to enhance market function and encourage adjustment in the steel sector. The OECD was mandated to produce a progress report to the G20 in 2017. The Commission services, in close cooperation with those of other partners, are following up rapidly to translate this commitment into concrete action.*

*The Commission is aware of the concerns related to the international competitiveness of the steel sector in the context of the implementation of EU climate policies and takes these concerns seriously. The application of the EU Emissions Trading Scheme (ETS) takes account of the specific situation of the steel sector which, for example, receives free allocation of allowances from the system. The Commission's proposal revising the ETS for the period 2021-2030<sup>4</sup> envisages addressing the competitiveness concerns of industry by continuing to distribute free allowances to ensure an appropriate level of support for energy intensive industries, including steel. Furthermore, in order to support investments in innovation which can help the steel sector to remain competitive and adapt to the new realities of climate change, the proposal foresees a special Innovation Fund to support low-carbon investments in industry, renewables and Carbon Capture and Storage.*

*The Commission assures the Bundestag that it is using the full range of means in its competence to provide support to the EU steel industry in these particularly difficult times. The Commission is also fully committed to ensuring the continued transparency and effectiveness of the EU's trade defence system not only for the steel industry, but for the benefit of EU industry as a whole.*

*In response to the more technical questions in the Opinion, the Commission would like to refer the Bundestag to the Annex to this letter.*

*The Commission hopes that these clarifications address the issues raised by the Bundestag and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Cecilia Malmström  
Member of the Commission*

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<sup>4</sup> COM(2015) 337 final.

## ANNEX

*The Commission has carefully considered each of the issues raised by the Bundestag in its Opinion and is pleased to offer the following clarifications.*

### *On an international dialogue on steel:*

*At the last EU-China Summit (12-13 July 2016), China agreed to the establishment of a joint EU-China platform tasked with devising a verification and monitoring mechanism as well as looking into possible solutions to deal with the overcapacity in steel production.*

*More generally, the Commission has also established steel contact group meetings which bring together steel industry representatives, the Commission and the EU's main steel producing partners such as China, India, Russia, Turkey, Japan and the United States of America. These meetings discuss steel related issues and can play a useful early warning role in order to avoid the emergence of trade tensions. On 8 and 10 March 2016, two steel contact group meetings took place with Japan and China respectively. The excess capacity problem and possible solutions were largely discussed at this occasion with China as well.*

*The Commission is also actively involved in the work of the Organisation for Economic Co-operation and Development's (OECD) Steel Committee, which is the only plurilateral forum dealing with steel issues. This forum brings together the main steel producing countries, notably China, the United States of America, Japan, India, Russia and the EU. The main objective of the Committee is to keep steel markets as open and free of distortions as possible and to ensure fair trading conditions for steel products on the global market. Trade defence measures are necessary to counter the immediate effects of unfair trade practices. However, overcapacity can only be addressed in the long-term through broader policy dialogues and cooperation. In order to work for sustainable solutions, the Commission uses, to their full extent, all the meetings of the OECD Steel Committee to convince trading partners to apply non trade distortive policy mixes and let the market find a long term solution. In this respect, the EU used the opportunity of the last meeting of G20 Trade Ministers to secure Chinese participation in the OECD Steel Committee meeting that took place on 8 and 9 September this year.*

### *On the revision of the EU ETS for the period after 2020:*

*With regard to the revision of the EU ETS for the period after 2020, the Commission's proposal presented in July 2015 follows the European Council's conclusions of October 2014 and addresses the issue of carbon leakage by continued and more focussed free allocation to energy intensive industries, aiming to minimise the need for any correction factor, in combination with updated benchmarks to incentivise and reward innovation. Regarding indirect carbon costs, Member States are encouraged to use revenue from the EU ETS auctions to provide compensation in line with state aid rules.*

*The objective of climate and energy policies is also to ensure the long-term competitiveness of energy intensive industries in a low-carbon economy. To spur innovation in low-carbon technologies, the EU ETS proposal provides for an Innovation Fund of 450 million allowances to support breakthrough technologies. The Commission encourages the European steel sector to look into the possibilities of using this support to the benefit of the innovative potential of the sector.*

*On involving stakeholders in the decision-making process regarding the consequences of the expiry in December 2016 of certain provisions of Section 15 of China's Protocol of Accession to the World Trade Organization:*

*The Commission conducted an impact assessment, which examined the various options available and the economic and social impact of each option. Stakeholders have been involved from an early stage in the process. A public consultation<sup>5</sup> was open for 10 weeks and generated around 5000 replies. The Commission also organised a stakeholder conference in March 2016 with around 300 participants who had the possibility to share their views. Furthermore, the Commission services met social partners and received many written submissions and position papers. All the collected information was taken into account in the impact assessment which will feed into the Commission's decision-making.*

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<sup>5</sup> [http://trade.ec.europa.eu/consultations/index.cfm?consul\\_id=191](http://trade.ec.europa.eu/consultations/index.cfm?consul_id=191)