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**FOLLOW UP SUBMISSION IN THE UK TRANSITION REVIEW OF ANTI-DUMPING DUTIES ON HIGH FATIGUE PERFORMANCE STEEL CONCRETE REINFORCEMENT BARS (REBAR) ORIGINATING IN THE PEOPLE'S REPUBLIC OF CHINA  
(TD0010)**

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ON BEHALF OF  
**CHINA IRON AND STEEL ASSOCIATION (CISA)**  
**AND ITS MEMBERS**

Dentons Europe LLP  
Brussels, Belgium

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## 1. INTRODUCTION

- [1] On 29 April 2021, a notice of initiation of a transition review of the anti-dumping duties on high fatigue performance steel concrete reinforcement bars (“**rebar**”)<sup>1</sup> originating in the People’s Republic of China was published by the UK Trade Remedies Investigations Directorate (“**TRID**”) of the Department for International Trade (“**DIT**”).<sup>2</sup>
- [2] This follow up submission is made on behalf of the China Iron and Steel Association (“**CISA**”) and its members. CISA provided comments in relation to the transition review on 26 July 2021 and refers to this prior submission for the purposes of the present comments.
- [3] In this submission, CISA will first reiterate its views on the absence of a legal basis for the current transition review. Subsequently, CISA will highlight recent developments that it believes are relevant in the context of the present review and which it wishes to bring to the attention of the investigating authority, namely, the UK Trade Remedies Authority (“**TRA**”). Third, CISA will provide its comments to the allegations made by certain interested parties in the framework of the review. Finally, CISA will address its views on causality and the economic interest test.
- [4] In this submission, CISA will demonstrate that there is no legal basis for the current review procedure, and subsequently, even if there would be, the measures in force should lapse.
- [5] CISA reserves the right to present further evidence and arguments throughout any of the later stages of this review proceeding. This includes hearings, which CISA will request, as well as post-hearing briefs. CISA looks forward to the publication of the TRA's Statement of Essential Facts (“**SEF**”) and shall provide comments thereto once it becomes available.

## 2. ABSENCE OF LEGAL BASIS FOR THE TRANSITION REVIEW

- [6] As has been set out in detail in its submission of 26 July 2021, CISA considers the current transition review as being without an appropriate legal basis as provided by UK law. This is the case because the UK transition review itself seems to be an

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<sup>1</sup> The commodity codes covered by the existing measures are as follows: 7214 20 00 10; 7228 30 20 10; 7228 30 41 10; 72283 30 49 10; 7228 30 61 10; 7228 30 69 10; 7228 30 71 10 and 7228 30 89 10.

<sup>2</sup> On 1 June 2021, an independent non-departmental public body, UK Trade Remedies Authority (TRA) was established.

expiry review of measures originally imposed in 2016 by the European Union (“EU”).<sup>3</sup>

- [7] More specifically, following the UK’s withdrawal from the EU, the UK Secretary of State has published notices of determination<sup>4</sup> which authorize the UK Trade Remedies Authority (“TRA”) to conduct transition reviews to determine if the existing EU trade remedy measures should be maintained, varied or revoked in the UK. In other words, on 31 December 2020, in the context of the EU withdrawal from the EU, the UK government determined that it would transition, or take over into its own legal order, the EU measures in relation to the product under consideration (rebar).
- [8] From a UK law perspective, this practice is questionable as there clearly does not exist a situation of legal succession following the UK’s withdrawal from the EU legal order. This is demonstrated by the fact that the UK itself has entered into international trade arrangements with the EU. It is noteworthy that, as a result, the UK’s own trade relationship with the EU is based on arrangements entered into following the UK’s withdrawal, however its trade relationship with third countries remains governed by EU measures and instruments.
- [9] The UK’s legal position is strongly contrasted by the EU legal order, which has clearly indicated the separation of the UK legal order following the UK’s withdrawal within the context of trade defence measures, indicating that “*All anti-dumping and anti-subsidy measures in force apply from 1 January 2021 only to imports into the twenty-seven Member States of the European Union.*”<sup>5</sup>
- [10] In addition to the UK domestic legal perspective, the practice of transitioning is in CISA’s view also clearly violating the underlying international legal framework. Indeed, as explicitly provided for in Article 3.1 of the ADA, “*a determination of injury for purposes of Article VI of GATT 1994 shall be **based on positive evidence** and **involve an objective examination** of both (a) the volume of the dumped imports and the effect of the dumped imports on prices **in the domestic market for***

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<sup>3</sup> European Commission Implementing Regulation (EU) 2016/1246 of 28 July 2016 imposing a definitive anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People’s Republic of China (OJ L 204, 29.7.2016).

<sup>4</sup> It is noted that the determination notice for transitioning the EU measure imposed on this specific goods has been published. See Notice of determination 2020/09: anti-dumping duty on high fatigue performance steel concrete reinforcement bars (rebar) originating in the People’s Republic of China, Published on 31 December 2020, at <https://www.gov.uk/government/publications/trade-remedies-notice-anti-dumping-duty-on-high-fatigue-performance-steel-concrete-reinforcement-bars-rebar-originating-in-the-peoples-republic-of/notice-of-determination-202009-anti-dumping-duty-on-high-fatigue-performance-steel-concrete-reinforcement-bars-rebar-originating-in-the-peoples-r>

<sup>5</sup> Notice of 18 January 2021 regarding the application of anti-dumping and anti-subsidy measures in force in the Union following the withdrawal of the United Kingdom and the possibility of a review (OJ C18, 18.1.2021, 41).

*like products, and (b) the consequent impact of these imports on domestic producers of such products.”*<sup>6</sup>

- [11] It is clear that in its decision to transition the measures from the EU legal order into the UK legal order without conducting a separate investigation, the UK government has not met the requisite standard as set out in the WTO ADA. The imposition of measures may necessarily only follow from a determination of injury, which itself must be based on positive evidence of dumping in the domestic market as well as an injurious impact thereof on domestic producers. As the EU measures were imposed on the basis of an investigation which covered the EU market and industry, the UK government was not entitled to adopt these findings onto the UK market and industry without conducting a separate investigation.
- [12] Accordingly, not only were the UK measures based on an EU legal instrument which currently is without legal effect in the UK legal order, they were also based on a dumping and injury investigation conducted exclusively in relation to the EU (the so-called EU-28) market and industry for rebar, and taking into account notions such as causality and public interest only in relation to the much broader EU market and industry.
- [13] These comments apply not only to the legality of the measures that were transitioned into the UK legal order, it applies further to the legality of the currently ongoing transition review. It is in this regard again instructive to refer to the underlying international legal framework as set out in Article 11.2 of the WTO ADA, stating that “*the authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or, provided that a reasonable period of time has elapsed since the imposition of the definitive anti-dumping duty, upon request by any interested party which submits positive information substantiating the need for a review [...]*”<sup>7</sup>
- [14] It is clear that the ongoing transition review does not meet the standards set to the review procedure required by Article 11.2 of the WTO ADA as the reviewing authority is different from the one that carried out the initial investigation and imposed the measures, i.e. the European Commission. The UK transition reviews equally is not allowed under Article 11.3 of the WTO ADA and as a result, should in its entirety be deemed as invalid under the WTO ADA.
- [15] To summarize, in CISA’s view it is clear that the UK anti-dumping measures on rebar are unlawful since they are based on the findings of an investigating authority

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<sup>6</sup> Article 3.1 of the WTO ADA. See also Article 5 of the WTO ADA specifying the conditions which must be met by such investigation. CISA maintains that as the UK authorities have never conducted a separate and independent investigation, these conditions have not been met.

<sup>7</sup> See Article 11.2 of the WTO ADA.

(the European Commission) which the UK itself does not belong to anymore and were adopted on the basis of EU legal instruments which have no effect in the UK legal order. From a substantive level, the above conclusion is strengthened by the fact that these findings were drawn on the basis of an investigation covering the EU industry and market, rather than the UK ones.

- [16] CISA invites the UK government to address this discrepancy. In this regard, it also notes that an alternative approach is feasible as can be seen from a more recent investigation in the UK initiated on 21 June 2021 in relation to imports of aluminium extrusions from China.<sup>8</sup> This is a fully autonomous UK investigation. Given that the UK investigating authority has this approach to its disposal, CISA invites it to consider the application in relation to rebar as well, and to cease the transition review as a result.

### 3. RELEVANT RECENT DEVELOPMENTS

#### 3.1. Expiry of EU measures

- [17] Above, CISA already provided its views on the legal basis of the measures and the current transition review, which in its view is absent as the measures are grounded in the EU legal order and an investigation which was not specific to the UK market or industry.
- [18] To this, it is noteworthy to add that the EU measures in relation to rebar, has recently expired without even the initiation of an expiry review.<sup>9</sup> As such, as of 30 July 2021, no anti-dumping measures apply in the EU to any imports of rebar from China.
- [19] This highlights most notably the difficult and unclear position of the current transition review under UK law. Pursuant to Article 97 of the Regulations,<sup>10</sup> a transition review of EU trade remedies measures may be conducted either (i) before the replacement of EU trade duties, in which case the review is of an EU trade remedies measure, or (ii) after replacement, in which case the review is of an UK trade remedies measure. In the current transition review, clearly the EU measures are being reviewed. However, given that these have now expired, the scope of which measures are currently under the scope of the current transition is unclear.

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<sup>8</sup> See the notice of “*TRA opens first case in response to application from UK industry, the TRA will investigate whether aluminium extrusions are being dumped in the UK by businesses in the People’s Republic of China*”, at <https://www.gov.uk/government/news/tra-opens-first-case-in-response-to-application-from-uk-industry>.

<sup>9</sup> See Notice of the expiry of certain anti-dumping measures (OJ C 303, 29.7.2021, p. 23).

<sup>10</sup> Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the “**Regulations**”).

This discrepancy in the UK legal position should already prompt the authorities to allow the measures to expire.

- [20] CISA is also of the view that the same substantive outcome is warranted in relation to the UK market, and invites the investigating authority to allow the measures, which are in its view anyway without legal basis, to expire.
- [21] Additionally, CISA notes that, given the fact that the EU measures have expired, the risk of trade diversion is significantly lessened and any potential concerns that may arise in relation to threat of injury taking place in relation to UK producers of rebar should be greatly mitigated thereby.

### **3.2. Negligible imports of rebar from China in the UK market**

- [22] Above in this submission, CISA has focused on the lack of legal basis for the measures in place and the ongoing transition review. Whereas these comments should prompt the investigating authority to terminate the measures immediately, it is equally worthwhile to focus attention to whether rebar is at all being dumped on the UK market, and whether the UK industry is being injured or threatened thereby. This is all the more useful since, as was already set out above, the investigating authority in fact never made this assessment. CISA indeed reminds the investigating authority that the measures which currently apply have been transitioned into the UK legal order without ever an assessment being made as to whether dumping was taking place and whether the UK industry was injured or threatened thereby.
- [23] In this regard, CISA notes that, during the injury-related assessment period (from 1 April 2017 to 31 March 2021), the proportion of Chinese imports of rebar into the UK market has always been insignificant, and in fact never exceeded 1.6%, averaging 1.14% during the period of investigation (from 1 April 2020 to 31 March 2021).<sup>11</sup> Such import figures are simply negligible, and cannot reasonably cause any injury to the UK industry. The investigating authority is accordingly invited to draw the appropriate conclusions and allow the measures to expire.

### **3.3. Cancellation of VAT rebates**

- [24] As indicated in its submission of 26 July 2021, CISA wishes to highlight to the TRA that the Chinese Ministry of Finance has announced that certain steel products, including rebar, are no longer eligible from VAT export rebates.<sup>12</sup>

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<sup>11</sup> Based on calculations made on the basis of UK Trade Info, available at [www.uktradeinfo.com/trade-data/ots-custom-table](http://www.uktradeinfo.com/trade-data/ots-custom-table).

<sup>12</sup> See [http://www.gov.cn/zhengce/zhengceku/2021-04/28/content\\_5603588.htm](http://www.gov.cn/zhengce/zhengceku/2021-04/28/content_5603588.htm), in Chinese language only.

- [25] This incredibly relevant development means in effect that a significant decrease of exports of rebar from China can be expected in the immediate future. Indeed, the entire intention behind the development was to curb exports and redirect domestic steel production to the Chinese domestic industry.<sup>13</sup>
- [26] CISA in this regard also refers to comments made by UK Steel in another investigation<sup>14</sup> which aim to downplay the significance of this development, indicating that the cancelation of these measures somehow were evidence of a particular market situation, and that the cancelation is easily reversible. Whereas CISA will set out its views on the economic situation in China later on in this submission, it should be noted that the cancelation of these rebates does in fact signal a clear and unambiguous development, the significance of which should not be underestimated, and should be taken in full account in the investigating authority's assessment in the current transition review.

### 3.4. Double protection because of safeguard measures

- [27] CISA further notes that UK rebar producers at this very moment already benefit from the protection of measures imposed under the UK safeguard measures on certain steel products.<sup>15</sup> Following a recommendation to the Secretary of State in the transition review related to steel safeguard products,<sup>16</sup> on 30 June 2021, the Department for International Trade published a trade remedies notice.<sup>17</sup> According to this notice, safeguard measures (in the form of tariff-rate quota) will be applied to certain steel product categories in the UK for the next three years. Of the 11 categories for which TRA recommends maintaining the safeguard measures, one

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<sup>13</sup> See "China cancels export rebates for most steel products", 28 April 2021, Kallanish Commodities, available at <https://www.kallanish.com/en/steel-news/market-reports/article-details/china-cancels-export-tax-rebates-for-some-steel-products/>, last consulted on 20 June 2021.

<sup>14</sup> More specifically, investigation TD0011 in relation to imports of cold-rolled flat steel products from Russia and China.

<sup>15</sup> See for relevant information in relation to this case (TF0006): <https://www.trade-remedies.service.gov.uk/public/case/TF0006/>. In brief, safeguard measures imposed at the EU level were taken over in to the UK legal order. These safeguard measures apply to 28 categories of steel products. This submission does not address the legality of such measures, however, in CISA's view, the comments made in Section 2 of this submission apply *mutatis mutandis* to the steel safeguard measures applicable in the UK.

<sup>16</sup> See the TRA's Recommendation to the Secretary of State, Transition Review TF0006 – Safeguard measure on certain steel products, 3 June 2021.

<sup>17</sup> See Trade remedies notice 2021 No. 1 safeguard measure: Tariff-rate quota on steel goods (web version), 30 June 2021, at <https://www.gov.uk/government/publications/trade-remedies-notice-safeguard-measures-on-certain-steel-products-application-of-tariff-rate-quotas/trade-remedies-notice-2021-no-1-safeguard-measure-tariff-rate-quota-on-steel-goods-web-version>. There is a separate notice applicable to 5 additional product categories, valid for 1 year only. See: Trade remedies notice 2021 No. 2 safeguard measure: Tariff-rate quota on steel goods (web version), 30 June 2021, at <https://www.gov.uk/government/publications/trade-remedies-notice-safeguard-measures-on-certain-steel-products-application-of-tariff-rate-quotas/trade-remedies-notice-2021-no-2-safeguard-measure-tariff-rate-quota-on-steel-goods-web-version>.



consists of the rebar category, which largely overlaps with the product under consideration in this case.<sup>18</sup>

- [28] As a result, the safeguard measures were equally imposed on the basis of a transitioning approach, the legality of which CISA strongly contests. However, for the purposes of the ongoing transition review, the investigating authority should clearly take the double protection into account in its assessment of the applicable measures. As safeguard measures are imposed in the form of tariff-rate quota, there is a ceiling to the total volume of imports and the volume of each major exporting country. Although imports of rebar from China are now exempted from the safeguard measures because of China's status of a developing country, such exemption is binding to a strict condition that imports from China must not exceed 3% of total imports.<sup>19</sup> Therefore, even in a purely hypothetical case that volume of imports from China would increase due to the removal of the anti-dumping measures, once the share of Chinese imports reaches 3%, the 25% safeguard duty would apply. It should be noted that the safeguard duty is even higher than the anti-dumping duty imposed on the Chinese rebar (up to 22.5%). Accordingly, even if anti-dumping duties in relation to rebar from China were to expire, imports from China would not increase because they would otherwise be subject to (even higher) safeguard duties, and it would therefore be unlikely that any injury to the UK industry would occur.

#### **4. COMMENTS ON REMARKS MADE BY INTERESTED PARTIES**

- [29] In this section, CISA will briefly address comments made by UK Steel<sup>20</sup> in its submission of July 2021, which it feels provides a skewed picture on the imports of rebar, and makes untrue and unsubstantiated allegations of the Chinese economy.

##### **4.1. Comments on allegations in relation to likely recurrence of injurious dumping**

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<sup>18</sup> As set out in page 6 of the TRA's Recommendation, Rebar are defined as any product falling within commodity codes 7214 20 00 and 7214 99 10, which overlap with the definition of the product under consideration, which include commodity codes 7214 20 00 10 defined as "High fatigue performance concrete reinforcing bars and rods".

<sup>19</sup> As mentioned before, during the period of investigation (April 2020 – March 2021) the share of Chinese imports was at the level of 1.14%. During the last three years, the share has never exceeded 1.6%.

<sup>20</sup> CISA understands that UK steel is part of Make UK the Manufacturers' organization—legally registered as EEF Limited (the Engineering Employers' Federation)



- [30] In its submission of July 2021, UK Steel makes various allegations jointly referring to a risk that injurious dumping of Chinese imports were to reoccur if the current measures were to expire.<sup>21</sup>
- [31] CISA in this regard first of all reminds the investigating authority and UK Steel that, as set out above, no investigation has in fact ever conclusively found that Chinese imports were being dumped on the UK market. Indeed, as the current measures are based on the findings of an investigation conducted by the EU Commission and limited to the EU market situation and state of the EU industry, the use of the term “recurrence” in itself already can be contested.
- [32] As set out above, and not contested by the figures provided by UK Steel, Chinese imports of rebar hold a negligent market share amounting to only 1.14% of the total imports during the period of investigation. The continuation of measures is therefore not warranted, on this basis alone, and the allegation that there ever was dumping of rebar on the UK market is simply untrue.
- [33] Moreover, all circumstances point to the fact that any concerns relating to dumping of rebar in the UK market are completely unfounded. This is the case because, as shown in this submission, (i) the EU has allowed its measures to expire, thereby decreasing any potential trade diversion, (ii) China has cancelled its VAT rebates, and (iii) the UK industry is still benefiting from the protection afforded by the applicable safeguard measures. Further, as will be demonstrated further in this submission, current global supply chain disruptions make it highly unlikely that dumping could take place in the near or mid-term future.
- [34] The allegations made by UK Steel in its submission should accordingly be dismissed by the investigating authority. Nothing in the current circumstances allows any reasonable conclusion to be made that there currently is dumping of rebar from Chinese imports on the UK market, or that such situation would occur if the current measures were to expire.

#### **4.2. Allegations in relation to distortions on the Chinese market**

- [35] In its July 2021 submission, UK Steel refers to various elements which supposedly demonstrate the existence of distortions taking place in relation to the Chinese market. In this section, CISA wishes to address these. Since UK Steel’s impressions of the Chinese market are clearly based on misunderstandings in relation the Chinese legal system, they provide a skewed and untrue picture of Chinese market circumstances.

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<sup>21</sup> See UK Steel comments in Case TD0010, July 2021, p. 10 – 15.

- [36] First, UK Steel, in an attempt to underscore that Chinese industry is dominated by government intervention, points to the 13th and 14th Five Year Plan, as well as Decision No 40.<sup>22</sup>
- [37] CISA notes in this regard that all "five-year plans", "guidance catalogue", "policies" etc. are only guiding documents, which aim to set out and summarize policy objectives for the future, providing development directions and a blueprint for the country and for certain industries. This can clearly be seen from the name of the documents. They are not adopted as "Laws", "Regulations" or "Decrees". They are instead highly similar to the European Commission's "White Papers", "Green Papers" etc. They do not have binding force, as can be seen from the below.
- [38] The Chinese laws, regulations and implementing rules are structured in a hierarchical manner which is defined by the Legislation Law of the People's Republic of China (the "Legislation Law") and is as follows:
- a. The Constitution Law of the People's Republic of China;
  - b. Laws enacted by the National People's Congress;
  - c. Administrative regulations issued by the State Council;
  - d. Local regulations and rules issued by the local People's Congress;
  - e. Administrative regulations and local regulations issued by an administrative agency under the auspices of the State Council or by a local People's Government.
- [39] Accordingly, "Five Year Plans" are absent from the hierarchy list and therefore they are not "laws" or "regulations". The "Five Year Plans" do not have binding effect. This is best demonstrated by the fact that there is no violation or penalty clause in such plans.
- [40] Moreover, regarding Decision No. 40, CISA maintains that this concerns a guidance document which has no mandatory force. Referring to such documents of general scope is simply insufficient to prove the existence of government interference. Moreover, none of the documents refer specifically to the rebar industry.
- [41] In fact, similar guiding documents can be found in the UK as well. On 5 November 2021, the UK Parliament's Business, Energy and Industrial Strategy Committee issued a special report, calling for action to support the UK steel sector.<sup>23</sup> As the key finding, the Committee is apparently convinced that government action is

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<sup>22</sup> See UK Steel comments in Case TD0010, July 2021, p. 18 – 22.

<sup>23</sup> See the UK Parliament's communication, <https://committees.parliament.uk/committee/365/business-energy-and-industrial-strategy-committee/news/158691/government-must-act-to-support-crisis-hit-uk-steel-industry/>

needed to support the crisis-hit steel industry in the UK. CISA calls upon the investigation authority to consider the extent to which such calls, and subsequent response thereto may be seen as government interference in the UK steel industry.

[42] Further, CISA notes that UK Steel equally refers to findings made in third country investigations, or reached in policy documents of third countries, most notably the 2017 EU Commission Staff Working Document.

[43] First, CISA reminds that references to past cases do not meet the evidentiary standard in this regard. The legal framework obliges the investigating authority to find the existence of dumping. Inserting findings reached in past investigations simply cannot be considered sufficient in this regard, as clearly held in WTO case law:

*“In our view, merely incorporating by reference findings from one determination into another determination will normally not suffice as a reasoned and adequate explanation”*<sup>24</sup>

[44] The reason for this dismissal was elaborated further, and consists of the fact that:

*“factual circumstances and case-specific determinations in prior disputes reflect rigid legal requirements that must be applied in other circumstances involving different analytical approaches.”*<sup>25</sup>

[45] CISA invites the investigating authority to refrain from relying on past investigations in this investigation, and to make an actual updated assessment of whether dumping can be deemed to exist in relation to rebar, which CISA considers is not the case.

[46] Further, CISA notes that the UK Steel submission heavily relies on the ‘Commission Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Investigations’.<sup>26</sup>

[47] In CISA’s view, this source fails to meet the standards of impartial and objective evidence and evidence of sufficient probative value. As indicated in the Commission Report itself, it has been prepared by the EU Commission with the

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<sup>24</sup> US — Anti-Dumping and Countervailing Duties (China), Appellate Body Report, para. 354, by analogy.

<sup>25</sup> US — Anti-Dumping and Countervailing Duties (China), Report of the Panel, para. 7.32, by analogy

<sup>26</sup> Commission Staff Working Document on Significant Distortions in the Economy of the People’s Republic of China for the Purposes of Trade Defence Instruments, SWD(2017) 483 final/2, Brussels, 20.12.2017 (the “Commission Report”).

specific purpose of facilitating Union industries to lodge a complaint in the area of trade measures.<sup>27</sup>

- [48] Therefore, in addition that the report was drafted by the investigating authority of another jurisdiction (the EU Commission), the fact that it has been drafted with such a deliberate objective in mind automatically removes any likelihood for an impartial and objective analysis. Because the Commission Report has been tailored to meet the purpose of providing the applicant with a readily made “analysis” of the underlying economic circumstances in China, it is intended to be included in any complaint requesting the initiation of a trade defense investigation.
- [49] Because this Commission Report has been prepared for such a specific purpose, it is not only impartial but also not objective. Its probative value is also doubtful, as the Commission Report deliberately omits factual circumstances, elements, and conclusions, which would contradict or weaken the partial purpose for which it has been prepared.
- [50] CISA also casts doubts on the accuracy of the information included in the Commission Report and its relevance to the current proceeding. The Commission Report was published in 2017, including contents and references in 2016 and the years before. The current investigation covers a period of investigation from 1 April 2020 until 31 March 2021, meaning that the period of investigation commenced almost two years and a half after the publication of the Commission Report.
- [51] CISA reminds the investigating authority that such a report, as heavily relied on by UK Steel, is not able to reflect an accurate picture of the Chinese economy, and should not be relied on further in this investigation.

## 5. CAUSALITY

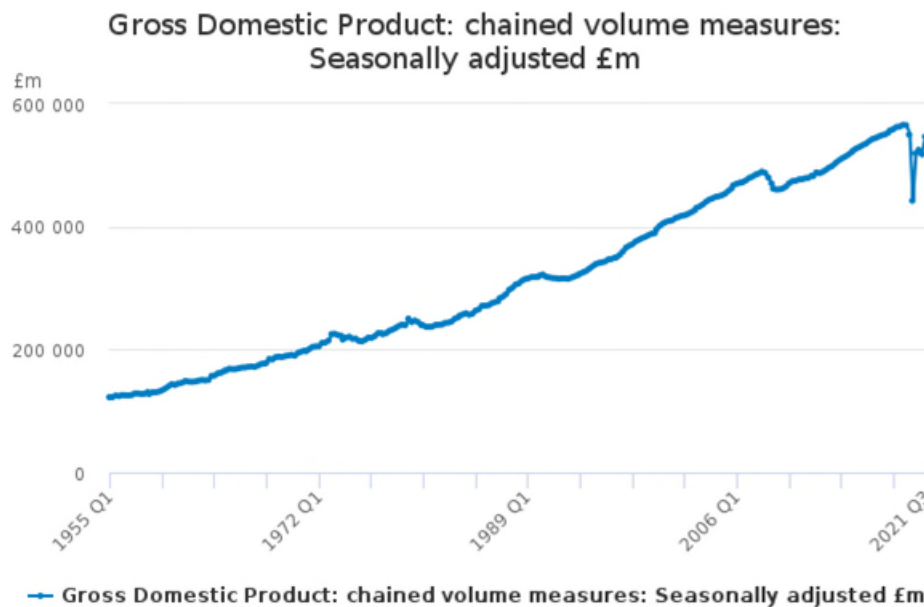
- [52] Even if the investigating authority was to find that the UK industry is being injured, which CISA considers cannot be reasonably be concluded, it still maintains that such state is not caused by imports of rebar.
- [53] In this regard, CISA points to the fact that the period of investigation coincides with the outbreak of the COVID-19 pandemic. Indeed, the first UK lockdown was ordered at the end of March 2020, and extended in April 2020, exactly at the beginning of the period of investigation.

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<sup>27</sup> See the wording in the Introduction section of the Commission Report.

- [54] The economic impact of this crisis cannot be underscored, as it singlehandedly can be seen as causing the largest GDP decrease in UK history, as shown below.

**Figure 1: GDP in the UK**



— Gross Domestic Product: chained volume measures: Seasonally adjusted £m  
 [Data source: GDP chained volume measures, UK Office for National Statistics, available at <https://www.ons.gov.uk/economy/grossdomesticproductgdp/timeseries/abmi/pn2>]

- [55] When looking at the nature of this unprecedented crisis through the lens of anti-dumping measures, it should immediately be clear that this crisis and its economic consequences break the required causal link between imports and the state of the industry.
- [56] Indeed, the crisis caused by the COVID-19 pandemic is mostly a demand side-crisis, not one of increased imports injuring an industry. It is CISA's principal view that the main result of the COVID-19 pandemic is suspension of production and consequently recession on the UK market rather than dumped imports.
- [57] CISA invites the investigating authority to duly consider the impact of the COVID-19 crisis in relation to the state of the UK industry.

## 6. UK ECONOMIC INTEREST

- [58] As set out in to Regulation 100A(2) of the Regulations,<sup>28</sup> anti-dumping measures may only be applied if the UK economic interest test is met.

<sup>28</sup> See Article 100A(2) of the Regulations.

- [59] In this regard, CISA strongly believes that the ongoing global supply chain disruptions forms a relevant factor which should be considered. As noted across studies and economic articles, which in various instances point to the stresses experienced in the steel industry, this circumstance is a genuine concern to economic recovery.<sup>29</sup>
- [60] In view of the above, CISA is strongly convinced that it is not at all in the UK's interest to continue the measures at this point in time. Not only would downstream users' and consumers' choice and bargaining power be lowered, such measures could even be of such nature as to threaten the precarious growth expectations for the entire UK economy.
- [61] CISA finally endorses the users' arguments in the initial EU investigation. It is clear that imposing anti-dumping measures may lead to restriction of the source of supply, which will disadvantage the purchasing power of UK consumers, and also jeopardize the competitiveness of UK downstream companies, which use rebar in their production processes. The above impact on the UK economy is also apparent from the comments made by an association of UK users in the framework of the EU investigation. As set out therein, in addition to the three downstream operations related to the sole UK rebar manufacturer (Celsa UK), there are also numerous independent fabricators. It is crucial for them to rely on a diversified and price-competitive supply of rebar products. Moreover, there are more jobs in the downstream industries than in the rebar production industry, which demonstrated the potential impact on employment arising out of the imposition of measures following the transition review.

## 7. CONCLUSION

- [62] In this submission, CISA first reiterated its views on the legal basis for the transition review, which it considers is absent given the specific legal issues connected to the transitioning approach as set out herein.

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<sup>29</sup> See for example, Impacts of the COVID-19 pandemic on EU industries, European Parliament study, March 2021, available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL\\_STU\(2021\)662903\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU(2021)662903_EN.pdf); See also State of supply chains, in the eye of the storm, Accenture, available at <https://www.accenture.com/us-en/insights/consulting/coronavirus-supply-chain-disruption>; No end in sight for the COVID-led global supply chain disruption, Forbes, 3 September 2021, available at <https://www.forbes.com/sites/garthfriesen/2021/09/03/no-end-in-sight-for-the-covid-led-global-supply-chain-disruption/?sh=156349ed3491>; as well as Deloitte's report: COVID-19, Managing supply chain risks and disruption, available at <https://www2.deloitte.com/be/en/pages/risk/articles/covid-19-managing-supply-chain-risk-and-disruption.html>. This article refers specifically to disruptions in the steel industry.

- [63] Further, the fact that the original EU measures have expired should prompt the investigating authority to reach a similar conclusion, and at the very least it should remove any concerns concerning a potential threat of injury due to the decreased risk of trade diversion, as well as the Chinese cancelation of VAT rebates and the fact that the UK industry will continue to benefit from protection of safeguard measures.
- [64] CISA also reiterates the fact that Chinese market shares are and have always been insignificant and negligible. Indeed, no investigation has ever found the existence of dumping in the UK of rebar or the UK rebar industry being injured. CISA calls on the investigating authority to clearly and conclusively address these issues in its transition review.
- [65] In relation to comments made by UK Steel, CISA has briefly set out the fact that there is no reasonable basis for concern about the potential threat of injury due to the mitigating factors set out above. CISA has also addressed the misreading of Chinese guiding documents and third country findings, which cannot replace the investigating authority's own assessment.
- [66] Finally, CISA has clearly shown that the impact of the COVID-19 pandemic should be taken into account by the investigating authority, and that in any event, continuing the measures would not at all serve the UK's interest.

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