

Notification of intended recommendation

Case TD0001

**Reconsideration of an original decision in the
transition review relating to certain welded tubes and
pipes of iron or non-alloy steel originating in the
Republic of Belarus, the People's Republic of China
and the Russian Federation**

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A1. Executive summary and intended recommendation

1. The Secretary of State for International Trade (Secretary of State) accepted the TRA's original decision and recommendation, in case number TD0001, regarding certain welded tubes and pipes of iron or non-alloy steel (WTP) originating in the Republic of Belarus, the People's Republic of China and the Russian Federation (Russia) on 9 August 2021.
2. On 9 September 2021, Tata Steel UK (TSUK) applied for a reconsideration of this original decision on three grounds:
 - i. TSUK produces non-threaded WTP plated or coated with zinc, classified under CN code 7306 30 72 ('galvy tubes') and therefore requests that galvy tubes be included in the measures.
 - ii. If the anti-dumping amount is '*sufficient*' to offset dumping, then the TRA need not (and should not) consider whether that measure is '*necessary*' to offset dumping.
 - iii. Russia must remain subject to the anti-dumping measures due to high likelihood of recurrence of dumping.
3. The TRA initiated a reconsideration on 24 November 2021 to investigate these three grounds.
4. Having completed the reconsideration review, the TRA:
 - i. Confirms that TSUK produces galvy tubes.
 - ii. Disagrees with TSUK's submissions regarding the TRA's ability to carry out assessments relating to both the necessity and the sufficiency of a measure, and its assertion that conducting a dumping likelihood analysis in the original transition review involved an error of law.

- iii. Disagrees with TSUK that Russia must remain subject to the anti-dumping measures due to high likelihood of recurrence of dumping.
5. The TRA, therefore, intends to recommend:
- i. Varying the original decision so that CN code 7306 30 72 is included in the anti-dumping measures.
 - ii. Upholding the TRA's decision to consider whether the measure is 'necessary', and the decision to carry out a dumping likelihood assessment.
 - iii. Upholding the original decision to exclude Russia from the anti-dumping measures.
6. The TRA intends to submit its final recommendation to the Secretary of State 14 days after the date of publication of this notification. Prior to that date, any questions should be directed to TD0001@traderemedies.gov.uk.

B1. Overview

7. On 14 May 2021, the Trade Remedies Investigations Directorate (TRID) published the Statement of Essential Facts (SEF) regarding the transition review of anti-dumping measures applying to WTP originating in the Republic of Belarus, the People's Republic of China and the Russian Federation (Russia).
8. On 9 July 2021, pursuant to regulation 100(1) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 ("D&S Regulations"), the Trade Remedies Authority (TRA) as the successor organisation to TRID, made a [recommendation to the Secretary of State](#) at the conclusion of its transition review (the 'original decision') to vary the measures. In her [Trade remedies notice 2021/08: anti-dumping duty on welded tubes and pipes from Belarus and China](#), the Secretary of State accepted the TRA's recommendation on 9 August 2021.

9. Further to the TRA's conclusions in the WTP Transition Review and subsequent Government decision, the TRA received [one submission from Tata Steel UK \(TSUK\)](#) on 9 August 2021 applying for a reconsideration of our original decision. TSUK's application included three grounds of appeal:
- i. *CN code 7306 30 72 is produced in the UK.*
 - ii. *If the anti-dumping amount is 'sufficient' to offset dumping, then the TRA need not (and should not) consider whether that measure is 'necessary' to offset dumping and can proceed straight to its assessment of injury.*
 - iii. *Russia must remain subject to the anti-dumping measures due to high likelihood of dumping.*
10. Having regard to the law and to relevant guidance, the TRA initiated a reconsideration review on 24 November 2021¹. Below, we present our findings under each of the three grounds.
11. Under regulation 13(9) of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 (the R&A Regulations), the TRA has wide discretion to reconsider an original decision in whatever way it considers appropriate in the circumstances, subject to any contrary provisions in those Regulations. In the absence of provisions dictating a contrary approach, the TRA considers that the appropriate approach to a reconsideration is to review whether the original decision made by the TRA was correct at the time it was made. The original decision in the WTP transition review was based on information available at the time, and was made prior to the Russian invasion of Ukraine and subsequent imposition of associated sanctions on imports of Russian steel. Consequently, our reconsideration examines data that was available only at a finite point in time which preceded the Russian

¹ In accordance with regulation 12(1) of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019.

invasion and the associated sanctions, which is why those developments have not had an impact on evidence pertaining to the reconsideration.

C1. Ground 1: is CN code 7306 30 72 produced in the UK?

12. At the end of the original transition review, the TRA concluded that TSUK does not produce ‘non threaded WTP plated or coated with zinc’ classified under CN code 7306 30 72 (TARIC code 7306 30 72 80), and recommended excluding this CN code from the measures. These goods are commonly known as (and are referred to in this document as) “galvy tubes”.
13. According to TSUK,² the TRA excluded galvy tubes from the measures because TSUK does not add zinc coating to WTP in-house. However, in the application for reconsideration, TSUK points out that zinc coating to WTP is outsourced to an independent supplier based in the UK, the galvy tubes are then returned to TSUK and sold to TSUK’s customers.
14. Consequently, in its request for reconsideration, TSUK asserts that it offers galvy tubes to its customers and has regular domestic sales of this product.
15. In order to assess the merits of TSUK’s submission on this ground, we conducted on site verification at TSUK’s Corby facility on 16 February 2022. During this meeting, TSUK’s submission was checked for consistency and completeness through TSUK providing information on the sales, purchases, ownership and stock of galvy tubes.
16. The information considered in the submission included:
 - TSUK sample purchase order from the independent supplier;

² See sub-section 2.1 (p3) of TSUK’s non-confidential application for reconsideration: <https://www.trade-remedies.service.gov.uk/public/case/TD0001/submission/fe550654-85a9-4add-b19f-c7ada2223259/document/f6fed4cc-ff9d-482f-bbb5-2d92cf062b59/>.

- TSUK holding of galvy tube stocks;
- Independent supplier invoices relating to TSUK's galvanising costs;
- TSUK 2019 independent supplier purchase ledger; and
- TSUK sales documents for the sample sales of galvy tubes.

17. Having reviewed TSUK's sample purchase order, invoice, and service entry form from the independent supplier, we were satisfied that it is sufficient evidence of the agreement TSUK has with them. TSUK provided a walkthrough of their 2019 (SAP)³ entry of the purchase order, where we were able to trace the sample order, therefore we are satisfied that these documents are sufficient evidence of the outsourcing agreement. We were able to physically verify a sample batch of galvy tubes held on site and trace them through to TSUK's live stock system (known as 'Tandem') and SAP. We verified TSUK's 2019 opening and closing stock extracted from SAP. We are therefore satisfied that TSUK remained the owner of the galvy tubes stock throughout the entirety of the production process, including that part of production carried out by the independent supplier, and that this applied to galvy tubes produced during the Period of Investigation (POI).
18. We were able to trace all the independent supplier's invoices in the original questionnaire submission to the TSUK 2019 purchase ledger for the independent supplier. TSUK provided a walkthrough of the 2019 purchase ledger through SAP onsite, which allowed us to physically verify all the independent supplier's invoices posted to the 2019 purchase ledger for the independent supplier. This also confirmed that there were no additional invoices included in the 2019 purchase ledger which had not been submitted in the reconsideration application submission.

³ SAP, or Systems Applications and Products, is TSUK's Enterprise Resource Planning tool.

19. In relation to our galvy tubes sales transaction testing, we assessed the accuracy of galvy tube sales data by verifying the information submitted against the source documents provided by TSUK.
20. Following verification activity undertaken, we have a reasonable level of assurance that TSUK's data is verifiable and can be treated as complete, relevant and accurate for the purpose of this reconsideration.

C1.1 Conclusion on production of CN code 7306 30 72

21. Following our verification activities, we conclude that TSUK produced non threaded WTP plated or coated with zinc classified under CN code 7306 30 72 during the POI and that they maintained ownership of the galvy tubes stock throughout the entirety of the production process.
22. In the original transition review the TRA carried out assessments under regulations 99A(1)(b) and 99A(2)(a)(iii) of the D&S Regulations to consider whether dumping of the relevant goods and injury to UK industry would occur if the anti-dumping amount were no longer applied. Galvy tubes were included within the scope of those assessments.
23. In accordance with Schedule 4, Paragraph 25(4) of the Taxation (Cross-border Trade) Act 2018,⁴ the TRA also carries out an Economic Interest Test (EIT) to ascertain whether the implementation of anti-dumping duties on a particular good is in the economic interest of the United Kingdom. The EIT carried out at the time of the original transition review concluded that the original EIT was met for the recommended variation of the measures (<https://www.trade-remedies.service.gov.uk/public/case/TD0001/submission/7e7ff292-60da-4793-aa51->

⁴ Found at: <https://www.legislation.gov.uk/ukpga/2018/22/schedule/4/paragraph/25/enacted>.

[4012265bb7b8/](#)), but purported to cover only the WTP products classified under three CN codes that remained in scope. As we have identified that CN code 7306 30 72 should also have remained in scope, we have revisited the original EIT to review the analysis carried out at the time and the extent to which it needed updating or amending in light of our finding in this reconsideration. Below, we have set out our findings in Table 1.

Table 1: Explaining the comparison between the original EIT and the reconsideration EIT

Original case	Reconsideration	Explanation/conclusion
<p>The EIT presented in the final recommendation covered a reduced scope of goods, “excluding the CN 7306 30 72 (TARIC code 7306 30 72 80)”, so-called galvy tubes, and extending the duration for five years.</p> <p>However, the original assessment considered evidence for galvy tubes throughout all six EIT factors, before presenting the reduced scope in the SEF and final recommendation. The original case team found no difference in its findings and conclusions when considering three or four codes.</p>	<p>After verifying that TSUK produces galvy tubes, the EIT in the reconsideration includes the CN 7306 30 72 (TARIC code 7306 30 72 80)”) and extending the duration for five years.</p> <p>The new information to consider within the reconsideration EIT was thus the:</p> <ul style="list-style-type: none"> • inclusion of galvy tubes; and • TSUK’s relationship with the independent supplier. 	<p>After reconsidering the role of the independent supplier in the production of galvy tubes, and assessing whether this may affect the six EIT factors and the original findings and conclusions, we find no material difference between the reconsideration and the original conclusion of the EIT.</p>
<p>In the injury section, the investigation into whether injury to the relevant UK industry would occur if the anti-dumping amount were revoked found that it would be likely that UK producers would incur injury if the measure were to be revoked.</p>	<p>In the injury section, the investigation into whether injury to the relevant UK industry would occur if the anti-dumping amount were revoked found that it would be likely that UK producers would incur injury if the measure were to be revoked.</p>	<p>Including the CN 7306 30 72 (TARIC code 7306 30 72 80) did not affect the original conclusion on this factor; neither did TSUK’s relationship with the independent supplier.</p>
<p>In the significance section, we found that the biggest individual employer in the supply chain for WTP was one of two upstream HRC</p>	<p>In the significance section, after reconsidering the inclusion of galvy tubes and TSUK’s relationship with the</p>	<p>Including the CN 7306 30 72 (TARIC code 7306 30 72 80) did not affect the</p>



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<p>producers (though not all of their jobs are directly related to welded tubes and pipes). There are large number of downstream industries and importers with more jobs in total, but we have only limited data on these businesses, and it is our understanding that WTP are not the sole focus of their business.</p>	<p>independent supplier, we find that the biggest individual employer in the supply chain for WTP remains one of two upstream HRC producers as referred to in the original EIT (though not all of their jobs are directly related to welded tubes and pipes). As before, there are several downstream industries and importers with more jobs in total, but we have only limited data on these businesses, and it is our understanding that WTP are not the sole focus of their business.</p>	<p>original conclusion on this factor; neither did TSUK's relationship with the independent supplier.</p>
<p>In the impacts section, we concluded that UK WTP producers and HRC producers were likely to benefit if the measures were varied as we recommend. Based on the evidence we have, we did not consider it to be likely that downstream industries, or consumers would be significantly affected whether the measures were varied or revoked. Importers may benefit if the measures were revoked, as imports from the countries with measures currently applied would be likely to increase and possibly overall imports, as well.</p>	<p>In the impacts section, after reconsidering the inclusion of galvy tubes and TSUK's relationship with the independent supplier, we again find that UK WTP producers and HRC producers are likely to benefit if the measures were varied as we recommend, and the remaining viewpoints remain unaffected.</p>	<p>Including the CN 7306 30 72 (TARIC code 7306 30 72 80) did not affect the original conclusion on this factor; neither did TSUK's relationship with the independent supplier.</p>
<p>In the section assessing the impacts on geographic areas and particular groups, we did</p>	<p>In the section assessing the impacts on geographic areas and particular groups,</p>	<p>Including the CN 7306 30 72 (TARIC code 7306 30</p>

<p>not find that there were likely to be any substantial impacts from varying the measure. If the measures were revoked and the lower priced imports from the countries with current measure applied increases, the areas of Neath Port Talbot and Corby could be affected due an increased risk of job losses.</p>	<p>including galvy tubes and considering TSUK's relationship with the independent supplier made no difference to our assessment. Therefore, if the measures were revoked and the lower priced imports from the countries with current measure applied increases, the areas of Neath Port Talbot and Corby could be affected due an increased risk of job losses.</p>	<p>72 80) did not affect the original conclusion on this factor; neither did TSUK's relationship with the independent supplier.</p>
<p>In the competition section, we found that the market for WTP is relatively concentrated. If the measures were varied as we recommend, it is likely to have no significant impact on the competitive environment and structure of the UK market. If the measures were revoked, it is likely to increase the ability of suppliers from the countries with current measures applied to compete and if their lower priced imports enter the market it would likely incentivise all suppliers to compete more vigorously. It is uncertain whether this would affect the market shares of UK producers or suppliers from third countries more. We found no evidence of any other factors which were considered relevant for the EIT.</p>	<p>Including galvy tubes and considering TSUK's relationship with the independent supplier made no difference to our assessment and viewpoints on competition. The market for WTP remains relatively concentrated.</p> <p>We found no evidence of any other factors which were considered relevant for the EIT.</p>	<p>Including the CN 7306 30 72 (TARIC code 7306 30 72 80) did not affect the original conclusion on this factor; neither did TSUK's relationship with the independent supplier.</p>



24. After reconsidering the EIT alongside the new information (including galvy tubes and TSUK's relationship with the independent supplier), we conclude that the inclusion of CN code 7306 30 72 (TARIC code 7306 30 72 80) does not affect the original conclusion; nor does TSUK's relationship with the independent supplier.
25. Therefore, we intend to recommend to the Secretary of State that the original decision be varied to include CN code 7306 30 72.

D1. Ground 2: question of 'necessary or sufficient'

26. In its application for reconsideration, TSUK argues that *"if the anti-dumping amount is 'sufficient' to offset dumping, then the TRA need not (and should not) consider whether that measure is 'necessary' to offset dumping and can proceed straight to its assessment of injury"*.
27. TSUK contends that the test to be applied under regulation 99A(1)(a)(i)⁵ of the D&S Regulations (as in force at the time of the transition review and the application for reconsideration) is *either* whether the application of the anti-dumping amount is necessary *or* whether it is sufficient to offset the dumping (emphasis added). They say that the TRA need not, and indeed should not, consider both.
28. TSUK further contend that, in their interpretation of Department for International Trade guidance (DIT Guidance)⁶, *"an assessment of whether dumping is likely to re-*

⁵ 99A(1) In a transition review, the TRA must consider -

(a) whether the application of the anti-dumping amount or the countervailing amount is necessary or sufficient to offset -

(i) the dumping of the relevant goods; or

(ii) the importation of the relevant subsidised goods;

(b) whether injury to the UK industry in the relevant goods would occur if the anti-dumping amount or the countervailing amount were no longer applied to those goods.

⁶ [Trade Remedies Investigations Directorate \(TRID\) dumping, subsidisation and safeguarding investigations guidance - Transition reviews \(anti-dumping and countervailing measures\) - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/trade-remedies-investigations-directorate-trid-dumping-subsidisation-and-safeguarding-investigations-guidance-transition-reviews-anti-dumping-and-countervailing-measures).

*occur if the measure were removed **forms part of this ‘necessity’ test*** [applicant’s emphasis].

29. Based on the assertions above, TSUK’s position appears to be that:
- i. The TRA, having established the sufficiency of the measure, should not consider the necessity of the measure; and
 - ii. As the TRA is precluded from considering the necessity of the measure, under TSUK’s interpretation of statutory guidance, the TRA is also precluded from carrying out an assessment into the likelihood of dumping recurring.
30. In light of TSUK’s submissions in their application, we have reconsidered whether the TRA adopted the correct approach to the necessary or sufficient assessment in reaching its original decision.

D1.1 The meaning of “or” in regulation 99A(1)(a)

31. TSUK maintain that use of the word “or” in regulation 99A(1)(a) should be interpreted as meaning that the TRA must decide whether the anti-dumping amount is either necessary to offset dumping or sufficient to offset dumping, and, having established one, is then precluded from considering the other.
32. We do not, however, accept TSUK’s assertion that the issues of necessity and sufficiency are mutually exclusive.
33. Indeed, there are circumstances in which it could be not only desirable, but also essential, for us to consider both.
34. For example, there may be circumstances in which an anti-dumping measure is considered necessary, but may nonetheless be insufficient to offset the dumping.

Under TSUK's interpretation of regulation 99A(1)(a), the TRA could conclude that some form of anti-dumping duty was necessary but then be precluded from finding that the anti-dumping duty in place was insufficient to offset dumping. Alternatively, a measure found to be sufficient would prevent the TRA from considering whether that measure was set at an unnecessarily high level and ought to be reduced.

35. More generally, the concept of a 'necessary or sufficient' assessment considers two analytically different aspects of an anti-dumping (or countervailing) duty. Read in context, considering whether an anti-dumping amount is 'necessary' to offset dumping addresses whether the existing anti-dumping duty corrects the dumping position too much (or where it is not required at all), while 'sufficiency' addresses a situation where the existing anti-dumping amount may inadequately offset dumping. Overall, the necessary or sufficient assessment considers whether the measure, or the level at which it is set, is justified – or whether it is too high or too low.
36. We are required, under s28 of the Taxation (Cross Border Trade) Act 2018, to have regard to international obligations to which the UK Government is a party. Regulation 99A(1)(a) should be considered in conjunction with the WTO Anti-Dumping Agreement ("ADA"), in particular Article 11. Article 11 states that "[a]n anti-dumping duty shall remain in force only as long as and to the extent necessary to counteract dumping which is causing injury". In other words, it would be contrary to Article 11 of the ADA for the UK to conduct a review and to keep in force a measure that was not "necessary" for the purposes of Article 11. To interpret regulation 99A(1)(a) to preclude the TRA from considering whether a measure is "necessary", where it is appropriate the TRA comply with its international obligations would, in the circumstances, be incorrect.
37. The TRA's interpretation of regulation 99A(1)(a) is that while it is not obliged to consider both factors under regulation 99A(1)(a), the language of the D&S Regulations does not preclude the TRA from doing so.

38. We therefore do not agree with TSUK's assertion that the TRA is precluded from considering whether the measure is necessary as well as sufficient.

D1.2 Likelihood of dumping

39. We note TSUK's observation that public guidance produced by the Secretary of State links the dumping likelihood assessment to the necessity test under regulation 99A(1)(a).
40. However, our decision to carry out a dumping likelihood assessment is not based, as TSUK assert, on DIT guidance, or on regulation 99A(1)(a). As indicated above, this provision, including, as it does, use of the definite article and present tense, can only be read as a reference to current dumping, i.e. dumping that is ongoing during the POI.
41. The wording of regulation 99A(1)(a)(i) does not mirror that of regulation 99A(1)(b), which states that the TRA must consider whether injury to the UK industry would occur if the anti-dumping amount were no longer applied. Regulation 99A(1)(b) clearly allows for a forward-looking analysis of whether injury might take place if the measures were to be removed. Regulation 99A(1)(a)(i), on the other hand, does not provide for the same forward-looking analysis and is instead focused on current dumping.
42. In order to carry out such a forward-looking analysis of whether dumping might occur, we must therefore invoke the discretion, under regulation 99A(2)(a)(iii) of the D&S Regulations, to consider "*any of the matters of a review conducted under Chapter 2 of Part 7*". This includes, in the expiry review provisions at regulation 70(6)(a), the

option to consider whether dumping of the goods subject to review is continuing or is ***likely to recur*** (emphasis added).

43. To inform our original decision we therefore considered likelihood of dumping pursuant to the discretion afforded to us by regulation 99A(2)(a)(iii), and separate from our consideration of sufficiency or necessity under regulation 99A(1)(a).
44. We therefore consider that in the circumstances of this transition review, it was reasonable for us to exercise our discretion to carry out a likelihood assessment to inform our decision on whether the measures should be varied or revoked.

D1.3 Conclusion on necessary or sufficient

45. Having considered the submissions made by TSUK in section 2.2 of its application for reconsideration, the TRA considers that:
- i. We are not precluded by regulation 99A(1)(a)(i) from considering whether a measure is necessary if we have found a measure to be sufficient (and vice versa);
 - ii. It was reasonable for us to exercise our discretion to consider likelihood of dumping to assess whether the measure should be varied or revoked;
 - iii. As our discretion was exercised in accordance with regulation 99A(2)(a)(iii) and 70(6)(a) of the D&S Regulations, we therefore do not agree that carrying out the dumping likelihood assessment involved an error of law.

E1. Ground 3: should Russia remain subject to the anti-dumping measures?

46. This section considers TSUK's submission that Russian exporters should be subject to the anti-dumping measures, due to a high likelihood of recurrence of dumping.

47. TSUK's request for reconsideration on this ground relates to the likelihood of dumping, and challenges:
- i. The TRA's application of WTO case law and jurisprudence.
 - ii. The TRA's use of positive evidence.
48. Regarding the TRA's use of positive evidence, TSUK bases its request for reconsideration on the following:
- i. Lack of cooperation from Russian producers.
 - ii. Russia's domestic consumption.
 - iii. Stocks of Russian producers.
 - iv. Attractiveness of the UK market.
49. TSUK claims that the TRA's analysis does not comply with its legal obligations, specifically the provisions of regulation 47(2)(a) of the D&S Regulations and Articles 6, 11.3 and 11.4 of the WTO Anti-Dumping Agreement and corresponding jurisprudence.
50. TSUK claims that the TRA acted inconsistently because its analysis of likelihood of dumping recurring was based on presumptions and unverifiable information provided by the Russian Ministries⁷ or Russian producers rather than on positive evidence.
51. We conclude that the original case team did not ignore the applicable UK regulations or WTO legal provisions relating to the use of evidence in their decision making, and based their decisions on positive and verifiable evidence. We have expanded on this further in sub-sections E1.2 to E1.5 below, covering the four areas mentioned in paragraph 48.

⁷ The Ministries of Economic Development, and Industry and Trade of the Russian Federation.

E1.1 Lack of cooperation from Russian producers

52. TSUK submits that the lack of cooperation by Russian producers casts doubt on the TRA decision to revoke the Russia measure. The lack of cooperation was not a fault of the original case team, and we identified that multiple producers were notified and encouraged to participate in the review. The original case team had conducted meetings and had active email communication with a range of interested parties, however their attempts to encourage greater participation were unsuccessful. Consequently, only one Russia producer cooperated, and the original case team had to use secondary sources in their decision making.
53. TSUK claim that the key arguments of the Russian Ministries were unverifiable and, therefore, did not meet the requirements of regulation 47(2)(a) of the D&S Regulations.⁸ We found that, in fact, the limited Russian Ministry data used by the original case team was verified. The Russian Ministries submitted domestic and international transport costs that the original case team used to assess the attractiveness of the UK market by calculating a likely Russian UK landed price and comparing this to UK domestic and import sales prices.
54. Russian Ministries' international shipping costs were based on detailed quotes from private logistics providers and were checked by the original case team against international shipping costs submitted by UK Steel and the verified details of transport costs from Severstal.
55. Further, the original case team deemed the domestic transport costs reliable as they were based on a domestic transport route from a geographic area where there was

⁸ 47(2) The TRA must have regard to information supplied to it by an applicant UK industry, an interested party, a contributor or any other person from whom it has requested information, provided that the information— (a) is verifiable; (b) has been appropriately submitted such that the TRA may use the information without undue difficulty; (c) has been supplied to it within any applicable time limit; and (d) where relevant, has been supplied to it in a form that it has requested.

significant WTP production to a major port. The Russian Ministries referenced national rail tariff rates which the case team checked against a tariff book 10-01, which is the main Russian railway tariff, and identified that the Russian Ministries had used the correct tariffs in their submission. The original case team was able to check the reliability of the domestic transport costs against the verified sales data provided by Severstal and found the information provided by the Russian Ministry to be consistent.

56. TSUK further submit that because the Russian Ministries have a direct interest in the outcome of the case, any information provided by the Russian Ministries should be treated with caution.
57. We found that the original case team treated the information provided by the Russian Ministries with caution and did not consider it in isolation. The case team exercised caution by conducting independent research and identifying secondary sources for use in conjunction with the data provided by the Russian Ministries. As previously discussed in paragraphs 54 and 55, the original case team checked the domestic and international transport costs provided by the Ministries against the verified Severstal data. The Russian Ministries' production and consumption data were also checked against two additional Russian producers, MMK and Chelyabinsk (Chelpipe Group), as well as positive evidence from the verified Severstal production data.
58. Having reviewed the treatment of Russian Ministries' data by the original case team, we found that it was given the appropriate weight and was treated with the appropriate degree of caution.

E1.2 Russia's domestic consumption

59. TSUK argues that the TRA appears to rely exclusively on the data provided by the Russian Ministries and that the fall in Russian domestic consumption is only valid

based on this data. As previously explained at paragraph 57, however, we found that the case team did not rely exclusively on data from the Russian Ministries.

60. The original case team found that Severstal's verified data records a drop in profitability from domestic sales of like goods during the POI. The original case team also used information from other Russian producers of like goods to confirm this trend:
- The annual report of TMK group estimated that WTP consumption dropped by 22% in Russia in 2019.
 - MMK's operating financial data shows a 9.5% fall in sales between 2018 and 2019.
 - Chelpipe Group reported in its accounts a drop in domestic sales value over the same period.
61. Table 2 below shows the data submitted by the Russian Ministries and data from the Metal Expert report submitted by UK Steel.

Table 2: Consumption of WTP ('000 MT)

	2015	2016	2017	2018	2019
Data submitted by the Russian Ministries					
Shaped tubes	2,245	2,339	2,527	2,482	2,456
Water & gas pipes	340	310	328	304	244
General purpose tubes	898	945	983	1,057	1,049
Total consumption	3,483	3,654	3,837	3,843	3,749
Data from UK Steel's Metal Expert report					
Hollow structural sections			2,527	2,482	2,460
Water & gas pipes			328	304	244
Standard pipes			2,300	2,374	2,328
Total consumption			5,155	5,159	5,032

62. We have checked the UK Steel data provided by TSUK in the application for reconsideration and identified the same figures within data submitted in the original transition review by UK Steel. The trends are similar to those identifiable in the figures submitted by the Russian Ministries, however with notable differences in the 'general purpose tubes' and 'standard pipes' categories. Nonetheless, both sets of figures show a small decline in consumption between 2018 and 2019. Although we conclude that consumption of WTP in Russia has fallen, we do not see this as a long-term trend due to Russia's infrastructure projects which are discussed further below.
63. TSUK submit that they do not understand the TRA's reference to a 20% increase in domestic consumption based on the Metal Expert data submitted by UK Steel. The original case team analysed Metal Expert's data and found a 20% increase in Russian consumption of "welded pipe" in 2019.⁹ The reconsideration case team calculated the same increase in Russian consumption. However, despite the

⁹ Russian consumption data comes from the 2019 edition of Metal Expert "CIS Tubes & Pipes Markets" statistical data.

reconsideration case team identifying how the original case team calculated the 20% increase, we did not rely on this information because it is inconsistent with other secondary sources.

64. The original case team identified several planned domestic infrastructure projects which they considered would lead to an increase in demand for, and consumption of, WTP in the near future. TSUK submits that the Russian infrastructure projects mentioned in the SEF are unlikely to materialise. We found that the original case team gathered credible evidence in support of a conclusion that the relevant Russian infrastructure projects were, at the time, likely to proceed. In its final determination, the original case team referenced in evidence four supporting news articles (*Moscow Times*, Reuters, *Wall Street Journal* and Bloomberg)¹⁰ which reported on Russian government infrastructure projects. The *Moscow Times* article cited a range of supporting documents, such as government spending plans and economic bills, as evidence of the credibility of the infrastructure projects described.
65. In the application for reconsideration, TSUK note that the day after publication of the Bloomberg article mentioning the Rosneft project as a potential candidate for government support, Rosneft issued a press-release stating that this project does not qualify for state funding.
66. Having reviewed the Bloomberg article, we understand that it was updated to remove specific comments about Rosneft, but the rest of the information in the article detailing large spending on domestic infrastructure projects has not been amended. Considering the original case team used this article as evidence for Russia's large-scale spending on domestic infrastructure projects, the reasons for relying on the article remain. Moreover, in the TRA's opinion, the article (the accuracy of which

¹⁰ These articles were included in the final determination in response to TSUK's comments on the SEF.

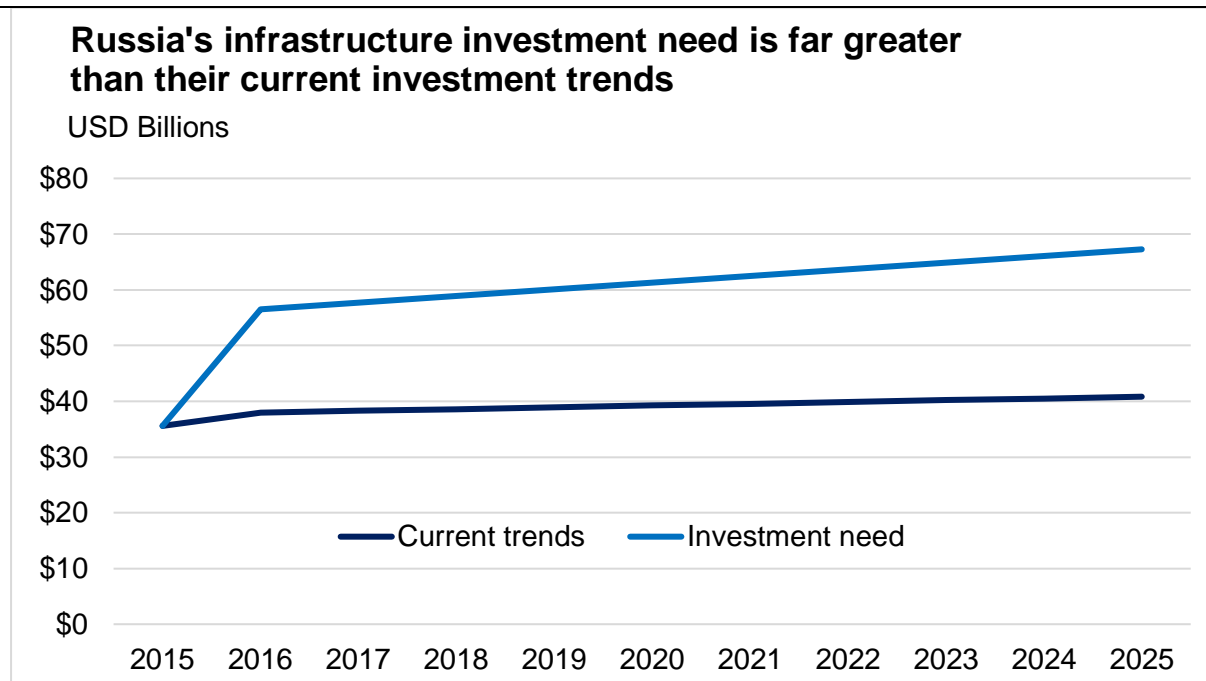
would have been reviewed by Bloomberg in light of Rosneft's comments) remains a credible source in highlighting Russian infrastructure aims at that time.

67. We conducted further research on Russian infrastructure projects and found the following additional sources published prior to the transition review's final determination:
- i. the US International Trade Administration website mentioned specific Russian construction and infrastructure projects underway and planned for the future.¹¹
 - ii. Global Infrastructure Hub (GI Hub).¹² Figure 1 below shows Russia's investment forecasts on infrastructure investment to 2025. While GI Hub's forecasted data extends to 2040, Russia's invasion of Ukraine means there is too much uncertainty to present the full forecast in Figure 1.

¹¹ <https://www.trade.gov/country-commercial-guides/russia-market-overview?navcard=2375>

¹² GI Hub is a non-for-profit organisation formed by the G20 which outlined the investment needs for Russian infrastructure, see <https://www.gihub.org/about/about/>.

Figure 1: Russia's investment forecasts, infrastructure investment at current trends and need (2015 to 2025)



Source: <https://outlook.qihub.org/countries/Russia>¹³ (accessed on 10/8/2022)

68. We also checked the sources provided by TSUK in support of their claim that the infrastructure projects identified by the original case team were unlikely to proceed. The articles from the *Russian Gazette* and *Kommersant* were published after the publication of the TRA's final determination and could not have been used by the original case team. We have therefore not taken them into account in our reconsideration of the original decision on the infrastructure projects.
69. We reviewed the *RZD-Partner*, *Vedomosti* and *Aviation Explorer* articles provided by TSUK, which were published prior to the final determination but were not considered by the original case team. After carefully considering these sources during the

¹³ The Global Infrastructure Hub is a not-for-profit organisation, formed by the G20, that advances the delivery of sustainable, resilient, and inclusive infrastructure.

reconsideration investigation, we don't regard them as sufficient to counter the original case team's conclusions. This is because the additional sources (the US International Trade Administration and GI Hub) identified during the reconsideration investigation support the original case team's conclusions drawn from the information in the original articles.

E1.3 Stocks of Russian producers

70. TSUK disagree with the TRA's conclusion that although Russian producers' inventories increased during the POI and the injury period, those increases were insufficiently large to indicate an incentive to dump into the UK market.
71. TSUK claim the original case team drew the wrong conclusions from MMK's data and that it was unverifiable. We found the original case team's analysis of MMK's stock levels to be reasonable. TSUK correctly identified a moderate increase in MMK's stock of 6 metric tonnes (mt) from 2018 to 2019. However, when taking the whole injury period into account, there was a decline in MMK's production, so we do not assess this stock build up in 2018-2019 to be significant in relation to the whole injury period. The case team identified that Severstal's production levels also declined over the same period. The original case team used positive evidence when reaching their decision on stock levels. This included verified stock data from Severstal, which showed that stock of the goods subjects to review and like goods had been declining in the injury period. The evidence from Severstal's verified data combined with MMK's decline in production over the injury period supports the broader conclusion that Russians producers were not building up stock.
72. In relation to the Chelpipe Group's financial accounts used by the original case team, TSUK queried whether the increase in value of inventories was related to a growth in

volume and submitted that this appears to be the only reasonable explanation for the increase in value.

73. We interpret TSUK's submission on this point as a challenge to the original case team's conclusion in the final determination that the increase in value could not reliably be linked to a growth in volume in the goods subject to review. The original case team concluded that the category of 'pipes' listed in Chelpipe Group's financial accounts would have been broader than the goods subject to review. We checked the description of the relevant goods listed in the inventory in Chelpipe Group's financial accounts and found that it was not specific enough to determine what percentage of those inventories were the goods subject to review. Therefore, we consider the case team's conclusion that there was insufficient evidence that the growth in value of Chelpipe Group's inventories of 'pipes' in 2018 to 2019 indicated an increase in volume of the goods subject to review was reasonable.

E1.4 Attractiveness of the UK market

74. TSUK believes that the UK market is attractive to Russian producers, and that the TRA disregarded or ignored TSUK's arguments on this point in the original transition review.
75. We found that the original case team did not ignore TSUK's arguments on the attractiveness of the UK market made in response to the SEF and, in fact, they were addressed in the final recommendation. In the final recommendation, the original case team concluded that the UK market is attractive to Russian producers but that the likelihood of dumping remains low because Russian producers can compete in the UK market without dumping.
76. TSUK disagree with this conclusion, claiming that significant spare capacity of Russian producers is the key factor increasing the likelihood of recurrence of

dumping, and that the TRA recognised this when they mentioned that “Severstal producers could decide to limit their profits and dump on the UK market in order to gain a more assured or larger market share.”¹⁴

77. However, we consider that it was reasonable to find that Russian producers would have limited incentive to dump because Russian infrastructure projects would increase domestic consumption and demand, and because Russia’s infrastructure investment need, as reported at the time of the original decision, outstripped investment rates (see Figure 1). Alongside these infrastructure projects, there is limited evidence of Russian producers building up stock. We therefore agree with the original case team’s assessment that on the balance of probabilities, the evidence suggests that Russian producers do not have an incentive to dump.
78. TSUK also suggest that the TRA did not address Russian producers’ dumping in third countries and ignored the European Commission’s (EC) investigation that found dumping in third countries. The TRA found the argument submitted by TSUK was addressed by the original case team.¹⁵ The case team had originally identified that there may have been dumping in third countries, but this was driven by the PCN grouping, as export sales were at the lower end of the band, which distorted the average price. We found the case team were transparent in their methodology and provided appropriate reasoning for their initial finding of dumping and subsequent revision of their conclusion.
79. The original case team did not ignore the EC’s findings but in fact referenced the EU measures in the final recommendation.¹⁶ The original case team reviewed the EC’s analysis in detail and found that the EC used different data and methodology. They concluded that using the same methodology would have been inappropriate for the

¹⁴ Final determination, paragraph 7.262.

¹⁵ Recommendation, para 7.227.

¹⁶ Recommendation para, 7.202

TRA because the EC had discounted the information from Severstal and relied upon 6- and 8-digit trade data to establish dumping. Furthermore, the original case team determined that data from the EC's assessment would not be reliable because the data may have included products that were outside the scope of the review. As a result, the case team used an alternative methodology, and the TRA considers that approach reasonable.

80. Lastly, TSUK claims Russian producers want to sell to the UK to obtain the British Pound. On this point, we note that at the time of the original transition review, Russian producers also had access to the Euro and US Dollar, through exports to Europe and the United States. The original case team also found that dumping in the UK to acquire British Pounds would be a high-risk method of obtaining foreign currency because it could lead to anti-dumping duties being (re)applied. We also made similar findings on different foreign currencies and reserves Russia had access to during this period, identifying an increase in Euro and Yuan assets in 2019 and therefore agree with the original case team's assessment that dumping to acquire British Pounds would be high risk.¹⁷ Consequently, we find that the original case team had limited evidence demonstrating that Russian producers prioritised access to the British Pound over the Euro or US Dollar. We therefore consider the original case team's finding that there was insufficient evidence that Russian producers were attracted to the UK market as a means of acquiring British Pounds reasonable.

E1.5 Conclusion on Russia remaining subject to the anti-dumping measures

¹⁷ [Russian oil fund shrank in 2018, but central bank foreign currency reserves grew \(bofit.fi\)](https://bofit.fi/en/press-releases/2018/09/11/russian-oil-fund-shrank-in-2018-but-central-bank-foreign-currency-reserves-grew).

81. We do not agree with TSUK that the likelihood of recurrence of dumping by Russian producers is high. Therefore, we intend to recommend upholding the original decision to exclude Russia from the measures.

F1. Conclusion

82. In its request, TSUK put forward three grounds for reconsideration:
- i. CN code 7306 30 72 is produced in the UK;
 - ii. If the anti-dumping amount is 'sufficient' to offset dumping, then the TRA need not (and should not) consider whether that measure is 'necessary' to offset dumping and can proceed straight to its assessment of injury; and
 - iii. Russia must remain subject to the anti-dumping measures due to high likelihood of recurrence of dumping.
83. Having carefully considered TSUK's submission for reconsideration of the original decision on ground (i) and accompanying evidence, alongside the original decision as was made at the time, we agree that CN code 7306 30 72 (galvy tubes) is produced in the UK. Furthermore, had the TRA had the correct information on the UK's production of galvy tubes available at the time of the original decision, it would not have been reasonable for the TRA to take the steps it took to vary the description of goods to which the anti-dumping amount should be applied by removing galvy tubes from the scope of the measures. Consequently, we intend to vary the original decision so that CN code 7306 30 72 is included in the anti-dumping measures.
84. On ground (ii), we found that the TRA is not precluded by regulation 99A(1)(a)(i) from considering whether a measure is necessary if it has found a measure to be sufficient (and vice versa).

85. Moreover, based on the circumstances surrounding the original decision, it was reasonable for the original case team to exercise their discretion to consider the likelihood of dumping in assessing whether the measure should be varied or revoked. Having exercised discretion in accordance with regulation 99A(2)(a)(iii) and 70(6)(a) of the D&S Regulations, we disagree that carrying out the dumping likelihood assessment involved an error of law. Consequently, we intend to recommend upholding the original decision so far as ground (ii) is concerned.
86. Finally, the TRA intends to recommend upholding the original decision so far as ground (iii) is concerned. Having reviewed TSUK's submissions and the approach taken by the original case team, and having reviewed further evidence as appropriate, the TRA agrees with the original decision to exclude Russia from the measures because, on the balance of probabilities, dumping by Russian producers is unlikely to occur.