

Case TD0010: HFP Rebar exported from the People's Republic of China

APPENDIX TO UK STEEL QUESTIONNAIRE RESPONSE

NON CONFIDENTIAL

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1 Likelihood of dumping

1.1 Relevant UK law and principles for establishing Normal Value

1.1.1 It is not appropriate to use domestic Chinese prices and costs

Regulation 7(1)¹ establishes the default position for the calculation of normal value stating that:

The TRA must use the comparable price to determine the normal value unless it is not appropriate to use that price.

However, the regulations set out several alternatives to that position including two of particular relevance to this transition review:

- Regulation 14(1)(b) – which deals with situations where normal value can be calculated in an alternative manner because of the specific terms of an exporting country's WTO membership
- Regulation 7(2) – which details situations in which a 'particular market situation' exists in the exporting country

We deem that both of these situations hold true with regards to establishment of normal value in this particular review and as such it would not be appropriate to use any domestic Chinese prices or costs.

1.1.2 Regulation 14(1)(b) is applicable in establishing normal value

UK Steel strongly argues that regulation 14(1)(b) still applies to China and requests that China is treated in accordance with this provision. Whilst subparagraph 15(a)(ii) of the Chinese WTO accession protocol expired in December 2016, the remainder of paragraph 15 did not expire and remains in effect. Whilst China's WTO accession protocol specifies that para 15(a)(ii) expires after 15 years, it does not provide any statement on para 15(a) as a whole or paragraph 15(a)(i) in particular. With the expiry of paragraph 15(a)(ii), paragraph 15(a) of China's accession protocol now reads:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability.

This clearly allows WTO members the option of using a methodology that is not based on a strict comparison with domestic prices or costs in China. Without para 15(a)(ii), importing countries can still use an alternative methodology unless the Chinese producers clearly show that market economy conditions prevail in the industry producing the like product.

Furthermore, press reports on the confidential interim panel report in the case of EU – Price Comparison Methodologies (DS516) strongly suggest that a WTO panel was going to confirm that the above argument is correct. China has prevented this from being published by its request to suspend the proceedings but the UK would certainly be within its rights to use regulation 14(1)(b) of the UK dumping and subsidy regulations.

Regulation 14(1)(b) explicitly covers the situation where members of the WTO have specific provisions in their membership terms regarding the determinations of normal value. These provisions must have

¹ Unless otherwise specified, all regulations quoted refer to statutory instrument 2019 No.450 The Trade Remedies (Dumping and Subsidisation)(EU Exit) Regulations 2019

meaning in UK law and cannot just be ignored. UK Steel strongly argues that Regulation 14(1)(b) is applicable to China in this investigation and TRID should determine that this provision applies and that TRID should calculate normal value in line with the options available under Regulation 14. These include:

- *In accordance with regulation 10 (appropriate third country or territory and representative price) or regulations 11 (costs of production) and 12 (the amounts for administrative, selling and general costs and for profits);*
- *on the basis of the costs of production of the like goods plus a reasonable amount for administrative, selling and general costs and for profits in an appropriate third country;*
- *where paragraph (1)(b) applies, in accordance with the terms of the membership in that paragraph;*
- *on any other basis the TRA considers is reasonable...*

With regards to the third bullet point immediately above, 'the terms of the membership' in this case should be read to refer to paragraph 15 of China's WTO Accession Protocol which provides significant flexibility stating that "*..the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China..*"

UK Steel determines that the normal value methodology set out in this submission (Section 1.3) is permitted by all four of these options provided by Regulation 14 and set out above.

1.1.3 In the alternative, the existence of a 'particular market situation' means that all prices and costs should be adjusted in accordance with regulation 13

If the TRA decides that it will not use Regulation 14(1)(b) against China, a position that the TRA would need to justify in its Statement of Essential Facts and UK Steel will continue to vigorously challenge, UK Steel requests in the alternative that the TRA uses the provisions set out in Regulations 7, 8, and 13 as they are applicable and should be used in determining normal value in this case.

- Regulation 7(1) states that the comparable price must be used to determine normal value unless it is not appropriate to use that price.
- Regulation 7(2)(b) establishes that one of the reasons why it would not be appropriate to use the comparable price is because of the existence of a 'particular market situation'.
- Regulation 7(4) establishes that a 'particular market situation' includes situations where:
 - a) Prices are artificially low
 - b) There is significant barter trade
 - c) Prices reflect non-commercial factors

This list is not exhaustive and may include other situations.

Based on the evidence presented in sections 4, 5 and 6 of this appendix, UK Steel claims that a particular market situation exists in the Chinese rebar industry. Prices and costs are artificially low and reflect non-commercial factors. Other trade remedy authorities (e.g. Australia, Canada, US, European Union) have also made similar findings that Chinese steel markets, including those of rebar, are affected by significant distortions. The level of distortion renders domestic prices and costs wholly inappropriate to use in determining normal value and means that alternative methodologies should be used to determine normal value in accordance with regulation 8.

Regulation 8 sets out the alternative methodologies for normal value:

8.—(1) Where there is no comparable price, or it is not appropriate to use the comparable price in accordance with regulation 7(2), the TRA must determine the normal value of the goods—

(a) by determining the costs of production plus a reasonable amount for administrative, selling and general costs and for profits;

(b) by determining the price of the like goods when exported to an appropriate third country or territory provided that price is representative (see regulation 10); or

(c) in accordance with regulation 14 (normal value in respect of imports from particular foreign countries and territories) where that regulation applies.

In Section 1.3 UK Steel has provided a construction of normal value on the basis of Regulations 8 1(a). In the construction of normal value, based on costs of production and SGA/profits, UK Steel determines that Regulation 13 (Adjustments) is applicable and must be used in this case.

Regulation 13 allows for adjustments to be made in situations where costs “...are unrepresentative because they do not reasonably reflect the overseas exporter’s...costs or profits in a market if the markets if those costs and profits were substantially determined by market forces.” UK Steel provides evidence in Sections 4-6 that all Chinese costs are not substantially determined by market forces and, to this extent, constructed normal value should be based on information in accordance with regulation 13(4).

Regulation 13(4) sets out some guidelines for TRID in making such adjustments.

13(4) In making adjustments the TRA may have regard to the following—

- (a) corresponding costs of production, administrative, selling, general costs and profits in an appropriate representative third country or territory;*
- (b) international prices, costs or benchmarks; or*
- (c) any other factors it considers relevant.*

The TRA, therefore, has considerable discretion in what information it uses to make such adjustments.

In establishing its constructed normal value, UK Steel has used and provided data to the TRA that meets the standard required by Regulation 13 (4). The TRA may obtain information from other interested parties that it can use in its determination of alternative cost information. However, in the absence of better information, UK Steel submits that the data it provides can and should be used as facts available.

1.1.4 Conclusion on UK law and principles in determination of Normal Value

In either case (either referring to regulation 14(1)(b) or 7(2)(b), 8 & 13), we argue strongly that the normal value for China needs to be calculated using an ‘alternative methodology’ according to Regulation 8, and that due to the widespread market distortions in the Chinese steel rebar market, adjustments are required to the extent that no Chinese costs should be used. UK Steel proposes that normal value is constructed for China on the basis of cost of production plus SGA and profit in accordance with Regulation 8(1)(a), with adjustments made in accordance with Regulation 13.

1.2 Comment on the product concerned

HFP rebar is manufactured in steel plants according to the following process. First, billets are reheated to around 1150°C in a gas furnace. Billets are a semi-finished product that can be made either from iron ore and metallurgical coal in a blast oxygen furnace (BOF) or from scrap in an electric arc furnace (EAF). Reheating makes the steel softer and more deformable, so the final shape can be produced more economically, and using less energy. Once up to temperature the billets are pushed into the rolling stands, each of which has a pair of grooved cylindrical steel rolls. As the steel is forced through the grooves, the area of the cross section is reduced. This process is repeated continually over several stands, with the cross section reduced each time until the required dimensions are achieved. Notches are cut into the grooves of the final rolling and the steel that fills these notches forms the ribs on the bar surface. In order to achieve the strength and ductility of grade 500C reinforcing steel, the steel is cooled by high pressure water jets. This results in a hard, strong surface with a soft, ductile central core. This process is known as quench and self temper (QST). Once cooled the bars are sheared to a length of around 80 metres and transferred to a cooling bed where they cool further in still air. The bars are then sheared to the required customer lengths, bundled, labelled, and moved into storage, awaiting despatch.

HFP rebar is used to reinforce (principally concrete) structures, to strengthen and hold the concrete in tension. As such, it must be able to resist repeated stresses, for example, cars passing over a highway structure, repeated wind or other stresses on a concrete building, etc. The construction industry is the principal end user of the product concerned; the industry uses it extensively to reinforce concrete structures. It resists tension, compression, and temperature variation in reinforced concrete because the surface protrusions on a deformed bar inhibit longitudinal movement relative to the surrounding concrete.

The product definition corresponds to the requirements of the British Standard BS4449 and is typically distinguishable by CARES certification and markings on the rebars themselves. The machinery used for the production of HFP rebar is the same as that of wire rod and rebar, as such production capacity can be switched between products.

For the production of long products, such as HFP rebar, rebar and wire rod, the manufacture of billet represents up to 90% of the total manufacturing cost. The process (and cost) of producing the billet will differ depending on if it's made in a BOF or an EAF facility. But once the billet is made, the rolling mill process and cost for turning the billet into a finished long product is the same. The rolling lines are typically the same for all the initial stages of production of wire rod and rebar and it is only at the very final stage that the mill splits to the last lines of production to add the ribs onto rebar. The fact that the production process is identical up to that very final stage results in a clear interchangeability between the two products and they are therefore often produced by the same mills. This is also the case for UK producers Celsa UK and Liberty Steel UK. Celsa produces rebar in straight lengths, rebar in coil and wire rod and does not differentiate between the three in terms of costings. Rebar in coil is in fact part of the wire rod category as per the safeguards classification, which further demonstrates the closeness of the products. Producers will also substitute the production of one for the other in response to changing demand patterns.

Based on the fact that HFP rebar, rebar and wire rod are interchangeable in terms of production technology, any data and analysis for the rebar market is identical to that for the HFP market. Wire rod has a different end-use market but in terms of production process it is also directly relevant to rebar and HFP rebar.

UK production of rebar is based on the EAF route and so UK Steel had access to verifiable cost data for the production of rebar made from scrap. UK Steel has used this to construct a normal value based on an EAF process (CNV1 – see Annex 2.1). However, the vast majority of rebar in China is made through the BOF route, with blast furnace production accounting for 90% of Chinese steel production² in 2019. Therefore, for comparability, UK Steel has also constructed a normal value based on the BOF process (CNV2a and CNV2b – see Annex 2.2). In the absence of available verifiable data for BOF rebar production, UK Steel has used verified data from the TRA's wire rod investigation Case TD0007 (Please refer to UK Steel and British Steel submissions, which include data already verified by the TRA). As explained above, the choice of BOF or EAF technology only impacts the billet making stage and is identical regardless of the final product that billet is then rolled into.

Rolling mill costs will also be identical up to the addition of the ribs on the bars at the very final stage. Considering that the billet manufacture represents circa 90% of the total manufacturing cost, the cost of adding ribs will be marginal and will not impact the dumping calculation. Therefore, UK Steel submits that a BOF cost model based on wire rod costs of production represents a very good approximation for rebar costs of production and can be used as best facts available.

1.3 Calculation of normal value

UK Steel has constructed the normal value based on cost of production information with the substitution of cost input values from Mexico and Russia. UK Steel suggests using Mexico as the appropriate third country. However, data has also been prepared based on Russia to test the accuracy of the constructed normal values. UK Steel accepts that these calculations are secondary source calculations of dumping margins and will not be as accurate as what the TRA would calculate if there are cooperative exporters. However in the absence of directly obtained and verified data from Chinese producers, these calculations can be taken as best facts available. Both countries provide prima facie evidence that

² World Steel Association – World Steel in Figures 2020: <https://www.worldsteel.org/en/dam/jcr:f7982217-cfde-4fdc-8ba0-795ed807f513/World%2520Steel%2520in%2520Figures%25202020i.pdf>

significant dumping would be highly likely if the current rebar anti-dumping duties were removed. These two countries were chosen as appropriate third countries for the following reasons:

- Mexico and Russia are both regarded by the World Bank as countries with a similar level of economic development as China. They are both classified as “upper-middle income” countries on a gross national income (“GNI”) basis with a level of development comparable to that of China. That category of countries includes countries with GNI per capita between USD 4,036 and USD 12,535 in 2019, the year with the latest trade data available. It is therefore clear that Mexico and Russia are comparable to China in terms of economic development with China having GNI per capita of USD 10,410 in 2019 and Mexico and Russia having GNI per capita of USD 9,480 and \$11,260 respectively³.
- The US Department of Commerce has identified Mexico and Russia as two of six possible ‘surrogate’ countries that have a similar level of economic development to China. (See Annex 5.6).
- Russia and Mexico are significant producers of rebar, third and seventh largest globally (see Annex 7)
- Publicly available data for Mexico and Russia was available for use. This includes steel import price data (to establish the cost of scrap, billets and raw material inputs), energy data, labour costs data, and overheads/SGA costs from the financial reports of Mexican and Russian companies.

PRODUCTION RANKINGS TABLE - WORLDSTEEL COPYRIGHT

Source: Worldsteel

In order to construct a normal value for China based on Mexican and Russian data, UK Steel has had to use the best information that is available. If there is good cooperation from other interested parties in this review, the TRA will have access to more reliable information. However, the information submitted by UK Steel serves two purposes. First, it establishes prima facie evidence that injurious dumping is likely to occur if the current measures are removed. Second, in the absence of cooperation from exporters, the TRA can use the UK Steel calculation as facts available.

UK Steel does not claim that the calculations it submits should be considered as primary sources of information. However, in the absence of adequate cooperation from other interested parties, UK Steel requests that the TRA treats UK Steel's calculations as facts available in line with Article 6.8 of the WTO anti-dumping agreement. Paragraph 7 of Annex II of the WTO anti-dumping agreement states:

If the authorities have to base their findings, including those with respect to normal value, on information from a secondary source, including the information supplied in the application for the initiation of the investigation, they should do so with special circumspection. In such cases, the authorities should, where practicable, check the information from other independent sources at their disposal, such as published price lists, official import statistics and customs returns, and from the information obtained from other interested parties during the investigation. It is clear, however, that if an interested party does not cooperate and thus relevant information is being withheld from the authorities, this situation could lead to a result which is less favourable to the party than if the party did cooperate.

This makes it clear that information from secondary sources can be used in the absence of sufficient information from interested parties. It also establishes that the information may be less than perfect which is why it is required that trade remedy authorities use secondary sources with ‘special circumspection’. Trade remedy authorities are directed to check the information from other independent sources at their disposal. As long as the TRA considers all information sources at its disposal, the TRA must take account of all information submitted by UK Steel as at least a component of the best information available.

³ <https://data.worldbank.org/indicator/NY.GNP.PCAP.CD>

There are a number of sources of information that can help in establishing the Chinese normal value based on data from Mexico and Russia. UK Steel has used a variety of sources to establish a range of indicative likely dumping margins.

- **Constructed Normal Value 1** – The first possibility is to use the cost data from Celsa to establish the breakdown for the cost of producing rebar. This breakdown is then used as a model to which Mexican and Russian values have been applied to give constructed normal values (CNV1). As noted above, this model provides a representation of the costs of producing rebar from scrap steel using an electric arc furnace.
- **Constructed Normal Value 2** – Celsa produces rebar using the electric arc furnace production method. Most of the Chinese production of rebar is made using the blast furnace production method. In order to best assess what the undistorted cost of production would be in China, using costs from the same production route would be most appropriate. However, as there is currently no UK producer of rebar using blast furnaces, UK Steel does not have direct access to rebar costs of production via this route and must instead rely on a close approximation. In the wire rod transition review, British Steel provided cost data for the production of wire rod.

Although wire rod is a different product, as explained above (see section 1.2) the production process is virtually identical and only differs in the very final stage which would have no discernible impact on production costs. Thus, although the cost of production for wire rod is not a 100% match for that of rebar, it is extremely close proxy in the absence of better information. Indeed there will be a far greater difference in production costs between two rebar producers than between an individual producer's costs to make rebar and wire rod. Constructed normal value has been calculated on the basis of British Steel's cost breakdown for wire rod using data from Mexico and Russia as appropriate third country costs.

This has been done both using a cost calculation taking billets, the semi-finished product that is the principal input for both rebar and wire rod, as a single cost item (CNV2a) and constructing a cost of production for billets based on the individual raw materials (principally coal and iron ore) used to make billets (CNV2b).

- **Constructed normal value 3** – Celsa estimates that the costs for converting billet into rebar is £[CONFIDENTIAL]. Using Celsa's billet cost, this allows calculation of the percentage of total manufacturing cost accounted for by the cost of converting a billet into rebar. Taking the Mexican and Russian values for billets, the equivalent conversion cost can be calculated for each country. As with CNV2, this is done both for billets as a single input (CNV3a) and according to the breakdown of raw materials (CNV3b).

The constructed normal values are shown in the table below:

	CNV1	CNV2a	CNV2b	CNV3a	CNV3b
Mexico	(400-500)	(700-800)	(500-600)	(600-700)	(500-600)
Russia	(400-500)	(400-500)	(500-600)	(400-500)	(400-500)

See Annexes 2.1, 2.2 and 2.3 for details of these calculations.

For Mexico the constructed normal value is in the range of £(400-800).

For Russia the constructed normal value is in the range £(400-600).

1.4 Likely export prices

As a result of the existing measure, Chinese exports of rebar to the UK have dropped dramatically from 2017 onwards. Volumes picked up slightly in 2019-2020 but remain well below 3% of total rebar imports, which both the UK legislation and the WTO anti-dumping agreement define as negligible imports. Therefore, UK import price information is insufficient and unreliable and should not be used to establish an export price for comparison with normal value.

UK HFP Rebar Imports – (all tariff codes listed in the measure taken at an 8 digit level)

	2014	2015	2016	2017	2018	2019	2020	2021
Imports from China (tonnes)	262,105	372,659	1,285	959	1,974	6,832	5,203	223
Total rebar imports (tonnes)	551,559	590,370	390,006	422,976	491,250	449,061	329,505	143,966
Rebar imports from China as % of total imports	47.52%	63.12%	0.33%	0.23%	0.40%	1.52%	1.58%	0.15%

Source: UK Trade Data (See Annex 6 – Tab 5)

Chinese export prices to other major export markets are therefore used instead to ascertain the likely export price should the UK anti-dumping duty be removed and Chinese exports to the UK resume. Chinese export prices to other major export markets can be derived from trade statistics. Export statistics from China are not available, so ISSB data for imports from China (at the six digit level) into other world markets has been used with adjustments made to arrive at ex-works prices.

Note: The International Steel Statistic Bureau (ISSB) collects and collates trade data on steel products from all over the world. Whilst ISSB data may be formally considered third party data, its ultimate source is the official customs data made available by national governments and therefore should be considered one and the same.

The Chinese export price data is only available from ISSB at the 6 digit level and therefore potentially includes goods that are outside the product scope. Moreover, globally there is only uniformity of tariff classification up to 6 digits and therefore even if 8 digit information or higher was available it would not necessarily reflect the relevant products. Importantly, all products contained under the 6 digit code 721420 are bars and rods “*containing indentations, ribs, groves, or other deformations produced during the rolling process or twisted after rolling*”. Whilst there is further subdivision to the 10 digit code level, we can be confident to a high degree that anything classified under 721420 is in fact a rebar product and directly comparable to the HFP rebar product that is the subject of this review.

Importantly, an examination of the tariff codes covered by 722830 shows that this data set covers a variety of steel bars and rods that are not rebar and including higher value products such as engineering bars which would skew the analysis. This issues exist also at an 8-digit code level, which is why in the UK and EU Steel Safeguards, products produced under 72283020, 72283041, 72283049, 72283061, 72283069, 72283070, and 72283089 are all contained within the category classified as “Non Alloy and Other Alloy Merchant Bars and Light Sections” – it being determined that when considered at an 8-digit code level most products under these codes would be merchant and engineering bars as opposed to rebar.

It is only at the 10 digit level that this tariff codes would yield the right product mix. However, the tariff codes within scope under 722830 are in any case not produced in the UK. Celsa’s production falls under 721420 and even at the 6 digit level, this accurately represents the product in question (see above). Therefore, for the purpose of obtaining a reasonably accurate export price, import price data for tariff code 721420 is employed. NB: This does not mean that the relevant 10-digit product codes under 722830 are not relevant to this measure (HFP rebar can after all be classified in this way), but that when only 6- and 8-digit code data is available we are likely to receive more accurate assessments of rebar price and export quantities by looking at products made and sold under 721420.

As noted above, even at the 8 digit level, which HMRC trade data is provided at, this data still contains products that are not rebar. In fact, comparing the data for UK imports from China based on all the tariff codes within scope at the 8 digit level and just 72142000 clearly shows that the latter provides more accurate picture of HFP rebar flows into the UK, since imports drop to truly minimal levels which is what one would expect when an effective anti-dumping measure is in place from 2016. The obviously reason why there remain some imports of products under the other tariff codes (722830), is that they are not rebar.

UK rebar imports from China: 72142000 vs all tariff codes

	2014	2015	2016	2017	2018	2019	2020	2021

72142000	254,583	365,409	44	2	4	57	810	0
All tariff codes	262,105	372,659	1,285	959	1,974	6,832	5,203	223

Source: UK Trade Data (See Annex 6 – Tab 5)

Hence considering the limitations of the data available, most of the analysis will proceed based on information under tariff code 721420 or 72142000 as the most accurate reflection of the HFP rebar market.

For code 721420 more than 90% of Chinese exports go to South Korea and Hong Kong. Thus, the CIF prices have been calculated from South Korea and Hong Kong imports from China for the period of investigation. Subtracting freight and other costs allows the calculation of the ex-works export prices as follows:

Estimated Chinese Export Prices for HFP Rebar (721420)

	China CIF Export Price	Freight	Other costs	China Ex Works Export Price
SOUTH KOREA	£ 391.21	£ 11.68	£ 23.90	£ 355.63
HONG KONG	£ 354.40	£ 11.13	£ 23.90	£ 319.37

See Annex 3

1.5 Dumping calculation

Dumping margins have been calculated for the five different Mexican constructed normal values compared to Chinese export prices to South Korea and Hong Kong.

For the South Korea export prices, the dumping margins based on Mexican normal values are as follows:

	CNV1	CNV2a	CNV2b	CNV3a	CNV3b
Mexico NV	(400-500)	(700-800)	(500-600)	(600-700)	(500-600)
South Korea Ex Works	£ 355.63	£ 355.63	£ 355.63	£ 355.63	£ 355.63
Dumping Margin	(20-40)%	(100-120)%	(60-80)%	(80-100)%	(30-50)%

Likewise, dumping margins for the Hong Kong export prices are:

	CNV1	CNV2a	CNV2b	CNV3a	CNV3b
Mexico NV	(400-500)	(700-800)	(500-600)	(600-700)	(500-600)
Hong Kong EP	£ 319.37	£ 319.37	£ 319.37	£ 319.37	£ 319.37
Dumping Margin	(40-60)%	(120-140)%	(80-100)%	(90-110)%	(50-70)%

This establishes that likely export prices to the UK if measures were removed would give dumping margins of between (20-140)%.

Using the Russian normal values also confirms that significant dumping is likely to take place should the rebar measures be removed. South Korea export prices give the following dumping margins compared to the Russian normal values:

	CNV1	CNV2a	CNV2b	CNV3a	CNV3b
Russia NV	(400-500)	(400-500)	(500-600)	(400-500)	(400-500)
South Korea EP	£ 355.63	£ 355.63	£ 355.63	£ 355.63	£ 355.63
Dumping Margin	(20-40)%	(30-50)%	(40-60)%	(20-40)%	(30-50)%

Likewise, the Hong Kong export prices compared to Russian normal values give the following dumping margins:

	CNV1	CNV2a	CNV2b	CNV3a	CNV3b
Russia NV	(400-500)	(400-500)	(500-600)	(400-500)	(400-500)
Hong Kong EP	£ 319.37	£ 319.37	£ 319.37	£ 319.37	£ 319.37
Dumping Margin	(30-50)%	(40-60)%	(60-80)%	(30-50)%	(40-60)%

Using the Russian normal values, dumping margins are also significant in the range of (20-80)%.

See annex 1 for the calculations of these dumping margins.

2 Likely recurrence of injurious dumping

2.1 Developments in Chinese imports

The original period under review for the EU investigation⁴ 2011-2015 saw a huge surge in imports of Chinese rebar into the EU, rising nothing in 2012, to 49,480 in 2013, to 279,484 in 2014. As the data below shows, over 90% of Chinese rebar imports into the EU at the time were directed to the UK. Once again, the import data for 72142000 provide a more accurate reflection of HFP rebar trade flows and the impact of the duty, but the trend is similar albeit not as stark for the wider data set.

Chinese imports of rebar into the UK: all tariff codes

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Volume (tonnes)	5,893	4,566	49,051	262,105	372,659	1,285	959	1,974	6,832	5,203	223
Index	100	77	832	4,448	6,324	22	16	33	116	88	4

Source: UK Trade Data (See Annex 6 – Tab 5)

Chinese imports of rebar into the UK: 72142000

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Volume (tonnes)	3	2	47,803	254,583	365,409	44	2	4	57	810	0
Index	100	47	1,405,962	7,487,739	10,747,329	1,279	51	106	1,678	23,815	0

Source: UK Trade Data (See Annex 6 – Tab 5)

Evidence presented in section 1 suggests that China is still dumping exports of rebar in export markets. Historical trends also show that China is able to increase its exports to the UK very quickly and by a huge amount. To this extent, it can be expected that UK imports from China are highly likely to significantly increase if the current UK measures are removed and this is highly likely to be at dumped prices, considering activity in other export markets, high spare capacity and limited export markets as a result of trade defence measures.

2.2 Trade Measures in Third Countries

The likelihood of a resumption in injurious dumping by Chinese exporters is increased by, and evidenced by, the significant number of trade measures in place in third countries on exports of rebar

⁴ [COMMISSION REGULATION \(EU\) 2016/ 113 - of 28 January 2016 - imposing a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China \(europa.eu\)](#)

from China. Beyond the EU, these include Australia, Canada, USA, Pakistan, and Egypt. Reports concerning the most recent determinations and reviews in these cases have been provided in Annex 8. In addition to anti-dumping measures, several countries also have safeguard measures in place that cover Chinese rebar including Malaysia, Morocco and Vietnam, as well as the EU and the US with Section 232 tariffs, therefore limiting the available export markets for Chinese producers.

The existence of these trade measures further supports the arguments and evidence provided in Section 1 that China continues to dump rebar in its export markets and therefore would be highly likely to do so if the UK measures were removed. Furthermore, the high prevalence of trade defence measures in place in third countries, coupled with the standard/MFN customs tariffs on steel in all developing country markets, means that should the UK remove its own measures it would be one of the few exposed markets for this product globally and would be a target for dumping.

2.3 Spare production capacity in China

The likelihood of resumption of injurious dumping of rebar by Chinese exporters is further increased and evidenced by the significant levels of production and spare capacity currently in existence in China. According to World Steel Association (see Annex 2), China accounts for [COPYRIGHTED]% of global rebar production ([COPYRIGHTED] million tonnes in 2019). The following chart shows how Chinese rebar production has grown exponentially over the past 20 years, while the production of the rest of the world stayed relatively constant.

Chart: Global Production of Rebar (thousand tonnes) 2000 to 2019

WORLDSTEEL COPYRIGHT

Source: World Steel Association. (Data provided in Annex 7.)

While Chinese rebar production has hugely increased, there is still a considerable amount of spare capacity that could come online going forward. Eurofer's submission for initiation of the expiry review for the same measure in the EU quotes CRU data showing Chinese rebar capacity at 286 million tonnes for 2019, implying 36 million tonnes of spare capacity. The Canadian International Trade Tribunal in 2015 as part of its anti-dumping injury inquiry on rebar, found evidence of over 112 million tonnes of excess rebar capacity in China⁵. Rebar production in China increased by 45 million tonnes from 2015 to 2019 so even with no new capacity added to the market that would leave 67 million tonnes of spare capacity. The UK market for rebar in 2019 was [REDACTED DUE TO CONFIDENTIALITY, COPYRIGHT REASONS] tonnes (see annex 7). Even taking the more conservative figure of 36 million tonnes of Chinese spare capacity, this is [REDACTED] times the size of the UK market, with total Chinese rebar production a massive [REDACTED] times bigger. Just [REDACTED] % of China's rebar spare capacity could meet the entirety of the UK's demand requirements. In the chart below, the column for the UK market is not even visible compared to the scale of the Chinese market. It is clear that China has the capacity to very quickly flood and overwhelm the UK market should the AD measures be removed.

Chart: Chinese Rebar Production & Capacity vs UK Demand (thousand tonnes)

[REDACTED DUE TO CONFIDENTIALITY, COPYRIGHT REASONS]

Source: Various sources and UK Steel analysis – see Annex 7 for details

This huge overcapacity existing in China is now dormant. Chinese rebar producers have considerably expanded and will continue to expand their production, some of which will be absorbed by increased domestic demand, but also creating more material available for export. As shown above, the relative size of the Chinese market compared to the UK rebar market means that even a marginal increase of Chinese exports could completely wipe out the UK industry. Indeed, just one day's production from the available spare capacity would be [REDACTED]% of the UK's annual rebar demand.

⁵ Point 223, [CONCRETE REINFORCING BAR - Canadian International Trade Tribunal \(citt-tcce.gc.ca\)](http://citt-tcce.gc.ca)

2.4 Likely price undercutting and attractiveness of the UK market

Based on the South Korea and Hong Kong export prices, compared to Celsa's domestic price for the period of investigation, Chinese exports could be expected to undercut UK prices by (2-20)%.

Undercutting Calculations – China Export Price vs UK price

	China Ex Works EP	China-UK Freight	China EP UK CIF	UK price	Price undercutting
SOUTH KOREA	£355.63	£72.25	£427.88	£ (400-500)	(2-12)%
HONG KONG	£319.37	£72.25	£391.62	£ (400-500)	(10-20)%

UK Price used here and below is Celsa's average selling price in UK markets during the POI

In order to calculate an indicative injury margin, a profit rate of [REDACTED]% is used. This is higher than the 4.8% profit used by the European Commission in the previous investigation. However, the past few years have been extremely difficult years for the UK steel industry and profit margins have been small to non-existent. Consequently, there is a backlog of investment needed and [REDACTED]% profit is reasonable to cover future essential investment costs. Using a profit rate of [REDACTED]%, Celsa's cost of production can be used to calculate a non-injurious price. This gives the following likely price underselling/injury margins.

Undercutting Calculations – China Export Price vs UK non-injurious price

	China Ex Works EP	China-UK Freight	UK CIF	UK non-injurious price	Price Underselling/ Injury margin
SOUTH KOREA	£ 355.63	£72.25	£427.88	(400-500)	(5-15)%
HONG KONG	£ 319.37	£72.25	£391.62	(400-500)	(10-20)%

If the measures are removed, the likely injury margin will be between (5-20)%.

Calculation of price undercutting and injury margins can be found in tab 3 of Annex 1.

It is clear from the above that Chinese exporters are undercutting domestic prices in key export markets and this is highly likely to also happen in the UK.

The UK market is a highly attractive one to many Chinese producers for the simple fact that many of them are already certified to make and supply rebar to UK standards (BS 4449) (see Annex 10). This removes a substantial non-tariff barrier which therefore increases the opportunity and incentive for Chinese producers to make opportunistic sales to the UK market at dumped prices. By way of background:

- There is no common or global standard for reinforcing bar. Instead, there are a large range of national standards and certifications for the product.
- The British standard is BS4449: 2005 - Steel for the reinforcement of concrete. Weldable reinforcing steel. Bar, coil and decoiled product.
- Most/many other countries have their own individual standards, for example NF A 35-016: 96 in France, DIN 488: 86 in Germany, SS212540 in Sweden.
- A foreign steel company will need to be certified, and produce to, each of those standards to export to each individual market. The requirement to obtain certification against multiple different national rebar standards can act as a non-tariff barrier and therefore reduce the exports of the rebar from producers to their non-core markets. i.e. a Chinese company is unlikely to go to the effort of getting certified to the Swedish rebar standard unless it views Sweden as a core/regular market.
- However, the standards of European countries are used by several other countries, often those with historical/colonial ties. This is the case with BS 4449 which is used by Hong Kong, Singapore – two important markets for Chinese rebar producers.

- The result of this is:
 - a) Many Chinese rebar producers already have the BS 4449 certification because they export regularly to Hong Kong and Singapore. There is therefore no additional certification process they need to go through to export to the UK. The data bares this out, in 2014 Chinese exports of rebar (72142000) to the UK hit 255,000 tonnes, climbing to 365,000 the following year. This is a tiny fraction of Chinese production, but it represented [REDACTED]% of UK demand in 2015. (See Annex 6 – tabs 4 and 5)
 - b) Most Chinese producers will not be certified to supply rebar to other European markets, so they cannot make opportunistic sales to these markets or carry out dumping. Again the data bares this out, in 2014 when Chinese producers were engaged in high levels of dumping, 90% of Chinese imports into the EU were directed to the UK (255,000 tonnes), with only minimal amounts going to the rest of the EU (around 25,000 tonnes).⁶
 - c) A combination of lack of access to EU markets and pre-existing certification to UK standards makes the UK market a highly attractive one for Chinese producers. Dumping is almost certain to commence again if measures are removed.

2.5 Situation of UK industry

The TRA will examine the detailed responses of the UK producers to consider injury indicators in detail, but at sector level it is clear that the industry is in a vulnerable position and highly susceptible to injury in the event of an increase in imports.

In the aftermath of the COVID-19 pandemic, the industry is having to recover from one of the greatest demand shocks in recent years. Even before the pandemic, the UK, EU and global steel markets (outside of China) had experienced a reduction in demand in 2019⁷, and the impacts of the global pandemic massively reduced demand for steel products. In 2020, overall UK steel demand fell by [REDACTED]%⁸ and is not expected to recover back to 2019 levels before late 2022 – in line with projections for wider EU steel demand recovery and that of the UK economy as a whole. UK rebar demand suffered even more, falling by [REDACTED]% in 2020. UK rebar production also fell by [REDACTED]%. In this context, the injury and economic impact of a resumption of injurious dumping would be significant.

UK HFP Rebar Production, Demand, Trade (tonnes) – [REDACTED DUE TO CONFIDENTIALITY, COPYRIGHT REASONS]

	UK Rebar Production	UK Rebar Demand	Imports (ISSB)	Exports (HMRC)
2015				49,288
2016				32,079
2017				20,151
2018				23,847
2019				23,858
2020				29,118

Source: Celsa, UK Trade Data (HMRC), ISSB (import data include below-threshold intra-EU trade)

⁶ EU imports from China in 2014 quoted as 279,484 tonnes in [COMMISSION REGULATION \(EU\) 2016/ 113 - of 28 January 2016 - imposing a provisional anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China \(europa.eu\)](#), Section 5.2.1.

⁷ World Steel Association data shows EU demand fell from 168.7 MT to 158.7 MT between 2018 and 2019, whilst the global market outside China fell from 872.3 MT to 860MT.

⁸ ISSB Data shows UK Steel demand fell from 10.8 MT in 2019 to just 9.1MT in 2020.

The data above show that over half of UK HFP rebar demand is met through imports, while most UK production is absorbed by the domestic market. Meanwhile, there is huge amount of unused capacity. In recent years, Celsa have on average operated at [REDACTED]% of their capacity, while Liberty have rebar capacity which has only been in use since October 2020 (see letter in Annex 9). Unused capacity has huge efficiency costs due to the high capital intensity of the steel making process. It also represents an opportunity cost in terms of untapped potential for more high-wage employment opportunities and value to the UK economy, as well as more local supply chains that reduce the carbon footprint of steelmaking.

Chart: UK Rebar Capacity Utilisation - [CONFIDENTIAL DATA REDACTED]

Source: Celsa data

Since Liberty only started producing rebar at the end of 2020, the above production figures relate almost exclusively to Celsa's production, primarily under tariff code 7214200010. However, the remainder of the tariff codes that are part of this review under 722830 are like products and directly compete with Celsa's product. They should therefore remain covered by the measure. Dumped imports of any of the products within scope would directly impact Celsa's and Liberty's profitability and market share and would therefore cause serious injury to the UK producers. Already industry has some concerns about potential misuse of the 722830 tariff codes and if these were not subject to the measure while 721420 products were, it would create an obvious route for circumvention of the duty. In fact there is precedent of similar behaviour by Chinese exporters – back in 2015 Chinese producers were adding boron to their rebar so that it could be classed as an alloy and qualify for a tax rebate. This can be easily done and does not require any particular technology or investment to change one's production process. Therefore if there is a financial incentive, and avoiding an anti-dumping duty would certainly be one, Chinese exporters could act similarly and dump exports to the UK.

Additionally, as noted in Section 2.2 several other countries have trade restrictions in place on imports from China, including the US, the EU, Australia, Canada, Pakistan, Egypt, Malaysia, Morocco and Vietnam. This would increase the likelihood of dumped imports and injury to any country which left its market exposed as trade from other markets would be diverted.

Already the UK rebar market is suffering import pressure from likely dumped volumes from Belarus as a result of trade diversion from the EU. The chart below shows the surge in UK imports from Belarus since the EU introduced anti-dumping measures against Belarussian rebar in 2016. There were two anti-dumping measures in place at an EU level:

- AD619 – This covers UK standard rebar imports from China which effectively means it only applies to the UK and Irish market. (Provisional – measures introduced January 2016, definitive measures in July 2016)
- AD633 – This covers non UK standard rebar imports from Belarus which effectively means it applies to non-UK and Irish markets across the EU.

With Belarus exporters no longer able to export their typical rebar products into the EU at below market rates, they turned their attention to the UK market where they could still export rebar products provided they were certified to specific UK standards. Since provisional measures came in at the end of December 2016, UK imports of rebar from Belarus have increased by [REDACTED]%, selling at an average of (2-30)% below the prevailing market rate from 2017-2020. This margin would be even greater if the Northern European ex-works price used below was adjusted for transport. It is highly likely this situation would be replicated with imports from China should the UK remove measures as Chinese producers continue to face a barrier to EU markets in needing to obtain individual the relevant certifications for each individual EU country. This barrier is not insurmountable, but it would certainly be sufficient to prevent opportunistic and sporadic sales, which again should be noted would be sufficient to flood the relatively small UK market for rebar.

UK Imports of Rebar from Belarus – 2015 to 2020

COPYRIGHT TO ISSB, KALLANISH

Source: ISSB Trade Database, Kallanish Steel prices and UK Steel Calculations (for details see Annex 11)

This data also highlights that the UK rebar market is already suffering injury as a result of aggressive export tactics and is attractive as a dumping ground.

3 Economic effects on the UK if the existing measure was no longer applied

3.1 Importance of the UK HFP rebar industry

The UK rebar industry provides significant employment opportunities in Wales where operations are currently located and offering wages considerably higher than the local average. The contribution to the local economy is even more prominent when considering that plants are by and large located in less advantaged areas of the UK which the government is seeking to level up. The levelling up agenda of the government is important context within which the TRA should interpret Paragraph 25(4)(a)(iv) (likely geographic impact) of the Taxation (Cross-Border Trade) Act 2018.

HFP rebar production is concentrated in Cardiff where the Celsa plant is located, employing [REDACTED] steel workers who receive wages that rank above the [REDACTED] percentile of the local wage distribution. Most of Wales had Assisted Area status under European state aid rules, including local authorities whose GDP per capita was below 75% of the EU average. While this legislation is no longer relevant for the UK, the classification is indicative of less advantaged local economies.

Liberty Steel also have rebar production capacity in their plant in Rotherham. The mill started producing in October 2020 and Liberty have investment plans to expand their rebar production (see letter in Annex 9). However, this investment going ahead will be subject to favourable market conditions, including trade conditions which do not allow dumped rebar to take over UK market share and ruin opportunities for profitability for UK rebar producers. Should the anti-dumping measures not be extended, dumping would almost certainly recur as demonstrated in Sections 1 and 2 and this would undermine any such investment plans. The Liberty plant in Rotherham offers high-value employment paying a median wage that is on average [REDACTED] % higher than the local median. Rotherham Metropolitan is a particularly economically disadvantaged local authority, ranking 50th most deprived in the English Index of Multiple Deprivation (IMD)⁹, which highlights the significance of these well-paid jobs to the local economy. The IMD assesses a range of indicators including income, employment, health and education. Removing the measures not only risks current UK production and employment but also future high-wage employment opportunities which will be invaluable to the local communities.

Company	Local Authority	Median Wage Steel (£)	Steel Wage Ranking Within Local Authority
Celsa Steel	City of Cardiff	26,350	Above 40th percentile
Liberty Steel	Rotherham	31,190	Above 60th percentile

Source: Company data, ONS - Earnings and hours worked, place of work by local authority: ASHE Table 7.7a

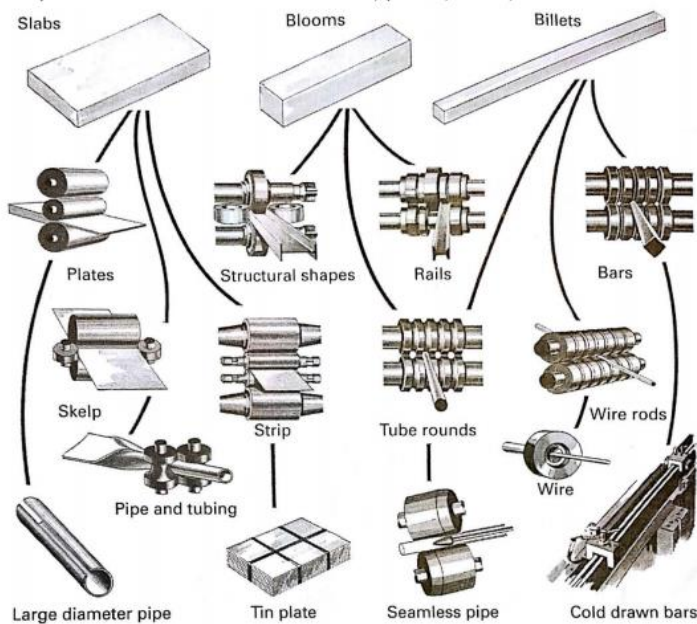
3.2 Interconnectivity of steel products

The interconnectivity of steel products means that product categories assessed independently from each other will not provide an accurate assessment of injury and economic impact to the UK.

⁹ English indices of deprivation 2019, File 10: Local authority district summaries

HFP rebar production represents 4-5% of overall UK steel production¹⁰, but the segment's real economic impact is much wider when considering steel production economics as well as the broader supply chain. Most plants will produce more than one type of steel product and the profitability of each will have an effect on wider production decisions, with implications for employment and future investment.

Steel production can come through a variety of different routes, largely depending on the kind of semi-finished product (slab, bloom, billet) that a plant is set up to make. As explained earlier and as shown below, a plant that is set up to make billet can then go on to produce a variety of long products such as bars, wire rods and tubes and will typically produce a combination.



The production economics of the steel making process means that economies of scale are key. As such, plants will typically produce more than one product and will often rely on all product lines running at high capacity utilisation rates to ensure profitability.

Steel making is highly capital intensive and with particularly high fixed costs. Steel plants will typically need to run at around a 70-75% capacity utilisation rate before it will break even and begin to operate profitably. Thus, both the processes themselves, and their economics, require the plant to run at consistently high output levels and limit the ability to adapt to changed market conditions by reducing output volumes. This is why steel plants often continue to run even without making a profit. Commodity prices can also be volatile so sometimes it pays to weather a downturn, in expectation that prices might recover, without incurring the cost of stopping and restarting a plant.

This highlights how delicate the balances are and knock-on effects that individual products can have on the overall profitability of a plant. As previously explained, rebar and wire rod are often, and indeed in the UK, produced by the same producers in the same mill. Imports of dumped rebar would therefore not only damage market share and profitability for rebar but will also impact wire rod and any other production lines.

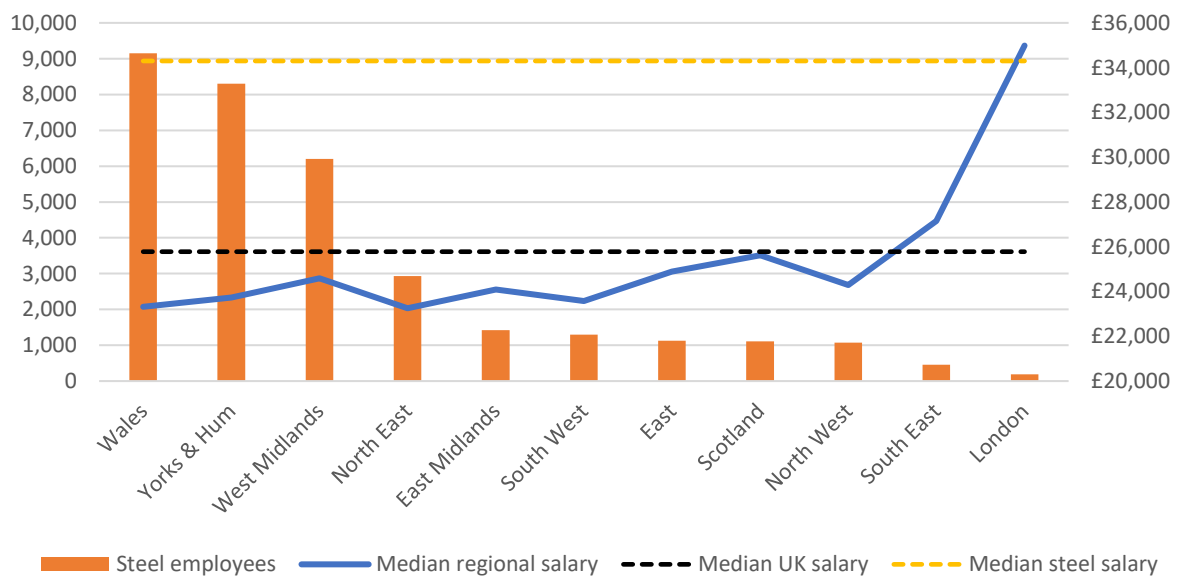
Therefore, in order to assess the economic significance of the HFP rebar sector, it is useful to evaluate the contribution of the rebar segment but also the wider steel sector that it forms an integral part of.

¹⁰ Worldsteel Association

3.3 Importance of the wider UK steel industry

- The UK steel industry directly employs 33,700 people across the UK – jobs that would be at risk if the health of domestic steel companies is compromised¹¹
- The UK steel industry also supports a further 42,000 in its high-value supplies chains¹²
- The steel industry is predominantly based in the regions of the country the Government is seeking to level-up. We directly employ tens of thousands of skilled workers in Teesside, Yorkshire and Humberside, the West Midlands and Wales. The median wage of our workers (£34,299) is 33% higher than the UK national median and 45% higher than the regional median in Wales, and Yorkshire & Humberside.¹³

Chart: UK Steel Employment and Pay



Source: ONS Various and UK Steel Analysis

- The UK Steel Industry makes a £2.1 billion direct contribution to UK GDP and supports a further £2.7 billion in its supply chains¹⁴
- UK steel also makes a £1.7 billion direct contribution to the UK's balance of trade¹⁵, critical to the Government's ambitions of developing a more a global trading Britain.
- We train hundreds more skilled individuals every year, providing the United Kingdom with the engineers of the future. Approximately 65% of the technical workforce is educated to degree level, and around 40% possess a postgraduate qualification. By working together, Government and industry can ensure that we go on providing high-quality employment and opportunities.

We provide the high-quality materials vital to an array of challenges. From delivering the Government's infrastructure revolution to creating a low carbon economy, steel is an essential ingredient. The UK directly consumes 10-11 million tonnes of steel each and every year – in infrastructure, construction, and a vast array of manufactured products. Our increasing need for steel in high speed rail, energy efficient buildings, low-carbon and electric vehicles, wind-turbines and much more besides means this demand will grow 10% this decade creating a huge £6 billion annual market. It is vital that we retain a strong and resilient steel industry in the UK to supply this.

¹¹ ONS – Business Register and Employment Survey 2020 and ONS Type 1 employment multipliers

¹² ONS – Business Register and Employment Survey 2020 and ONS Type 1 employment multipliers

¹³ ONS – Annual Survey of Hours and Earnings

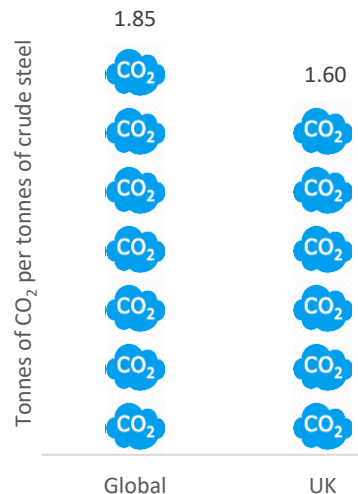
¹⁴ ONS GDP Output – low level aggregates 2020 and type 1 multiplier

¹⁵ International Steel Statistic Bureau – UK steel exports net of import of raw materials/inputs

3.4 Importance of domestic UK steel industry to decarbonisation

Increased reliance on steel imports could lead to higher emissions if imported steel is produced in a more carbon-intensive steel plant. Global carbon intensity varies from 0.29-3.38 tonnes of CO₂ per tonnes of crude steel, depending on plant efficiency and production method (i.e. BOF vs EAF), with the weighted average being 1.85tCO₂/tCS in 2018. UK steel production sites are less carbon-intensive than the global average for both BOF and EAF steelmaking, and therefore increases in imports will likely lead to an increase in global greenhouse gas emissions. Additionally, increased imports of finished steel products will also increase transport-related emissions – for example shipping a tonne of product from China will result in an estimated 0.3 tonnes of CO₂¹⁶. Given this picture of lower production and transport-related emissions from domestically produced steel, it is clear that replacing domestic production with greater imports of steel would not be in the economic or public interest.

GHG Emissions per tonne of steel produced



4 Distortions in the Chinese market affecting rebar production and prices

4.1 Horizontal distortions affecting steel industry

4.1.1 Constitution of the PRC and Constitution of the CPC

The Chinese steel industry and markets have to be viewed through the lens of the political system. Although there is no doubt that China is undergoing dramatic changes and can no longer be considered as a pure planned economy, Chinese industry still operates in a system dominated by the state and government intervention.

For example, the Preamble of the current Constitution of the People's Republic of China¹⁷ states:

The victory in China's New-Democratic Revolution and the successes in its socialist cause have been achieved by the Chinese people of all nationalities, under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought, by upholding truth, correcting errors and surmounting numerous difficulties and hardships. China will be in the primary stage of socialism for a long time to come. The basic task of the nation is to concentrate its effort on socialist modernization along the road of Chinese-style socialism. Under the leadership of the Communist Party of China and the guidance of Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of Three Represents, the Chinese people of all nationalities will continue to adhere to the people's democratic dictatorship and the socialist road, persevere in reform and opening to the outside world, steadily improve socialist institutions, develop the socialist market economy, develop socialist democracy, improve the socialist legal system and work hard and self-reliantly to modernize the country's industry, agriculture, national defence and science and technology step by step and promote the coordinated development of the material, political and spiritual civilizations, to turn China into a socialist country that is prosperous, powerful, democratic and culturally advanced.

This notes that China is still in the primary stage of socialism for a long time to come and that this guides the 'basic task of the nation'. Further, the Chinese people will continue to adhere to the 'people's democratic dictatorship' and the socialist road. It also talks about 'coordinated development'.

Further, Article 7 of the constitution states:

¹⁶ Defra conversion factor for large container vessel of 0.01267 kgCO₂e/tonne product/km shipped. Shipping distance from Shanghai to Dover of 22,000 km. Estimated CO₂e emissions of 278 kg per tonne.

¹⁷ http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm

The State-owned economy, namely, the socialist economy under ownership by the whole people, is the leading force in the national economy. The State ensures the consolidation and growth of the State-owned economy.

The 'leading force' of the state is set out in Article 6:

The basis of the socialist economic system of the People's Republic of China is socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people. The system of socialist public ownership supersedes the system of exploitation of man by man; it applies the principle of "from each according to his ability, to each according to his work".

In the primary stage of socialism, the State upholds the basic economic system in which the public ownership is dominant and diverse forms of ownership develop side by side and keeps to the distribution system in which distribution according to work is dominant and diverse modes of distribution coexist.

Article 6 talks of "socialist public ownership of the means of production" as the basis of the economic system. It also establishes the dominance of public ownership.

Likewise, the current Constitution of the Communist Party of China¹⁸ affirms the dominant role of public ownership:

The Party must uphold and improve the basic economic system whereby public ownership plays a dominant role and economic entities under diverse forms of ownership develop side by side (page 3 of 28).

Further:

The Communist Party of China shall lead the people in developing the socialist market economy. It shall be firm in consolidating and developing the public sector of the economy and shall remain steadfast in encouraging, supporting, and guiding the development of the non-public sector.

In other words, The Communist Party China maintains a highly significant leadership role in the economy.

4.1.2 13th Five Year Plan

China has adopted five-year plans since 1953 and this has been the way in which the state, and specifically the Communist Party, have guided and shaped the Chinese economy.

The introductory paragraph of the most recent five year plan covering the years 2016-2020 continues to emphasise the importance of the Communist Party in formulating economic and social policy:

Formulated on the basis of the Recommendations of the Central Committee of the Communist Party of China (CPC) for the 13th Five-Year Plan for Economic and Social Development of the People's Republic of China (2016–2020), the 13th Five-Year Plan sets forth China's strategic intentions and defines its major objectives, tasks, and measures for economic and social development. This plan is to serve as a guide to action for market entities, an important basis for government in performing its duties, and a common vision to be shared among the people of China.

The five-year plans sit amongst a myriad of broader horizontal plans affecting all industries (including 'Made in China 2025' and the 'Belt and Road Initiative') and plans for specific sectors. A full review of all the plans is beyond the scope of this submission. However, they are thoroughly described in the European Commission Staff Working Document on distortions in the Chinese economy (particularly section 4)¹⁹.

On the 'transformation and upgrading of traditional industries, Chapter 22 of the 13th Five Year plan states:

¹⁸ http://www.xinhuanet.com/english/download/Constitution_of_the_Communist_Party_of_China.pdf (Revised and adopted at the 19th National Congress of the Communist Party of China on October 24 2017.

¹⁹ Commission Staff Working Document on 'Significant distortions in the economy of the PRC for the purpose of trade defence investigations'. SWD(2017) 483 final/2. 20 December 2017.

We will encourage mergers and acquisitions of enterprises so as to put in place a highly concentrated, specialized, and cooperative industrial structure with a core of conglomerate companies. We will support the development of specialized small and medium enterprises.

A high proportion, if not all, of these concentrated and cooperative enterprises are state-owned and, through this, the intention to control the economy and markets is clear.

The 'Steel Industry Adjustment and Upgrading plan for 2016-2020'²⁰ implements the 13th five year plan in relation to steel.

The iron and steel industry is an important basic industry of the national economy and the cornerstone of the country.

The opening paragraph of the steel plan confirms that steel is a favoured and strategic sector at the heart of government policy towards the Chinese economy.

4.1.3 14th Five Year Plan

In late 2020, the Chinese Communist Party approved a proposal for China's 14th Five Year Plan (2021-2025)²¹. Paragraph 20 states:

We must adhere to and refine the basic socialist economic system, fully exploit the decisive role of the market in allocating resources, make better use of the role of government, and promote a better combination of effective markets and active government.

Stimulating the vitality of various market entities. We will be unswerving in consolidating and developing the economy's public sector, and in encouraging, supporting and leading the development of the non-public sector. We will deepen the reform of state-owned capital and enterprises, and will strengthen, optimize and enlarge state-owned capital and state-owned enterprises (SOEs). We will accelerate the layout optimization and structural adjustment of the state-owned economy, and utilize the strategic supporting role played by the state-owned economy

Whilst reference to the market is made, the primary role of active government is emphasised in leading and stimulating the public and non-public sectors through strengthening and enlarging of state-owned capital and state-owned enterprises.

New guidance has recently been produced in January 2021 on promoting high-quality development of the steel industry^{22,23}.

A translation of this document is provided in Annex 12²⁴.

This document acknowledges that overcapacity continues to be a problem:

Entering the 14th Five-Year Plan period, the national steel industry still faces problems to achieve high-quality development as problems, such as overcapacity pressure....

The guiding ideology outlined above remains the same, confirming the continued primary guiding role of the Communist Party:

Adhere to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, thoroughly implement the spirit of the 19th National Congress of the Communist Party of China as well as the 2nd, 3rd, 4th, and 5th Plenary Sessions of the 19th Central Committee of the Communist Party of China

The role of government in steel industry decision making and coordination is clearly stated:

Play a greater role in the global steel industry governance system.

²⁰ Translation on Australian Government website https://www.industry.gov.au/sites/default/files/adc/public-record/466-011.01_-_qatt_-_att_1_-_13th_five_year_plan_for_the_steel_industry_en_-_non-conf.pdf

²¹ https://cset.georgetown.edu/wp-content/uploads/t0237_5th_Plenum_Proposal_EN-1.pdf

²² [Guidance on promoting high quality development of Steel Industry](#) (October 2020) In Chinese.

²³ <https://www.hellenicshippingnews.com/china-finalizing-high-quality-growth-in-steel-industry/>
<https://www.chinadaily.com.cn/a/202001/13/WS5e1bfe30a310128217270876.html>

²⁴ This translation was provided to UK Steel by the European Steel Association (EUROFER).

Adhere to overall coordination. Adhere to the systemic concept of promoting high-quality development, adhere to a national coordination effort. Coordinate the relationship between the state and localities, industries and enterprises. Fully mobilize the polarities of all parties and give full play to the advantages of concentrating forces to do major events. Focus on solid foundation, promote advantages, make up for shortcomings, cultivate strengths and reinforce weak points. (section2)

Strengthen the coordination between policies, and form a policy synergy, so as to adapt measures to local conditions, maintain pressure, and implement precise policies (section 17).

Significant intervention to guarantee resource supply is highlighted:

Resource guarantee....Substantially enhance the guaranteed supply of iron, manganese, chromium and other ore resources. For iron, the domestic self- sufficiency rate shall exceed 45%.....Establish equity control in 1-2 overseas iron mines with global influence and market competitiveness. (section 3)

Government is also directed to play an active role in location planning for the steel industry:

Optimize and adjust the industrial layout. The optimization of the layout of the steel industry must meet the requirements of national and local functional zone planning, environmental protection and related industrial policies. (section 6)

Guidance and co-ordination in relation to Chinese foreign economic policy is also encouraged:

Continue to strengthen the "Belt and Road" international steel production capacity cooperation, and guide superior production capacity to "go global" in an orderly manner. (section 13)

Thus, Chinese state documents produced in 2021 confirm the maintenance of a continued significant role for the state in the governance of the Chinese steel industry.

4.1.4 Decision No 40 of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"

All levels of government are directed by Decision No 40²⁵ to play a major role in promoting structural adjustment.

The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government shall take the promotion of industrial structure adjustment as an important reform and development task at present and within a period in the future, establish the liability system, lay emphasis on implementation, and shall, in accordance with the "Temporary Provisions" and in light of the local situation on industrial development, formulate specific measures, rationally guide the investment directions, encourage and support the development of advanced production capacities, restrict and eliminate outdated production capacities, prevent blind investments and low-level redundant construction, and effectively propel industrial structure optimization and upgrading.

Article 12 of Decision 40 establishes the 'Guidance Catalogue for the Industrial Structure Adjustment' which guides investment directions and government policy.

The "Guidance Catalogue for the Industrial Structure Adjustment" is the important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc.

The catalogue identifies industrial sectors as 'encouraged', 'restricted' or 'eliminated'. Decision 40 remains in effect and the latest Guidance Catalogue was published in 2019²⁶. The European Commission has confirmed that the steel industry belongs to the encouraged category²⁷. The presence

²⁵ <http://www.asianlii.org/cn/legis/cen/laws/tpopisa783/>

²⁶ The Chinese version of the new guidance catalogue is at <http://www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf>. We do not have a translation of this but press reports confirm that it came into effect in 2019 e.g. <https://www.china-briefing.com/news/chinas-2019-catalogue-guiding-industry-restructuring/> <https://research.hktdc.com/en/article/MzUxODEwMjQy>

²⁷ For example, [EU Regulation No 215/2013](#) imposing a countervailing duty on organic coated steel products from China (recital 182).

of such categories confirms the significant influence that the Chinese state has in industrial decision-making.

4.1.5 Comment on the selection of quotes from the Chinese planning documents

We have not conducted a formal, detailed analysis of all the Chinese government documents both quoted above and the many more not cited. Rather we have selected provisions which clearly indicate that the state still plays an active role in the Chinese economic system such that markets remain significantly distorted.

It might be pointed out that there are other quotes that could be selected that suggest that the law requires that market principles apply. However, the fact that a provision is written into Chinese law provides no guarantee that it will be applied in practice. A concrete example of this was found by the European Commission in the hot-rolled flat products investigation²⁸.

.....the GOC quoted from Decision No. 40 that encouraged industries should receive credit support 'according to the credit principles'. According to the GOC it cannot be inferred that such support should be given on a preferential basis. However, the investigation has shown that the vague term 'credit principles' does not mean market-based and commercial behaviour, but rather that those credit principles include important public policy considerations, which override credit risk assessment or lead to a complete absence of any risk assessment. Furthermore, the sampled companies benefited from preferential lending policies where a proper credit risk assessment is effectively absent.....The Commission therefore rejected the GOC's assertion that lending to the steel industry was done on market based and commercial terms, and that the reference 'according to the credit principles' would constitute an obligation to follow those terms. The key point remains that according to Decision No 40, all financial institutions shall provide credit to encouraged industries, which includes the steel industry, and that that support is de facto provided on preferential terms disregarding the actual credit risk of the beneficiaries (recital 57).

Recital 123 describes how the Commission's verification visits with cooperating, sampled companies revealed that most lending was taking place at rates close to the People's Bank of China benchmark interest rates regardless of the companies' financial and credit risk situation. No concrete evidence of creditworthiness assessments was provided and loans were found to be at below market rates when compared to the rate corresponding to the risk profile of the companies concerned.

This is a concrete example of how provisions apparently introducing market elements into the Chinese economy cannot always be taken at face value.

In conclusion, there are many clear provisions in Chinese law and guidance that unambiguously establish the primary role and influence of the state in the Chinese steel industry. This conclusion is not affected by particular statements in any of these documents that market principles apply.

4.2 Other countries' findings on horizontal China market distortions affecting the steel industry

4.2.1 Introductory Comment

The above analysis of widespread government intervention and market distortions affecting the whole Chinese economy, and thus the whole of the steel industry, has been confirmed by all other major trade remedy regimes.

4.2.2 European Commission Staff Working Document

The EU Commission's report "ON SIGNIFICANT DISTORTIONS IN THE ECONOMY OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PURPOSES OF TRADE DEFENCE INVESTIGATIONS" published in December 2017 sets out clearly the numerous and widespread interventions by the Government of China (GOC) in the Chinese Steel industry.

Important conclusions from the report include:

²⁸ Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive CVD on hot-rolled flat products originating in the PRC.

- *The Government of China has consistently used a wide array of State support measures to promote the steel industry...These measures have a distortive effect on the market...*
- *State owned economy considered 'leading force of the national economy'*
- *Structures of state and CCP intertwined at every level*
- *Interventionist economic policy in pursuance of goals/political agenda set by CCP rather than prevailing economic conditions in free market.*
- *Complex system of industrial planning*
- *Financial system of China dominated by state-owned commercial banks*
- *Regulatory environment - public procedure rules regularly used in pursuit of policy goals. Significant control and influence over destination and magnitude of state and private investment.*
- *State presence in firms - CCP organisation established in every company.*
- *Steel industry, including production of HRF, regarded as key industry by Chinese government.*
- *Hot-rolled flat steel (HRF) producers owned by state - in anti-dumping investigation of HRF from China, Commission established that 3 of 4 sampled groups of exporting producers were state owned enterprise (SOE)*
- *Chinese bankruptcy system inadequate.*
- *Shortcomings of property rights. All land owned by Chinese state.*
- *Wage costs distorted. China not ratified essential ILO conventions.*
- *Chinese financial system characterised by strong position state owned banks.*
- *Various legal provisions refer to need to respect normal banking behaviour and prudential rules such as examining creditworthiness of borrower but overwhelming evidence that the provisions play only a secondary role in application of the various legal instruments.*
- *The Commission has recently established that the Government of China provided numerous forms of state support, some of which were found to be of a permanent and structural nature in the steel sector.*
- *In the EU Commission investigation into Hot rolled flat products from China it was established that most of these state support schemes "are permanent by nature, such as land use rights, tax breaks and grant programmes. Moreover, the credits received were a constant feature of Chinese industrial policy to support its steel industry. The Commission concluded that these subsidies were of structural nature.*
- *These state interventions are noted to include:*
 - *Preferential policy loans, credit lines, preferential interest rates, other financing, and guarantees;*
 - *Grant Programmes;*
 - *Direct Tax Exemption and Reduction programmes;*
 - *Indirect Tax and Import Tariff Programmes;*
 - *Government provision of goods and services for less than adequate remuneration ('LTAR'), including: inputs, land use rights, water and electricity;*
 - *Equity programs, including: debt for equity swaps, equity infusions and unpaid dividends*

4.2.3 Canada

Numerous anti-dumping and anti-subsidy investigations carried out by Canadian Border Services Agency (CBSA) have identified widespread and significant state distortions in the Chinese steel industry/market. For example, the CBSA's 'Statement of Reasons' in its investigation into dumping of corrosion resistant steel sheet from China²⁹, examined a wide range of Chinese Government plans, strategies and policies as part of its 'Section 20 Inquiry'³⁰, that demonstrate the significant interventions

²⁹ CBSA (February 2019) [Statement of reasons concerning the final determination with respect to the dumping of certain corrosion resistant steel sheet from China, separate customs territory of Taiwan, Penghu, Kinmen and Matsu \(Chinese Taipei\), India and South Korea.](#)

³⁰ Section 20 is a provision of the Canadian Special Import Measures Act (SIMA) that may be applied to determine normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of the prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that domestic prices are not substantially the same as they would be in a competitive market. In other words, a Section 20 investigation

the Chinese Government has in ‘flat rolled steel industry’, ultimately distorting domestic prices. These include:

- **13th Five Year Plan.** The CBSA concludes that “*The analysis of the 13th Five-Year Plan....indicate that the GOC plays a key role in the control and administration of the steel industry, which includes the flat-rolled steel industry sector*”.
- **Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020).** The CBSA concluded that “*In analysing the Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)....indications are that the GOC continued its level of control in the administration of the flat-rolled steel industry sector*”
- **Iron and Steel Restructuring Policy (2015).** The CBSA quotes directly from this plan: “*There should be continuous innovation in the means of governmental administration; ongoing and respective oversight and services should be continuously strengthened; and the role of the government should be more effectively realised. Relevant laws and regulations should be better implemented in the industry to basically build a fair and competitive market environment.*” This last sentence is particularly important, indicating as it does that the GOC does not believe the steel industry currently operates in a “fair and competitive market environment”
- **National Steel Policy (2005).** The CBSA highlights the key aims of the Chinese National Steel Policy which include: structural adjustment of the Chinese steel industry, industry consolidation, and government supervision and management of the steel industry
- **Steel Revitalisation/Rescue Plan (2009).** The CBSA sites the core objective as: strict control of total steel production and elimination of inefficient production, maintain stable imports of iron ore resources and rectify the market order, maintain the stability of the domestic market and the export environment, develop domestic and overseas resources and guarantee the safety of the industry, and optimise the layout of industry and overall arrangements of its development.
- **12th Five Year Development Plan for the Steel Industry (2011-2015).** The CBSA lists the objective of this plan as: Increased mergers and acquisitions to create large more efficiency steel companies (target top ten steel companies to account for 70% of production by 2020), government restrictions on capacity expansion, and government directed relocation of steel companies.

Elsewhere in the report, as part of the Section 20 investigation, the CBSA concludes:

- The GOC’s extensive ownership and control of the majority of large Chinese steel producers means that these companies likely produce and market steel according to GOC objectives instead of market conditions.
- The GOC influences the price of hot rolled steel.
- The GOC maintains export controls on raw materials used in the production of steel – these include a 15% export tax imposed in 2017 on steel billet and slab, which creates an excess in supply in China and therefore lowers prices for producers of finished steel products (including wire rod) below what would exist in a competitive market without such government controls.
- That there is substantial evidence of subsidisation of steel production in China, reducing production costs of downstream finished steel products.

4.2.4 Australia

In the recent review of anti-dumping measures on steel rod in coil from China³¹, the Australian Anti-Dumping Commission found that government involvement across the steel industry is the primary cause of prevailing structural imbalances.

The Commission considers the GOC’s involvement within, and influence across the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the steel rod in coil market. This involvement includes the issuing of planning guidelines and directives, along with provisions of direct and indirect financial support. Other key mechanisms include the role and operation of SOEs, taxation arrangements and tariff policies.

examines the same factors and circumstances as the UK regulations require for the establishment of a particular market situation, and on the justification of price adjustments when constructing normal value.

³¹ Australian Anti-Dumping Commission – Report No 564, Review of anti-dumping measures applying to steel rod in coil exported to Australia from the People’s Republic of China. 27 November 2020.

In relation to state-owned enterprises, the Commission makes the following conclusions:

In 2016, sixteen of the world's 50 largest steelmaking companies were SOEs from China.⁶⁶ In 2018, eight of the top ten steel producers in China were SOEs.....While the Commission does not consider that the presence of these entities alone causes markets to be distorted, it does consider that the presence of these entities is likely to result in the GOC's plans and directives being adhered to. The Commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market. Examples of these support mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state-owned banks.

Further, the Commission concludes that no progress has been made on the over-capacity problem:

The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions has been constrained by the GOC's desire to:

- *replace older mills with new larger and more efficient mills; and*
- *close smaller mills to offset the commissioning of new larger mills.*

Its impact to date has been to increase production and exacerbate existing structural imbalances.

Similarly in its anti-dumping investigation on steel reinforcing bar from China³², the Australian Anti-dumping Commission found several types of distorting subsidies provided to the Chinese steel industry including:

- *Steel inputs provided by the government at less than adequate remuneration.*
- *Coking coal and coke provided at less than adequate remuneration.*
- *Preferential Tax Policies for Enterprises with Foreign Investment.*
- *Preferential Tax policies for Specific Regions.*
- *Preferential Tax Policies for Foreign Invested Enterprises.*
- *Land Use Tax Deductions.*
- *Preferential Tax Policies for High and New Technology Enterprises.*
- *Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment.*
- *Research and Development (R&D) Assistance Grants.*
- *Special Support Funds for Non State-Owned Enterprises.*

4.2.5 United States

The United States still treats China as a non-market economy in anti-dumping investigations, as permitted under the Chinese WTO accession protocol. The DOC's most recent determination³³ concluded the following:

The Department of Commerce ("Department") concludes that China is a non-market economy (NME) country because it does not operate sufficiently on market principles to permit the use of Chinese prices and costs for purposes of the Department's antidumping analysis. The basis for the Department's conclusion is that the state's role in the economy and its relationship with markets and the private sector results in fundamental distortions in China's economy.

At its core, the framework of China's economy is set by the Chinese government and the Chinese Communist Party (CCP), which exercise control directly and indirectly over the allocation of resources through instruments such as government ownership and control of key economic actors and government directives. The stated fundamental objective of the government and the CCP is to uphold the "socialist market economy" in which the Chinese government and the CCP direct and channel economic actors to meet the targets of state planning. The Chinese government does not seek economic outcomes that reflect

³² Australian Anti-Dumping Commission – Report No 300, Alleged dumping of steel reinforcing bar exported from the People's Republic of China. March 2016. [063 - rep 300 0.pdf \(industry.gov.au\)](#)

³³ US DOC Memorandum 'China's Status as a Non-Market Economy' A-570-053 October 26 2017.

predominantly market forces outside of a larger institutional framework of government and CCP control. In China's economic framework, state planning through industrial policies conveys instructions regarding sector-specific economic objectives, particularly for those sectors deemed strategic and fundamental.

In relation to the 13th Five Year Plan, the US-China Economic and Security Review Commission³⁴ found that *"China's continued reliance on state-led economic growth rather than more market-based growth represents a considerable challenge for US firms facing competition from Chinese firms in China and abroad"*.

The Commission's report concludes that the 13th Five Year Plan is a step back from China's pledge to allow the market to play a decisive role.

The 13th FYP represents a step back from China's Third Plenum pledge to allow the market to play a "decisive role" by reiterating the CCP's central role in China's economic and social development. The Chinese government's intervention in the economy, particularly its ham-fisted response to the stock market collapse in the summer of 2015 and early 2016, counteracts the very market drivers it is hoping to unleash

The Commission also quotes a report from the Center for Strategic and International Studies³⁵ in relation to the *One Belt One Road* (OBOR) initiative which it describes as a cornerstone of the 13th Five Year Plan's objectives.

CSIS researcher Chris Johnson noted that beyond these stated objectives, the Chinese government is hoping to use OBOR to export China's enormous excess industrial capacity and strengthen debt-laden SOEs' international competitiveness "through abundant financing and markets where competition is not particularly fierce."

4.3 European Union findings on rebar cost inputs

4.3.1 Energy prices

The EU Commission's report into distortions in the Chinese economy provides significant detail of the various interventions national, regional, and local governments make into the energy market. In summarising, the report notes the following key findings:

- Energy prices are still not-market based and are largely controlled by the state. *"The prices for electricity and natural gas are regulated by the Chinese National Development Reform Commission and according to the Chinese government set on the basis of a procedure that includes cost investigation, expert appraisal, public hearings, and final price determination and publication."* In other words, energy prices in China are clearly not *"substantially determined by market forces"*³⁶
- 50% of the generation capacity is state owned as well as the whole transmission grid.
- Price differentiation exists to the extent of favouring particular industries
- The Chinese state has in the past provided significant subsidies for the production of coal which in turn led to massive expansion of coal generating power stations – this in turn has led to an oversupply of electricity and therefore lower prices than would have existed in the absence of these coal subsidies

4.3.2 Labour Costs

The EU Commission's report into distortions in the Chinese economy provides the following key points with regards to Chinese Government interventions into labour markets, which limit the extent to which market forces are able to determine wages:

- The Commission report states that *"Market based wages should be understood as wages freely bargained between the workers and management in an undistorted economic environment."*

³⁴ US-China Economic and Security Review Commission, Staff Research Report, *The 13th Five year Plan*, February 14 2017.

³⁵ Christopher K. Johnson, "President Xi Jinping's 'Belt and Road' Initiative: A Practical Assessment of the Chinese Communist Party's Roadmap for China's Global Resurgence," *Center for Strategic and International Studies*, March 2016

³⁶ As required under Regulation 13(3) of the Trade Remedies Act when determining whether adjustments should be made to production costs.

And goes on to conclude that “*Chinese workers have no possibility to freely choose or establish a trade union in which they want to organise themselves, because there is only one legally recognized trade union, the ACFTU. Furthermore, although collective bargaining of wages exists, it is not well developed.*” Moreover, the report notes that the close integration of the ACFTU and the Chinese State, along with the Chinese State’s role in many companies (particularly state owned enterprise) means the union effectively has limited independence to effectively act in the interest of workers to achieve wage settlements.

- Whilst significant reforms have been made since the 1980’s, the *hukou system* (household registration) still places significant restrictions on the ability of Chinese citizens to move and find employment – this is particularly the case in terms of rural workers moving to the largest cities. The system actively prevents many would be migrant workers from gaining access to education for children, healthcare, welfare and affordable accommodation – this works to discourage and reduce labour mobility and ultimately distort wages.
- Previous trade remedies investigations have confirmed the existence of distortions in the labour market, examples of which include: lack of independence of companies from the state, GOC intervening in decisions of companies in relation to hiring and dismissals, labour contracts signed by Chinese workers with no reference to hours or remuneration.

5 Distortions specific to the rebar industry

5.1 Australia’s continuation of anti-dumping measures on rebar

The Australian Anti-Dumping Commission recently (March 2021) completed a review for the continuation of anti-dumping measures on rebar from China³⁷.

The Commission’s previous analysis of raw material distortions on rebar inputs concluded³⁸:

The Commission considers that the significant influence of the GOC has distorted prices in the steel industry and rebar market in China. The Commission also considers that various plans, policies and taxation regimes have also distorted the prices of production inputs including (but not limited to) raw materials used to make steel in China, rendering them unsuitable for cost to make and sell (CTMS) calculations.

The Commission considers that the GOC influence in the iron and steel industry is most pronounced in the parts of that industry that might be described as upstream from rebar production. In particular, GOC-driven market distortions have resulted in artificially low prices for the key raw materials, as well as the other inputs associated with the production of the steel billets.

The Commission considers that direct and indirect influences of the GOC affect Chinese manufacturers’ costs to produce steel billet and therefore that Chinese exporters’ records do not reflect competitive market costs. The Commission has found that steel billet costs comprise 80 to 85 per cent of rebar CTMS.

The Commission highlighted the influence of the Chinese Government on Chinese rebar market and prices:

The Commission holds that the Chinese Government (including central, provincial and local governments) materially contributed to the excess supply of rebar steel in the domestic Chinese market and hence significantly influenced domestic price for Chinese rebar during the investigation period. This influence has occurred through the following mechanisms.

- *Chinese Government directives, subsidy programs and involvement in strategic enterprises.*
- *Taxation arrangements, including value add taxes and export rebates.*

³⁷ Australian Anti-Dumping Commission – Report No 560, Review of anti-dumping measures applying to steel reinforcing bar exported to Australia from the People’s Republic of China. 2 March 2021. [560 \(industry.gov.au\)](https://www.industry.gov.au/publications/560-report-no-560-review-of-anti-dumping-measures-applying-to-steel-reinforcing-bar-exported-to-australia-from-the-peoples-republic-of-china-2-march-2021)

³⁸ Australian Anti-Dumping Commission – Report No 300, Alleged dumping of steel reinforcing bar exported from the People’s Republic of China. March 2016. [063 - rep_300_0.pdf \(industry.gov.au\)](https://www.industry.gov.au/publications/063-rep-300-0.pdf)

The Commission holds that the Chinese Government also maintains significant interests in a number of major Chinese steel producers including some that produce rebar. Through its involvement in these companies, the Chinese Government is able to exert significant influence over the Chinese steel industry. In supporting this view, the CBSA's investigation in 'Certain Concrete Reinforced Bar' notes that the Chinese Government classifies the 'iron and steel industry' as a 'fundamental or pillar' industry and as such retains a minimum of 50 per cent equity in the principle enterprises.

The Commission concluded that the level of government influence resulted in a particular market situation in the Chinese rebar market.

As the Commission considers that there is a particular market situation in China, normal value may be determined on the basis of a cost construction or third country sales.

5.2 Canada's continuation of anti-dumping measures on rebar

In May 2020, the CBSA also completed a review for the continuation of anti-dumping measures on rebar from China, Korea and Turkey. In its original investigation of 2014³⁹, the CBSA finds:

The wide range and material nature of the GOC measures have resulted in significant influence on the Chinese steel industry including the long products steel sector, which includes concrete reinforcing bar. Based on the preceding, the President is of the opinion that:

- *domestic prices are substantially determined by the GOC; and*
- *there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market.*

6 Distortions affecting the wire rod industry

Rebar and steel rod are interchangeable in terms of production technology and are often produced in the same facility. Equipment used to manufacture HFP rebar can be used for the production of wire rod and all types of rebar. Rebar and wire rod also share the same inputs as they are both made from steel billet. Therefore the findings of wire rod investigations are also relevant to the rebar industry.

6.1 Australia's continuation of anti-dumping measures on steel rod in coil

The Australian Anti-Dumping Commission recently completed a review of anti-dumping measures on steel rod in coil from China⁴⁰.

The Commission's analysis of raw material distortions on wire rod inputs identified the following impacts on raw materials:

- export duties on steelmaking raw materials for chromium, crude steel, iron ore, coke, coking coal, manganese, molybdenum, pig iron, and steel scrap;
- the impact of the GOC's overarching macroeconomic policies and plans;
- non-automatic export licensing requirements for certain raw materials which gives the GOC control over the exportation of raw materials used in the production of steel rod in coil, generating extra transaction costs and hindering exporters ability to react quickly to sales opportunities;⁵⁴
- including chromium mines as part of the Chinese iron and steel industry in the GOC's National Steel Policy, which has been found to have impacted and distorted the cost of raw materials;⁵⁵ and
- defining chromium as a strategic mineral in the Plan, and the finding that these "strategic minerals are 'key elements of the mineral resources macro-control, supervision and management'" and "the plan mentions the role of governmental decision-making on the sector's development".

³⁹ [ARCHIVED - SIMA - Statement of Reasons - Final Determination - Certain Concrete Reinforcing Bar \(cbsa-asfc.gc.ca\)](#)

⁴⁰ Australian Anti-Dumping Commission – Report No 564, Review of anti-dumping measures applying to steel rod in coil exported to Australia from the People's Republic of China. 27 November 2020.

The Commission concluded that the level of government influence resulted in a particular market situation in the Chinese steel rod in coil market:

While the Commission is aware that the GOC has made significant efforts to reduce export tariffs and quotas for coke and coking coal, it is noted that scrap steel, iron ore and coking coal are still important raw materials in the manufacture of steel. While government tariff and quota measures have declined in recent years, they remain factors that are likely to distort the markets for these materials in China.

It is apparent in light of the information above, and the further analysis in the following sections, that government influence by the GOC has resulted in a particular market situation in the Chinese steel rod in coil market.

The Commission found that the price of steel billet, the main input to wire rod in coils, would be substantially different in a market not characterised by GOC influence:

The Commission therefore considers that the GOC's historic and continued involvement within the Chinese steel industry, through its policies, planning guidelines, plans and directives, materially contributed to the steel industry's overcapacity, oversupply and distorted structure during the review period. It is the Commission's view that the prices of steel billet would be substantially different in a market not characterised by GOC influence.

The Commission also found that “subsidy programs have directly contributed to conditions within the Chinese steel industry and steel rod in coil market during the review period”.

In addition, the Commission concluded that input prices are artificially low:

The Commission has previously identified evidence of export taxes and export quotas on a number of key inputs in the steel making process, including coking coal, coke, iron ore and scrap steel in Anti-Dumping Commission Report No. 198.83 The Commission found that these measures would keep input prices artificially low and create significant incentives for exporters to redirect these products into the domestic market, increasing domestic supply and reducing domestic prices to a level below what would have prevailed under normal competitive market conditions.

The Australian Anti-Dumping Commission concludes that market conditions are distorted and that there is a particular market situation on the Chinese domestic market for steel rod in coil.

The Commission has determined that the GOC has exerted influence on the Chinese steel industry, which has distorted competitive market conditions in the steel industry in China. The GOC was able to exert this influence through its directives and oversight, subsidy programs, taxation arrangements and the significant number of SOEs. As a result, the Commission considers that there is a particular market situation in the domestic market for steel rod in coil.

6.2 US findings on subsidies affecting the Chinese wire rod industry

The recent sunset review of the countervailing duty on carbon and certain alloy steel wire rod from China⁴¹ found the following countervailable programmes:

- **Preferential Loans, Policy Loans, and Directed Credit**
Chinese steel producing companies, including steel wire rod producers, get low-interest loans from state policy banks and state-owned commercial banks to fund their growth. The domestic interested parties contend that such subsidies are granted pursuant to political directives from the central or provincial governments, rather than creditworthiness or other market-based factors, and benefit SOEs and industries, such as the steel industry, that are favored by the GOC and in line with its goals.

⁴¹ US DOC – Issues and Decision Memorandum for the Expedited First Sunset Review of the Countervailing Duty Order on Carbon and Certain Alloy Steel Wire Rod from the People's Republic of China. C-570-013, March 24 2020.

- **Treasury Bond Loans or Grants**
China annually announces that certain projects will receive financial support through Treasury bond proceeds.
- **Development of Famous Brands and China World Top Brands Programs**
In 1992, the GOC initiated the Famous Brands Program to increase exports. According to the Office of the United States Trade Representative (USTR), the Famous Brands and China World Top Brands programs provide grants, loans, and other incentives to enterprises in China, in an effort to implement an industrial policy of promoting the development of global Chinese brand names, and to increase sales of Chinese branded and other Chinese merchandise around the world.
- **Sub-Central Government Subsidies for Development of Famous Brands and China World Top Brands**
In addition to the central government, a number of “sub-central” (i.e., provincial and local) governments in China have promulgated various policies to implement the goals of the Famous Export Brands and Top Brands programs. These programs provide additional financial support to companies with products designated as famous brands in order to increase sales of Chinese branded merchandise around the world.
- **Funds for Outward Expansion of Industries in Guangdong Province**
This program was established pursuant to Implementing Measures of Guangdong Province concerning the Support of Development of Outward Privately-Held Enterprises, and aims to provide eligible private enterprises located in the Guangdong Province with special funds to develop their export activities.
- **Provincial Fund for Fiscal and Technological Innovation**
This program is administered by the Provincial Department of Finance and Economic and Trade Commission of Guangdong Province pursuant to the Provisional Measures on Administration of Exploration and Renovation Provincial Level Fund, and provides grants to firms with the goal of promoting technological and fiscal innovation.
- **State Specific Fund for Promoting Key Industries and Innovation Technologies**
The National Development and Reform Commission and the Ministry of Industry and Information Technology provide a one-time grant, under a special fund for promoting key industries and innovation technologies, to assist eligible companies, including steel producers, to develop production facilities. To receive the grant, an eligible company must submit an application that includes information regarding its estimated export revenues.
- **Shandong Province’s Special Fund for the Establishment of Key Enterprise Technology Centers**
The purpose of the fund is to support the establishment of technical centers by key enterprises through providing funds for the purchase of equipment, training, technical cooperation, and communication. The legislation pursuant to which this program operates expressly limits access to the program to seven industrial chains and six pillar industries, including metallurgy.
- **Grants for Antidumping Investigations**
Several sub-central governments, including Shandong Province, Rizhao City, and Nanjing City, all offer grants to companies that made export sales and cooperated in antidumping investigations.
- **Shandong Province’s Award Fund for Industrialization of Key Energy-Saving Technology**
The purpose of this program is to encourage reductions in energy consumption and to accelerate the industrialization of key energy-saving technologies in Shandong Province, because the GOC has directed all levels of the government to support industries with high energy consumption, such as steel, and target those sectors for saving energy and reducing energy consumption.
- **Shandong Province’s Environmental Protection Industry R&D Funds**
The purpose of this fund is to promote pollution-preventing technologies and environmental product development, and to strengthen the innovation capability and market competitiveness of the environmental protection industry in Shandong Province. The GOC has directed all levels of the government to support industries with high energy consumption, such as steel, and target those sectors for saving energy and reducing energy consumption.
- **Shandong Province’s Construction Fund for Promotion of Key Industries**
A program that provides construction funds to steel wire rod producers in Shandong Province.

- **Waste Water Treatment Subsidies**
This grant program was offered by provincial governments to address the problem of waste water pollution.
- **Funds of Guangdong Province to Support the Adoption of E-Commerce by Foreign Trade Enterprises**
Guangdong Province provides grants to support the adoption of e-commerce by foreign trade enterprises. The Commission of Economy and Information Technology of Guangdong Province administers this program, which consists of four separate funds: (1) special fund; (2) fund of provincial strategic new emerging industry; (3) special fund of internet services industry; and (4) special fund for small and medium-enterprises.
- **Technology to Improve Trade R&D Fund**
The Jiangsu Treasury Department provides a special fund to companies in an effort to induce R&D activities related to export products. To receive this grant, a company must submit an application that includes information regarding its exports or potential exports.
- **Direct Government Grants to Hebei Iron & Steel**
Hebei Iron & Steel's 2012 Annual Report indicates that the company receives numerous grants from the GOC.
- **Provision of Steel Billet for LTAR**
Steel billet is almost exclusively produced and sold by SOEs, which receive extensive subsidies from the GOC. Thus, Chinese steel wire rod producers receive steel billet from SOEs for LTAR.
- **Provision of Electricity for LTAR**
Steel wire rod producers receive electricity from the GOC for LTAR.
- **The Provision of Land-Use Rights to SOEs for LTAR**
Chinese producers of steel wire rod are eligible to benefit from the government provision of land-use rights for LTAR in the form of granted rights to encouraged industries and allocated rights to SOEs.
- **Land-Use Rights Extension**
The GOC issues land-use certificates to holders of land-use rights, which effectively extend their land-use rights by additional years without additional consideration. Land-use rights may be extended when a company purchases land-use rights from another entity or a business consolidation such as merger or acquisition takes place.
- **Income Tax Reductions Under Article 28 of the EIT**
Enterprises that are designated as HNTes are entitled to pay a reduced tax rate of 15 percent instead of the standard corporate tax rate of 25 percent, according to Article 28 of the EIT.
- **Tax Offsets for R&D Under the EIT**
Article 30.1 of the EIT created a new program which allows enterprises to deduct research expenditures incurred in the development of new technologies, products, and processes.
- **The Two Free/Three Half Program for FIEs**
Article 8 of the FIE Tax Law exempts FIEs that are profitable and scheduled to operate for not less than ten years from income tax in their first two profitable years, and allows such companies to pay only half of the applicable tax rate for the following three years.
- **Income Tax Reductions for Export-Oriented FIEs**
FIEs may continue to pay half of its applicable income tax rate following the expiration of the "Two Free/Three Half Program" if exports constitute 70 percent of the company's sales. Additionally, export-oriented enterprises in specially-designated zones, already eligible to pay half the standard income tax rate, may receive a further rate reduction through this program.
- **Income Tax Benefits for FIEs Based on Geographic Locations**
"Productive" FIEs located in a coastal economic development zone, special economic zone or economic technology development zone receive preferential tax rates of either 15 or 24 percent, as opposed to the standard 25 percent rate.
- **Local Income Tax Exemption and Reduction Programs for "Productive" FIEs**
Local provinces can establish eligibility criteria and administer the application process for local income tax reductions or exemptions for FIEs, effectively extending the tax exemptions or reductions that are allowed to FIEs by the national "Two Free, Three Half program."
- **Tax Offsets for R&D by FIEs**
The GOC encourages R&D by FIEs by allowing tax offsets that permit the actual R&D expenses incurred in China which have increased ten percent or more from the previous year to be offset by 150 percent from the taxable income of the year.

- **Tax Refunds for Reinvestment of FIE Profits in Export-Oriented Enterprises**
FIEs that use profits to establish another FIE (or high technology company), or that reinvest those profits into the same FIE, can receive complete refunds of the corporate income tax already paid on the invested amount. The recipient of the investment must be export-oriented and scheduled to operate for at least five years to be eligible for the refund.
- **Preferential Tax Programs for FIEs Recognized as HNTEs**
The GOC provides preferential tax benefits to enterprises with foreign investment that are recognized as HNTEs, and for enterprises that are established in high or new technology industrial development zones. These benefits include a reduced income tax rate of 15 percent.
- **Tax Benefits to Enterprises in the Northeast Region**
Enterprises located in the Northeast Region (i.e., Liaoning, Jilin and Heilongjiang provinces) may: (1) reduce the depreciation life of fixed assets by up to 40 percent for tax purposes, thereby increasing the annual amount of depreciation expense that may be deducted from the company's income tax; and (2) lessen the period of amortization of intangible assets by up to 40 percent for tax purposes, resulting in a larger annual tax deduction for amortization expense.
- **Forgiveness of Tax Arrears for Enterprises Located in the Old Industrial Bases of Northeast China**
This program forgives all tax liabilities incurred prior to December 31, 1997, that have not been paid by enterprises located in the Liaoning, Jilin, and Heilongjiang provinces. The scope of the tax forgiveness includes surcharges for overdue tax payments, such as interest and penalties on the overdue taxes, and applies to both state-owned and private enterprises.
- **VAT and Import Duty Exemptions for Use of Imported Equipment**
The GOC exempts FIEs and certain domestic enterprises in encouraged industries, such as iron and steel, from paying VAT and tariffs on imported equipment that is used in production, but not resold.
- **VAT Rebates on FIE Purchases of Chinese-Made Equipment**
The GOC refunds the VAT on FIE purchases of certain domestically-produced equipment, such as equipment falling under the "Encouraged" and "Restricted B" categories listed in the Circular of the State Council Concerning the Adjustment in the Taxation Policy of Import Equipment, and equipment for projects listed in the Current Catalogue of Key Industries, Products and Technologies the Development of Which Is Encouraged by the State.
- **VAT and Tariff Exemptions for Purchases of Fixed Assets Under the Foreign Trade Development Fund Program**
The GOC allows businesses in northeast China in the high-tech, equipment manufacturing, petrochemical, metallurgical, and selected other industries to deduct VAT for purchases of fixed assets from the VAT for sales of finished goods.

This confirms that there are extensive subsidy schemes that distort the production and sale of wire rod and therefore also rebar in China.