

## NON-CONFIDENTIAL

### TF0006: Application for a tariff rate quota review by Tata Steel UK Limited

25 January 2022

Dear pre-application team,

Our company, Tata Steel UK Limited (TSUK), is a domestic producer of a number of steel products currently covered by the UK safeguard measures. We are contacting you concerning our requests to initiate a tariff rate quota (TRQ) review of the current measures due to a significant change in circumstances, i.e. a spike in imports from certain developing countries that has been taking place following the transition review of the measures.

#### 1. Background information

TSUK notes that as part of the transition review of the safeguard measures (TF0006), the TRA determined that certain developing countries should benefit from product-specific exemptions as their share in total imports in the UK did not exceed 3%. TRA's analysis of imports from developing countries was based on the period from 2017 to 2019.

In the course of 2020 and (even more evidently) 2021, TSUK noticed substantial changes in imports from the developing countries that are exempted from the safeguard measures and, therefore, are not subject to TRQs and the 25% safeguard duty. While imports from some exempted countries remained stable or moderately increased, some other countries started to take advantage of their position by rapidly increasing their exports to the UK. When it became obvious that such increased imports are not temporary in nature, TSUK had taken the following steps to address this issue:

- 1) On 15 June 2021, TSUK sent an e-mail to the TRA concerning increasing imports of OCS from Turkey. In the e-mail, TSUK asked the TRA to clarify whether the TRA will periodically review the list of developing countries based on the changes in import trends, and whether the TRA would do so on its own initiative or following a request from the domestic industry. In response, the TRA confirmed that it was responsible *"for monitoring the available data on imports to assess the effectiveness of trade remedy measures"*. Moreover, the TRA acknowledged that *"where data indicates a change in trade patterns, including those of developing countries either exempted or not exempted from the measure, this could lead to further enquiry which may include a Tariff Rate Quota Review"* (**Annex 1**).
- 2) On 24 September 2021, TSUK submitted a request to review the list of developing countries due to a significant increase in imports of hot-rolled flat steel products from India which benefited from an exemption for this product. This request was also uploaded through the Trade Remedies Service on 8 October 2021, as requested by the TRA (**Annex 2**).
- 3) On 13 December 2021, following-up on the previous request, TSUK submitted another request with the data showing a spike in imports of metallic coated steel

from Vietnam which also benefited from an exemption for this product category (**Annex 3**).

According to regulation 35B(2) of the The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (*the “Safeguards Regulation”*), a TRQ review may be initiated either following an application from an interested party, or on TRA’s own initiative. The above-mentioned steps undertaken by TSUK clearly indicate that we had inquired into the procedure for requesting a TRQ review and submitted two applications to the TRA.

TSUK acknowledges that pursuant to regulation 35B(3), the TRA may reject an application for a TRQ review if it is made before the end of the period of six months beginning with the conclusion of a transition review in respect of the same TRQ. However, TSUK wishes to emphasize that neither of the above-mentioned requests was rejected by the TRA, nor any advice was given to request a TRQ review through any other means. Importantly, the wording of regulation 35B(3) merely provides for an opportunity to reject an application rather than precludes the TRA from initiating a TRQ review. In view of this, TSUK considers our previous requests for a TRQ review duly submitted in the sense of regulation 35B(2)(a).

## **2. There has been a change in circumstances calling for a TRQ review**

Pursuant to regulation 35B(1), a TRQ review may be initiated if *“there is sufficient information indicating that there may have been a change of circumstances since the application of that tariff rate quota to those goods”*. Regulation 35B(9) contains a non-exhaustive list of changes in circumstances that may trigger initiation of a TRQ review, including the following:

*“(d) trade diversion in relation to the imposition of anti-dumping, countervailing, safeguard or other trade measures by a foreign country or territory;*

*“(f) the fact that imports from a developing country member of the WTO which have been excluded from the application of the tariff rate quota can no longer be excluded under regulation 43 (developing country exception);”*

As explained in detail in TSUK’s previous applications for a TRQ review, the above-mentioned changes in circumstances have been taking place since 2020, when imports from certain developing countries benefiting from exemptions, such as India and Vietnam, started to enter the UK market in increased quantities. However, due to the COVID-19 pandemic and its severe impact on the demand for steel products, the increase in imports was not as rapid and obvious as to trigger an immediate action either by the TRA (or the Trade Remedies Investigations Department at the time) or by the domestic industry in the first months of 2021. As of spring 2021, imports from certain exempted developing countries started to grow substantially due to the recovering demand for steel products in the UK and by far exceeded the 3% threshold. The most illustrative examples of these changes in circumstances are the spiking imports of hot-rolled flat steel products (HRFS) from India and metallic coated steel products (MCS) from Vietnam:

**Table 1. Imports of HRFS from India, 2017-2021YTD**

	2017	2018	2019	2020	11M 2021	2021 (annualized)
Total, t	755,962	824,880	801,573	480,773	617,446	673,577
India, t	22,898	33,879	0	21,962	117,291	117,291
India, %	3.0	4.1	0	4.6	19.0	17.4

Source: HMRC data.

**Table 2. Imports of MCS from Vietnam, 2017-2021YTD**

	2017	2018	2019	2020	11M 2021	2021 (annualized)
Total, t	1,766,329	1,583,123	1,445,543	1,023,216	1,120,210	1,493,613
Vietnam, t	56,760	57,999	13,715	49,045	259,864	197,086
Vietnam, %	3.2	3.7	0.9	4.8	18.8	17.2

Source: HMRC data.

TSUK also notes that HRFS imports from India were exempted from the UK safeguard measures as of 1 January 2021, but remained subject to the EU safeguard measures under an individual TRQ. As a result, due to the remaining protection from a spike in imports in the EU, HRFS imports from India were diverted to the UK, which constitutes another change in circumstances.

In TSUK's opinion, it is clear that these rapid and significant increase in imports from developing countries exempted from the measures constitute a sufficient change in circumstances in the meaning of regulation 35B(1) and should have led to initiation of a TRQ review following TSUK's request.

In light of the foregoing, TSUK respectfully requests the TRA to promptly initiate a TRQ review and revoke the current exemptions for the developing countries exceeding the 3% threshold based on the latest available import data for 2021.

In addition, since TSUK's first request for a TRQ review filed in September 2021, imports continued to grow and negatively affect TSUK by suppressing UK prices to unsustainable level. As a result, currently, TSUK finds itself in a rather difficult position from the perspective of sustainability of certain production processes, **[non-confidential summary: imports had a severe negative impact on our company and certain production processes]**. If TSUK remains exposed to the increasing imports that are currently exempted from the measures, it may lead to irreparable damage to our company, which will affect not only TSUK and thousands of our employees, but the UK steel market more generally. Therefore, the circumstances and the significant delay in initiating a TRQ review further emphasize the importance of timing in addressing this issue.

### **3. The TRA should periodically review the list of developing countries exempted from the safeguard measures**

TSUK notes that due to the size and structure of the UK steel market, the above-mentioned increases in imports have an immediate negative impact on individual domestic producers. Indeed, the UK steel market is very fragmented with most products being produced by only one (or maximum two for a few products) domestic companies.

In these circumstances, the domestic producers are very vulnerable to even short-term increases in imports if they are significant enough, not to mention long-term changes in

import trends. This vulnerability stems from the fact that any impact of such increasing imports almost always affects only one producer instead of being spread across multiple companies within the industry. This is an important difference between the structure of the UK market and, for instance, that of the EU, where imports affect a large number of producers, thus leading to a more spread-out impact.<sup>1</sup> For this reason, TSUK believes that the TRA should adopt a different approach to reviews of the list of developing countries than the European Commission, which carries out such reviews on an annual basis.

TSUK submits that the specifics of the UK market's structure warrant a periodic and more frequent review of the exemptions granted to developing countries. While it is important to provide an opportunity to developing countries to export steel products in historic quantities and potentially leave some room for growth, the TRA should revoke exemptions for exporters that are clearly abusing their position.

In TSUK's opinion, such reviews should be conducted at the end of every quarter period, i.e. once every three months. This time period would allow the TRA to assess whether an increase in imports from an exempted developing country is temporary in nature (e.g., a one-off large shipment) or if it confirms a significant change in imports from that country. Importantly, TSUK believes that such periodic reviews will not become an additional administrative burden for the TRA, as they would consist of a simple mathematical exercise, i.e. determining a country's import share in total imports in the latest available period. The above-described review mechanism will ensure that the safeguard measures remain adjusted to the changing circumstances and continue to address spikes in imports instead of creating loopholes for certain exporting producers that demonstrate opportunistic behaviour and disrupt the UK steel market.

#### 4. Conclusions

In view of the above, TSUK respectfully requests the TRA to take the following actions in order to adjust the safeguard measures to the most recent import trends and their damaging impact on the UK steel industry:

- 1) To initiate a TRQ review and revoke exemptions from the developing countries whose import share exceeded the 3% threshold in the course of 2021;
- 2) To establish a procedure for periodic reviews of the list of developing countries based on the latest available import data and conduct such reviews at least every quarter.

TSUK remains at your disposal if you have any questions or require any further information.

Yours faithfully,

[redacted – personal information]

---

<sup>1</sup> Please refer to **Annex 4** for the list of EU producers for certain product categories.