

UK Steel response to TD0003 - PSC Wire and Strands

Statement of Essential Facts

Introduction:

Whilst UK Steel has withdrawn its interest in the transition review TD0003 - PSC Wire and Strands originating in the People's Republic of China, it naturally still has a major interest in the outcome of current and future reviews and investigations and therefore an interest in any precedents that may be set by the outcome of this review.

As such, whilst UK Steel has no direct concerns with the TRID's proposed decision to conclude this review and to terminate the anti-dumping measures, it does wish to address some of the points and reasoning outlined in the recent Statement of Essential Facts. In summary these are:

- TRID determined that injury would not occur to the UK industry if the measure was no longer applied, based on the UK industry's withdrawal of interest in maintaining the measure. (Page 3)
- TRID states that due to insufficient levels of imports of the goods subject to the review, analysis as to whether the measures were necessary to offset dumping was not possible. (Page 10 and Page 17)
- TRID dismisses 8-digit trade data as unsuitable for the purposes of analysis for this review (page 11)

Conclusion that a withdrawal of interest means injury will not occur:

UK Steel accepts that its and Bridon International's withdrawal of interest in the review prevented TRID from verifying the information originally submitted and therefore from drawing a conclusion as to whether injury would occur if the measures were removed. However, this is not the same as the preliminary conclusion that TRID has made, namely that the withdrawal of interest means that injury will not occur.

UK Steel would request the statement be amended to reflect this difference and instead state that the withdrawal of interest meant that it was not possible for TRID to conclude whether injury would reoccur.

Conclusion that low import volumes mean analysis of likelihood of recurrence of dumping is not possible:

On page 10, point 3, TRID states that: *'Insufficient levels of imports of the goods subject to review to allow us to conduct analysis.'* It clarifies the meaning of this on page 17 in stating that *"given...the lack of data concerning imports of the goods under review to the UK, we do not have sufficient information or data that allows us to draw a conclusion as to whether the measure is necessary to offset dumping."*

It may not be TRID's intention, but a reasonable interpretation of these statements would be that in cases where there is low or no imports of the goods in question during the period of investigation then a conclusion on whether the measures are necessary to offset dumping is not possible. More simply put, it would suggest that a sufficient level of imports is required in order to make an assessment on the likelihood of recurrence of dumping and by extension injury.

However, it is typical in extension reviews that there have been no imports during the POI. Indeed, if the measures have been effective at preventing dumping, then it is likely there will be no imports and the market will have become significantly less attractive to exporters.

Based on this interpretation of TRID's reasoning, it would follow that no expiry review would ever result in continuation of a measure. This is clearly not the intention of the WTO rules, which specifically permit a 'likelihood' analysis in the case of reviews. This analysis, by definition, is based on less precise information than is required to calculate a dumping/subsidy margin in a new investigation. Such information such as export prices and volumes to third markets, prevalence of AD measures on the same product in other markets, spare capacity in the domestic market, and the attractiveness of the UK market can all be used

to conduct this likelihood analysis and allow the investigating authority to come to a conclusion, based on the best information available, as to whether the measures are still necessary to offset dumping.

While UK Steel understands that given the withdrawal of interest from the UK industry in the measure being continued, it is not necessary for TRID to undertake this analysis, it is however not true that low import volumes prevent any such analysis from taking place. By way of example:

2015 EU Commission Expiry Review – Wire Rod

The EU's expiry review on the anti-dumping duty on wire rod imports from China resulted in the measure being extended despite a low volume of imports into the EU during the period when the duty had been in effect:

According to Eurostat, only 696 tonnes of wire rod were imported from China into the Union during the RIP, corresponding to 0,04 % of total imports. This amount is negligible in the light of total Union consumption (17,8 million tonnes).

In light of the considerations set out in recitals 35 to 38 above, the Commission further analysed whether there was a likelihood of recurrence of dumping should the measures lapse. When doing so, the following elements were analysed: the Chinese production capacity and spare capacity, the behaviour of Chinese exporters on other markets and the attractiveness of the Union market.¹

The outcome of this extension review was to conclude that the measures were still necessary to offset dumping and they were therefore extended. Importantly, the UK Government at the time agreed with the Commission's determination and voted in favour of extending the measures.

In conclusion UK Steel would request that the wording of the final determination be amended to reflect the fact that analysis regarding whether the measures were necessary to offset dumping was possible, but that TRID determined that it was not necessary or worthwhile in this case.

Conclusion that 8-digit commodity code data is unsuitable for use in analysis:

On page 11 TRID concludes that there is limited publicly available data and states that 8-digit trade data is unsuitable for the scope of the investigation. However, it is often the case in trade remedy investigations that the product scope is at a more detailed level than 8-digit data and 8-digit data may be the only data that is available. Indeed publicly available data from HMRC is invariably only available at the 8-digit level.

While a direct match to the granularity of the data and the scope of the investigation would be preferable, trends can still be identified, and useful analysis can still be made using a classification which to a considerable extent matches the product definition. In most cases TRID will not have the ideal data set available and will instead need to make best determinations based on the facts available.

Again, UK Steel understands that in this case and considering industry's withdrawal of interest in the measure, that this point has no practical impact on the outcome of the review. But again, to avoid the risk of setting unhelpful precedents, the wording should be amended to reflect the fact that a range of data can be used for the purposes of analysis in cases and that it will often be imperfect.

¹ [COMMISSION IMPLEMENTING REGULATION \(EU\) 2015/ 1846 - of 14 October 2015 - imposing a definitive anti-dumping duty on imports of wire rod originating in the People's Republic of China following an expiry review pursuant to Article 11\(2\) of Council Regulation \(EC\) No 1225/ 2009 \(europa.eu\)](#)