

CELSA Steel response to the Statement of Essential Facts 10/08/2022bbbbbb

Case TD0010

Transition Review of anti-dumping measures applying to certain High Fatigue Performance Steel Concrete Reinforcement Bars originating in the People's Republic of China (PRC)

Response to TRA Statement of Essential Facts, recommendation to revoke the anti-dumping v Chinese rebar

1. The TRA found that whilst it is likely dumping would recur and injury to UK industry would be likely, it is not in the economic interest of the UK for the measure to be kept. This appears contrary to the TRA's own guidance concerning the economic interest test, namely *"In anti-dumping and countervailing investigations where the presence of dumped/subsidised imports which are causing injury has been established, the economic interest test is presumed to be met unless the TRA is satisfied that the application of the measures is not in the economic interest of the UK..... In dumping or subsidy investigations, the default presumption is that the EIT is met, so we only consider the test not to be met if the negative impacts of a recommendation on the UK economy are disproportionate to the need to remove the injury caused to UK industry."*

From the TRA's SEF, it appears that no PRC exporters engaged with the review, nor did any importers (paras 44/45 of the SEF). In addition, no fabricators registered as interested parties and the TRA was only able to get 2 responses to questionnaires sent out to prefabricators (TRA identified 39, para 294). From the non-confidential submissions on the public file, it is difficult to see the arguments for the disproportionate negative impacts on the UK economy implied which would support the revocation of the measure. The default presumption should be that the EIT is met.

2. In para 27, the TRA makes a number of assertions which lead to their conclusion that the EIT is not met. For the sake of brevity, we have included these conclusions in the table below along with our comments on those statements;

Unfortunately, the relative inexperience of the TRA and the methodology used by the TRA does not appear to have allowed it to make a proper analysis of the market for HFP rebar. It was expected that the Statement of Essential Facts would include facts relating to the stated recommendation. Whilst data provided by CELSA was fully verified (as confirmed in section C6) and data has driven the assessment of Section F Likelihood of Dumping Assessment and Section G Likelihood of Injury Assessment this can not be said of Section H Economic Interest Test where it seems that individual

comments with no backing data have been given unwarranted credibility and selective partial data has been used seemingly to support a preconceived conclusion.

TRA Statement	CELSA Counter
There is only one verified UK producer	This was correct and has been the case since 2012. It is also true of multiple steel products in the UK. The emergence of another UK producer in the last year (recognised by the TRA but not included in this case) has marginally changed this situation. We do not understand how this conclusion supports the view that the measure is not in the UK's economic interest.
The one verified producer has significant market share	Subjective unsubstantiated statement. What is significant? In comparison with what? In other countries, domestic production generally has a bigger share of the markets for steel products. How does this conclusion support the view that the measure is not in the UK's economic interest?
The steel safeguard measure currently provides protection to the UK producer	This seems to show a fundamental misunderstanding by the TRA of the difference between anti-dumping measures and safeguard measures. The safeguard measures are designed to ensure the continued historic trade patterns for both domestic and imported sources, preventing the calamitous effects of surges of volumes through the distortion of normal trade flows. Anti-dumping measures are to prevent the negative financial effects of importers selling their products at below normal value and therefore creating damage for local producers. It is notable that in 2014/2015, immediately prior to the EU imposition of anti-dumping measures against Chinese HFP rebar, the undercutting by Chinese producers was such that imports from most other sources were crowded out of the market as they were unable to compete. If it is the TRA's conclusion that this measure should be revoked, it seems likely that if the behaviour was repeated (a fair assumption), import options would actually be reduced. In 2015, 94% of non-EU rebar imports to UK were from China.
The additional protection that the maintenance of this anti-dumping measure would provide is likely to be low	This presumption is incorrect and shows a lack of understanding of the way markets work and the impacts on companies involved . As previously commented in our submission to the TRA, the situation in 2014/2015 with dumped rebar from China entering the UK led to an existential crisis for CELSA UK. This would be more than likely to happen again, particularly as in our submission, we highlighted the increase in excess rebar capacity in China, showing over 36 million tonnes of excess capacity. Without the anti-dumping measure, Chinese rebar would be likely to flood back into the UK market. Under safeguard measures, China would be considered as a developing country and so, for a period of time, imports from China would be completely exempt from any measures. The damage that would be inflicted in a short space of time if recent history (2014/2015) was repeated would be immense to CELSA UK in loss of sales, market share, revenue and profitability. Given that HFP rebar represents a significant proportion of CELSA UK's business, the threat to CELSA UK would potentially be existential if recent history was repeated.
The verified UK producer may not be able to meet demand	It seems that the TRA is basing this comment on some erroneous and misplaced view of the size of the market demand and the participants

and that this position will only be exacerbated by the current situation in Ukraine and the sanctions in place against the Russian Federation and Belarus

in the market. Demand in 2022 for rebar has only just recovered to the pre-pandemic levels of 2016-2019 but the forward economic forecasts suggest that the possibility of recession is much more likely than a boom. During the period 2016-2019, the market was served by a combination of the local supplier and a variety of import sources and availability of rebar for all major construction projects was never an issue. Major iconic construction projects have been served over the years of there only being one UK rebar producer. Periodically, this phantom argument of lack of capacity has been raised as if it should be necessary for the domestic producer to be able to supply 100% of the UK demand, taking no account of customer preferences for a range of suppliers. It is interesting to note that throughout the period of there being only one UK rebar producer, CELSA has been obliged to find other export markets for its products because the UK customers have not wanted to buy all its output. As commented in previous submissions, CELSA also has the ability to release further capacity for rebar production (even in addition to the export tonnages which we would prefer to switch to supplying the UK).

It is interesting to note that the TRA figures in table 15 of the SEF relate to the periods up to and including the POI, yet the commentary refers to the events of 2022 relating to the war in Ukraine. Taking the figures for the remaining 9 months of 2021 (after the POI), it becomes apparent that even before the prospect of war, imports from these 3 countries were decreasing. In fact, in comparison with the numbers quoted in table 15, imports from Ukraine, Russia and Belarus in 2021 represented half the percentage quoted for the POI in table 15. Imports of rebar from Ukraine became negligible from the end of 2019 and very little came from Belarus in the calendar year 2021. These tonnages were largely displaced by other players in the market, including new entrants to the market from Algeria, India, UAE and most recently Oman.

3. It seems the comment from one prefabricator that they might encounter supply chain problems if insufficient HFP rebar is available (p. 324) from existing suppliers has been interpreted as a need to allow dumped product to enter the market to fill that hypothetical gap. There is no shortfall in availability, as illustrated above. It is also of note that the safeguard quotas for named countries have not been fully taken up in either of the first two calendar quarters of 2022, something that would have been expected if there was a lack of material availability as a result of the war in Ukraine. The underutilisation of quotas should not be seen as a lack of availability of material. In fact HFP rebar imports in the first 5 months of 2022 are the highest of the last 4 years, including the pre-pandemic year of 2019, and that includes the significant disruption to trade routes caused by the conflict in Ukraine. New entrants to the market as well as varying quantities from existing suppliers show that this is a competitive, vibrant market, contrary to the comment in p 385 that “the market is very uncompetitive”.

4. In p 327, the TRA seems to have taken the Community Union comment on recovery as a suggestion that demand for rebar is currently below historic levels. The customs figures for 2022 combined with our own deliveries show that demand has fully recovered to pre-pandemic levels. Our expectation is that this demand may well ease over the coming months and that with the negative economic forecasts (from all sources) for 2023 we are more likely to see a reduced demand

for rebar than an increased market. The market is being supplied adequately. Please note that under the safeguard measures, the quota tonnes for Russia, Belarus and Ukraine have been shared amongst the other importing countries. It is also worth noting that only half of the available quota was used by importers in the first 6 months of 2022 and the maximum quarterly use of quota in 2021 was 69%, demonstrating that there is ample supply opportunity for imports. It should be further noted that CELSA is operating well below available rebar capacity. This data was available to the TRA in the verified submission from CELSA.

5. In p 328, the TRA claims the initiation of the conflict in Ukraine implies “substantial reduction in supply of HFP rebar from third countries”. Analysis of more recent data shows a reduction in supplies from Russia, Belarus and Ukraine well in advance of the conflict. Taking the figures for the remaining 9 months of 2021 (after the POI), it becomes apparent that even before the prospect of war, imports from these 3 countries were decreasing. In fact, in comparison with the numbers quoted in table 15, imports from Ukraine, Russia and Belarus in 2021 represented half the percentage quoted for the POI in table 15. Imports of rebar from Ukraine became negligible from the end of 2019 and very little came from Belarus in the calendar year 2021. These tonnages were largely displaced by other players in the market, including new entrants to the market from Algeria, India, UAE and most recently Oman.

5a. Even if one was to accept the premise that supplies from non-EU countries would be reduced, the TRA is ignoring the possibility/probability that EU suppliers (who in recent years have supplied between 40-60% of UK imported tonnes) would respond and offer increased rebar volumes to the UK. There is excess capacity in the EU rebar industry.

5b. Even if one was to accept the premise that supplies from non-EU countries would be reduced, the TRA is ignoring the possibility/probability that CELSA could offer increased volumes to the market with its additional capacity.

6. In p 329, one prefabricator (from the 39 identified by the TRA) raised concerns about the resilience of domestic supply given there is only a single UK producer currently producing HFP Rebar. Presumably, that one prefabricator has had the same concerns for the last 10 years when there has only been a single UK producer producing HFP Rebar, even though the market has been adequately supplied. Unfortunately, this concern was anonymous so we have no way of addressing the issue directly with this respondent.

7. P 330/331 have no relevance to this case. They refer to safeguard measures which relate to other trade issues as mentioned above. The presumption that they will address the threat of dumping and injury is false.

7a. Even if it was accepted that safeguards could potentially offer some protection against a surge of imports from China, initially, on removal of the anti-dumping measure, China would be allowed to import with no quota ceiling until such time as a developing countries review was made. There is no certainty regarding when the review would take place. Assuming an interval of at least 6 months before review, this could mean imports of 200,000 tonnes from China if history (2014/2015) is repeated. This would be devastating to CELSA UK and catastrophic for the market. Please also see our paragraph number 13.

8. The removal of export incentives in China (p 332) was designed to retain more production for construction in China. Nonetheless, it has not stopped the dumping of Chinese steel in other

markets and anti-dumping measures being taken in many countries against Chinese steel. Recent trends show a growth in Chinese exports as their domestic economy/construction slows.

9. In p 343, the SEF states “there is a significant danger of a shortfall in supply” related to recovery of demand to pre-Covid levels, there being only one UK producer and supplies from Belarus, Russia and Ukraine fall. This is patently false as all 3 factors are present in the current market but supply remains more than adequate. It appears somewhat counter-intuitive that the TRA says there has been little to no engagement from sectors (construction, prefabricators) although on the matter of supply chain resilience, they could be significantly affected. It seems from the facts and statistics the impact is over-estimated by the TRA.

10. Continuation of the measure would keep the current market dynamics, rather than as suggested in p 343 that “maintaining the measure could cause the market to be more concentrated than if the measure were revoked”.

11. In p 375, the TRA says “The Economic Interest Test is presumed to be met unless we are satisfied that the application of the remedy is not in the economic interest of the UK.” In the subsequent paragraphs, the TRA argues that there is little economic impact for the UK from maintaining or revoking the measure but that “... we are concerned that maintaining the measure could cause issues for the resilience of supply of HFP Rebar which could hinder the growth of prefabricators”(p 380). No factual justification of this statement is provided, except “This is because there is only one UK producer and due to the potential impacts of the Russian Invasion of Ukraine and the resulting sanctions”. The situation regarding one UK producer has been the case for 10 years during which no evidence has been provided of any lack of resilience in the HFP rebar supply chain. The situation prior to the Russian invasion of Ukraine and statistics post invasion indicate the concern exhibited by the TRA is misplaced.

12. The TRA also claims “The market is very uncompetitive”(p 385) which demonstrates a clear lack of understanding of the rebar market. This conclusion seems totally at conflict with the TRA’s own statements elsewhere in the SEF “The adjustment of UK producers to market forces suggests competition and flexibility, both indicative of a healthy industry.” (p 204) “HFP Rebar is a commodity product, that primarily competes on price. Therefore, to retain market share, prices have to be competitive.” (p 229) “To remain competitive, the UK industry is limited in their ability to increase prices, as there is the risk of losing market share. A loss of market share may negatively affect the current state of the UK industry. Intrinsic market vulnerability resultant of third country imports only increases domestic industry vulnerability to challenges such as dumping.” (p 230)

13. Nowhere in the SEF is account taken of the size of Chinese rebar production, the excess capacity available in the Chinese industry and the potential impact release of this capacity could have on the UK. Consideration should be given to the fact that in 2021, China produced 252 million tonnes of rebar, which means nearly 700,000 tonnes per day, roughly equivalent to the total UK annual demand - Steel Orbis <https://www.steelorbis.com/steel-news/latest-news/chinas-rebar-output-down-48-in-2021-though-dec-output-up-from-nov-1230425.htm> Combined with the report of rebar capacity utilisation in China in July 2022 falling to 50.5%, there is a strong possibility/likenhood that any opportunity to supply some of that excess capacity to the UK would be taken at any cost – Mysteel (July 22, 2022) <https://www.mysteel.net/article/5031146/INFOGRAPH--China-rebar-output-hits-all-time-low-on-lossmaking.html> The speed at which the UK market could be irreparably

damaged is completely missed by the TRA's claim that the safeguard system offers the necessary trade protection.

14. Under the category of other matters to be considered, TRA makes a passing mention of the carbon impacts of removal of the measure. It should be understood that CELSA's independently verified carbon footprint at point of manufacture for HFP rebar is 647 kgs of CO2 per tonne of steel (our steel is scrap based EAF). This compares with blast furnace/BOF steel production typical in China which conservatively emits in excess of 2,000 kgs of CO2 per tonne of steel at point of production, let alone the carbon impacts of transporting it halfway across the world. Every tonne of rebar imported from China rather than produced locally would lead to an increase of carbon emissions of over 1500 kgs of CO2. The economic estimations made by TRA in p 370 are therefore hugely underestimated regarding revocation, leaving aside the message it sends about the benefit of new investment in the UK steel industry.

The SEF appears to be a collection of verified facts from genuine contributors to the review plus a set of unsubstantiated comments/observations which appear to have unduly influenced the recommendation. We would hope that the TRA will take account of more factual and contemporaneous information to reconsider their recommendation.