August 2022

UK Steel Response to Statement of Essential Facts TD0010 – HFP Rebar from the People's Republic of China

Introduction

This submission provides UK Steel's formal response to the TRA's Statement of Essential Facts (SEF) for the transition review of anti-dumping measures applying to High Fatigue Performance (HFP) Steel Concrete Reinforcement Bars originating from the People's Republic of China (TD0010) published on 13 July.

UK Steel disagrees with the TRA's preliminary recommendation to revoke the anti-dumping measure on HFP Rebar on the grounds that the Economic Interest Test (EIT) has not been met. UK Steel believes the TRA has erred in its assessment of the EIT and the main points UK Steel disagrees with are as follows:

- **UK legislation establishes the presumption that the EIT is met** – the TRA has not adequately demonstrated in its SEF that this presumption should not apply in this case and has failed to provide sufficiently robust evidence to support its conclusions.
- **Maintaining the measure would only provide 'a small benefit' to UK producers** – the TRA gravely underestimated the threat of injury to UK producers and the market dynamics in China.
- **Maintaining the measure could lead to supply shortages** – the TRA erred in its assessment of the UK's reliance on Russia, Belarus and Ukraine and the demand outlook for the UK construction sector.
- **Protection of safeguards** – safeguards and anti-dumping measures have different purposes, scope, timeframe and China will be initially exempt from safeguards. The TRA based its conclusion on speculative assumptions around how long safeguards may be in place for and how quickly China's exemption might be reviewed.
- **The downstream sector is more economically significant –** the TRA has performed an overly simplified analysis of the economic significance of the downstream sector vs that of the producing sector. Such analysis sets dangerous precedents for future cases involving steel, where in virtually every case there will only ever be one or two UK producers for each product but multiple importers and consumers of the product. The focus should not simply be on the size of the sector, but the vulnerability of it to injury.
- **Competitive environment** – the TRA's conclusion that having only one producer acts against the domestic interest is incorrect and sets a worrying precedent for future steel cases in which there is only one UK producer. Injury resulting from the absence of the measure to the main UK producer in this case would be severely damaging to the UK supply chain and would hamper future investment in UK production.
- **Captive sales of verified producer** – the TRA's assumption that captive sales provide meaningful long-term protection against injury misunderstands the way the market operates and completely ignores the fact that the same captive sales existed in 2014-2016 when the injury first occurred.
- **Environmental considerations** – encouraging dumped imports from China is at odds with the UK's net-zero carbon objective and this can and should be taken account of within the EIT.

We therefore urge the TRA to reconsider its recommendation in its final determination.

1. Presumption that the EIT has been met

Schedule 4, Paragraph 25 (3) of the Taxation (Cross-border Trade) Act 2018 regarding the EIT states that for anti-dumping and countervailing investigations:

(3) ***That test is presumed to be met*** *unless the TRA or, as the case may be, the Secretary of State is satisfied that the application of the remedy is not in the economic interest of the United Kingdom.* (emphasis added)

In other words, the test is presumed to be met unless there is sufficient evidence to the contrary. This is critical in terms of where the burden of proof lies. The TRA must clearly demonstrate and be satisfied that the economic harm caused to the UK would be greater with the application of the measure than in its absence. In this case we do not believe the TRA has met this requirement, most critically due to the lack of robust or verifiable evidence presented in the SEF to support its conclusions that the EIT has not been met.

This is further demonstrated by the lack of participation from downstream users in this case and even when the TRA proactively reached out to 17 downstream businesses, only two responses were received. Even then, there was no response stating, and providing evidence, that the measure had been damaging during the now six years it has been in place.

If downstream businesses felt strongly about the measure and were concerned about the damage that its maintenance would do to their operations and supply of materials into the market, they would have voiced their concerns as they have done with other cases, for example steel safeguards. Instead, the TRA has decided to protect the interests of a group which has not called for it, is seemingly indifferent to the measure and is not particularly impacted by the measure, a fact confirmed by the TRA's own analysis.

By analysing financial data for eight importers and five prefabricators, the TRA finds positive average profits across the IP for all the selected businesses and positive average profit margins for all but one of the prefabricators. The TRA concludes that this implies resilience to the higher costs resulting from the existing measure. In contrast the TRA finds that the UK producer represents the most vulnerable part of the supply chain. The TRA's own analysis therefore contradicts its conclusions and shows no compelling evidence that the EIT is not met.

The only concerns raised by the entire HFP rebar consuming sector was one individual, anonymous, prefabricator who noted briefly, and without supporting evidence, that there could be some supply chain challenges if the measure was continued. Not only are such supply chain challenges the result of a wide range of factors (e.g. post-Covid dynamic, logistics and energy costs) all unrelated to this specific measure, but there is no credible evidence suggesting there has yet been any shortage of supply as a result of the war in Ukraine. In contrast, the threat of future injury to the UK producer of HFP rebar who has suffered demonstrable and verifiable past injury, and that by the TRA's own conclusions is likely to suffer injury again as a result of removing the measure, is deemed of less significance and has been largely discounted in the TRA's EIT.

To overcome the legal presumption in favour of the EIT being met, it is contingent on the TRA to present credible arguments backed up by robust evidence. As this submission demonstrates, the core arguments that the TRA puts forward to demonstrate the EIT has not been met are either unsubstantiated or incorrect, and set worrying precedents that could undermine many future cases involving steel products.

2. Maintaining the measure would provide only 'a small benefit' to UK producers

Given the damage that dumped imports of Chinese rebar inflicted on UK industry in 2014 and 2015, it is simply wrong to conclude that maintaining the measure would only provide modest benefits. Back in 2015, the huge surge of dumped rebar imports from China posed an existential threat to UK industry going from 1% to 47% of total market supply in just three years. The EU's original investigation found injury margins of between 18.4% and 22.5%[1] during the period of investigation in 2015. Such levels of injury are far from insignificant, and the TRA has failed to adequately demonstrate either why it believes injury of this level is only 'small', or why it believes such levels of injury would not occur again, particularly in light of its conclusion that some level of injury would occur.

Allowing that to happen again would put hundreds of jobs at risk and genuinely threaten continued production of rebar in the UK. Domestic rebar production is central to the UK's construction and infrastructure supply chain and its resilience, it would be extremely short-sighted to place this at risk for the negligible benefits to the wider UK economy that may be available through removing the measure.

[1] COMMISSION IMPLEMENTING REGULATION (EU) 2016/ 1246 - of 28 July 2016 - imposing a definitive anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China (europa.eu)

The TRA's own analysis concludes that the UK producer is the most vulnerable segment of the supply chain and this is further exacerbated in the current environment of high input costs, particularly electricity (highly relevant to the UK's electric arc furnace based production), and an uncertain demand outlook. While post-Covid steel demand saw a boost as economies around the world, including the UK, came out of lockdowns this is not something that will last. Even without a war disrupting the demand recovery, much of the post-pandemic restocking had already started to slow and demand patterns were expected to normalise as opposed to continue growing at a higher rate. Instead, we are now faced with the highest inflation rate since the 1980s and very likely a long recession[2], not the construction boom that the TRA foresees.

It is not just the weakened UK domestic market that increases the vulnerability of the UK producers but also the market dynamics in China that heighten the risk of a surge in dumped imports that could once again cause material injury to UK industry. Pressure for Chinese suppliers to increase exports will be especially high as China is seeing weakening demand domestically, particularly by the construction sector[3], a key consumer of HFP rebar, and compounded by further Covid-related lockdowns[4]. According to China's National Bureau of Statistics January to June latest economic data, China's real estate development investment fell by 5.4% year on year, the area of new housing construction fell by 34.4%, and sales of commercial housing fell by 22.2%. Chinese GDP in the first half of the year grew by just 2.5% year-on-year, while GDP in the second quarter was only 0.4% higher on year as a result of the Covid-19 resurgence. Despite government attempts to provide stimulus to the property sector, the continued credit problems of China's biggest developers cast doubt that any bounce back is sustainable[5]. Caixin data (referenced by Kallanish) also shows that only 15.15% of 247 key Chinese steelmakers registered positive profit margins in late June, compared with 83.55% in March.[6]

These factors will further increase the incentive for Chinese producers to seek export markets to direct excess volumes even at dumped prices. There are already reports of mounting steel inventories in China as a result of the weakening construction sector and increased exports as a result[7]. There are also reports of mills in China cutting production in response to weak demand but as markets remain oversupplied iron ore and steel prices in China have been falling[8]. As can be seen below, domestic Chinese rebar prices have fallen off a cliff in the last two months, confirming the weak demand as well as the weak sentiment for the rebar market in China.

Chart 1: Chinese rebar price FOT Shanghai CNY/tonne

[REDACTED FROM NON CONFIDENTIAL VERSION DUE TO KALLANISH COPYRIGHT]

Source: Kallanish (price series provided in Annex 1, tab 1.)

Despite some production cuts, these have not been enough to buoy the market as they have clearly not been as high as required to match the drop in demand. The capital-intensive nature of steel production means that steel mills must run at high levels of production capacity to recover fixed costs, so that when domestic demand weakens, rather than further cut production, producers will look for foreign markets to maintain as high capacity utilisation as they can. Indeed, this is precisely what is happening at the moment – despite Chinese government objectives to reduce production, Chinese monthly crude steel production has been increasing since February (up by 29% from 74MT in February to 97MT in May) and monthly exports have more than doubled over the period (from 3.3MT to 7MT). China's current monthly exports are higher than total annual UK production. Such is the ability of China to completely overwhelm the UK market and wipe out domestic industry.

[2] Bank Rate increased to 1.75% - August 2022 | Bank of England
[3] Crisis in China's Property Market Deepens With No End in Sight - Bloomberg
[4] More regions attract Chinese HRC amid weak domestic demand (kallanish.com), Iron ore collapses on recession fears (kallanish.com)
[5] China property shares soar on Beijing stimulus, despite continued debt crisis | China | The Guardian
[6] Ibid.
[7] Iron Ore's Crash Tests Faith in China's Stimulus Response - Bloomberg
[8] Iron ore collapses as steel markets panic (kallanish.com)

Chart 2: Chinese monthly crude steel production and exports of semi-finished and finished products [PRODUCTION DATA REDACTED DUE TO WORLDSTEEL COPYRIGHT]

Source: World Steel Association, Chinese National Statistics Office (via ISSB). (Data provided in Annex 1, tab 2.)

The TRA is also mistaken in its assumption that the price differential between Chinese and UK produced HFP rebar may be less pronounced than when the measure was previously imposed due to the removal of export rebates for certain types of HFP rebar. Again this ignores the weak domestic market in China and the willingness and ability of Chinese exporters to absorb losses so that an export rebate is far less critical and the effect of which is in any event partly offset by the removal of import duties on raw materials. Therefore the conclusion that the impact on UK prices of removing the measure would be modest is misguided. The TRA notes that HFP rebar is very price sensitive and that customers would readily switch to lower priced product given the limited product differentiation between imported and domestically produced HFP rebar. The TRA concedes that it is likely that if the prices of HFP rebar from China decreased, those products would gain market share. What happened back in 2015 could easily happen once again when half of the UK market was taken over by Chinese imports with dumping levels of more than 60%. Surely the TRA must then agree that this is a highly likely scenario to recur that would weigh heavily on UK prices and cause considerable reduction in the profitability and market share of the domestic producer.

The TRA has also erred in its conclusion that safeguards and Celsa's captive sales will adequately limit the injury and therefore reduce the benefit of the anti-dumping measure – this is addressed in detail in sections 4 and 7.

Given high production levels against waning domestic demand in China, combined with trade defence measures in key export markets, the likelihood of injurious dumping should the UK drop its measures is extremely high, especially when considering the relative size of the UK market. Therefore the TRA's conclusion is incorrect that maintaining the measures would only "lead to some benefit" for the UK producers and severely underestimates the damage that would be caused. The risk of dumping and level of injury is further heightened by the current dynamics in the Chinese market.

3. Maintaining the measure could lead to supply shortages

The TRA's assertion that there could be supply shortages if the measure is maintained is central to its recommendation but runs counter to all the evidence at hand. Moreover, it is deeply concerning that the TRA concludes that theoretical supply chain challenges should be addressed by allowing dumped steel from China into our market. There is no evidence of shortages in the supply of rebar at present or in recent months, when UK demand was higher than it will be in the foreseeable future and when the impact of the war in Ukraine on supply should already have been felt, as it is in the gas and grain markets. The safeguards quota utilisation for rebar also confirms that there is no current shortage of supply, being only 40% utilised last quarter and 54% the

one before. Quota utilisation is looking higher this quarter but there is still room to increase imports. Indeed, these quotas are oversized as they are based on 2015-2017 imports, which includes years when China was dumping, and imports had surged artificially.

The fact that there is no shortage or lack of availability to import is also confirmed by the fact that annual rebar imports in 2021 (413KT) were only marginally below 2019 levels (450KT) which reflects the impact of Brexit particularly in the first quarter of 2021 when UK imports and exports as a whole had reduced. Looking at the most recent January to May 2022 data, this indicates flows being back on track and set to exceed 2019 levels (232KT for five months and that includes two months since the war in Ukraine started). January to May 2022 rebar imports are already up 34% compared to the first five months of 2021 and 16% higher than January-May 2019. This demonstrates that importers are able to source HFP rebar and quota availability means that there is still space for these imports to increase even further.

On the other hand, not only are there no shortages based on the recently higher levels of demand, but in fact demand and the UK economy as a whole are set to contract as expected by virtually everyone from the Bank of England to a multitude of analysts and industry sources. The weak economic outlook, with most expecting a weakening of construction demand to occur, makes domestic industry even more vulnerable, and yet the TRA somehow foresees growing construction demand that will outstrip current supply. This conclusion seems to be largely based on the comments of a single anonymous prefabricator, with no further evidence presented to support it.

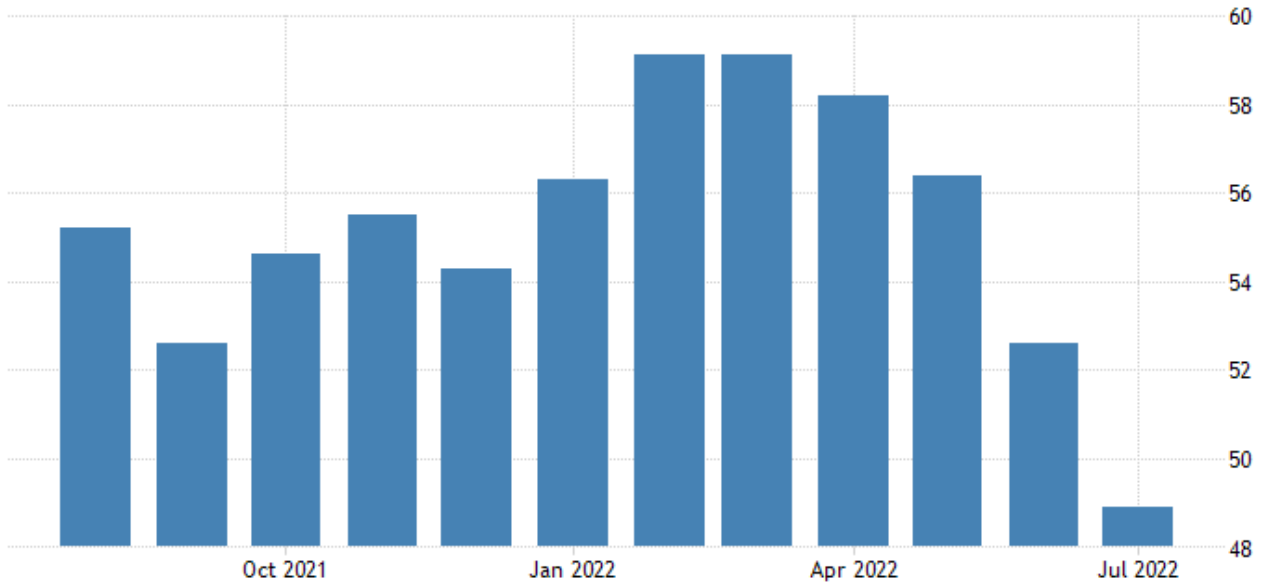
State of the UK market:

The TRA expects demand for HFP rebar to increase as the construction sector continues to recover following the COVID-19 pandemic. As already mentioned in the previous section, this is highly speculative and based on a very narrow frame of reference namely the period in which strong pent-up demand was released as the economy emerged from lockdown. Significant levels of restocking occurred during this period as well as a purchasing surge in anticipation of steadily rising prices after the outbreak of the war in Ukraine, but none of these factors are sustainable long-term drivers. We are now in a very different environment where warnings of recession are increasing, not least by the Bank of England which just last week raised interest rates for the sixth consecutive time and by the most in 27 years, forecasting the UK economy to shrink in the backend of this year and continue shrinking until the end of 2023. The expected recession is set to be the longest since the financial crisis, which back in 2008 hit the construction sector hard and took years to fully recover from.

All the latest economic data point to a slowdown in construction activity. The S&P Global/CIPS UK Construction Purchasing Managers Index (PMI)[9] for July pointed to a contraction in UK construction output for the first time in 18 months. The July PMI at 48.9 is now below the 50 point threshold indicating a reduction in construction output and the weakest reading since May 2020 at the height of the pandemic. This is down from 52.6 for June, and 56.4 in May which were already pointing to a slower pace of expansion and a loss in momentum in UK construction activity, well below the peaks of over 59.1 in February and March. Market sentiment and business optimism have been on the decline for the past six months. The latest data now point to a downturn in residential work (49.4) and a sharp drop in civil engineering activity (40.1) which more than offset some gentle expansion in the commercial segment (52.3), but even here this is the weakest growth in 18 months. July data shows new orders increasing, but again at a much slower pace than the first half of the year, with construction companies citing a lack of new projects to replace completed ones.

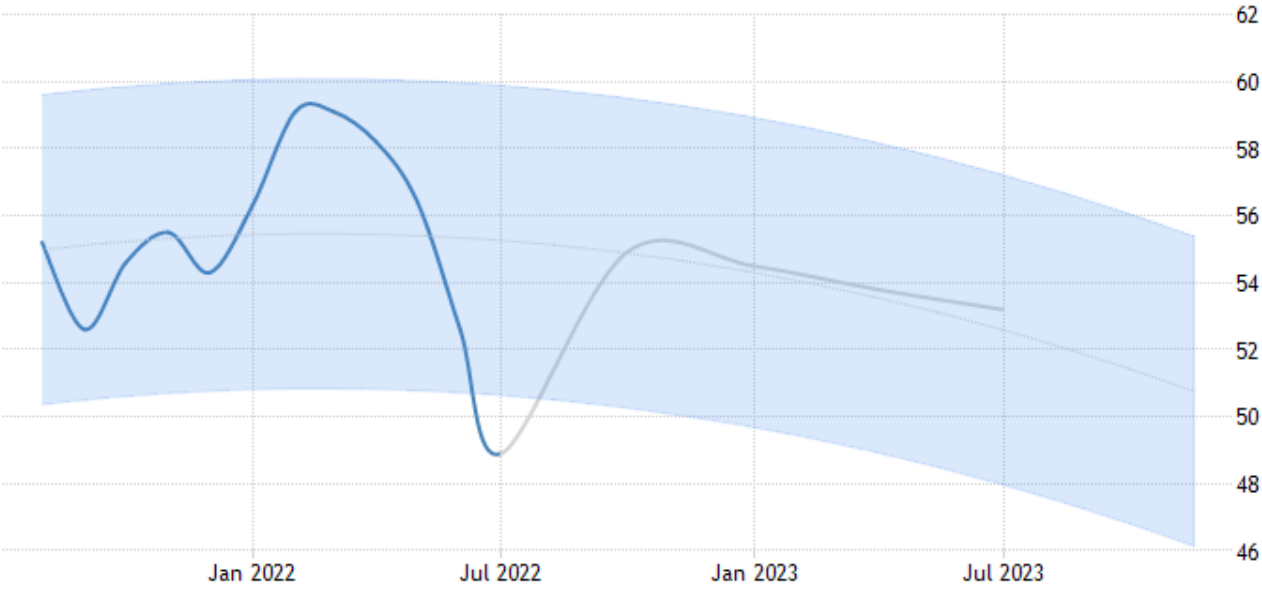
[9] https://www.pmi.spglobal.com/Public/Home/PressRelease/18e38b512f3647c295e77d539721a495

Chart 3: S&P Global/CIPS UK Construction PMI



The UK's Construction PMI is forecast to trend around 52.9 points in 2023 and 53.70 points in 2024, according to Trading Economics, which indicates expectations of only moderate growth in construction output.[10] Bearing in mind that every month since March all forecasts have been consistently revised downwards, this could be seen as an optimistic scenario.

Chart 4: Trading Economics UK Construction PMI Forecast



The Construction Products Association (CPA) also foresees a slowing of construction growth in its Summer Forecast 2022, with construction output expected to rise only by 2.5% in 2022 and 1.6% in 2023.[11] The CPA confirms the S&P Global/CIPS view that a slowdown in the private housing sector is offsetting growth in infrastructure and warehouse building. GlobalData forecast 2022 construction growth slightly higher at 3.4%, however that still leaves output below 2019 levels.[12] The data and analytics company notes that recent construction growth is unlikely to continue as downside risks have intensified in the shape of inflationary

[10] United Kingdom Construction PMI - June 2022 Data - 2008-2021 Historical (tradingeconomics.com)
[11] CPA Summer Forecast 2022 (constructionproducts.org.uk)
[12] Impressive growth in the UK construction industry unlikely to continue in the coming quarters, says GlobalData - GlobalData

pressures on energy and key construction materials, as well as rising interest rates and the broader bearish economic outlook.

Similarly, Oxford Economics forecasts modest recovery to construction GVA but still way below pre-pandemic levels at £[REDACTED FOR COPYRIGHT REASONS] and £[REDACTED FOR COPYRIGHT REASONS] billion for 2022 and 2023 respectively compared to £[REDACTED FOR COPYRIGHT REASONS] billion per year over 2017-2019. Total steel demand by the construction sector is estimated by UK Steel to have amounted to [REDACTED] million tonnes in 2021 (based on assumptions around the proportion of each steel product consumed by the construction sector including hot and cold rolled coil, rebar, merchant bar, wire rod, sections, plates and tube products) which is still well below the [REDACTED] million tonnes pre-pandemic. Based on the Oxford Economics GVA forecast and the historical GVA correlation with construction steel demand, UK Steel forecasts a 3% year on year increase in steel demand for 2022 at [REDACTED] million tonnes and a further 2% in 2023 at [REDACTED] million tonnes, which is again in line or below the pre-pandemic levels.

UK Steel's analysis hopefully helps further illustrate the point but even if the TRA wishes to discount it for concerns of impartiality, then all other independent sources also make the same point and confirm that there is no expectation for construction demand to grow beyond pre-pandemic levels. Therefore there should be no concern that domestic supply combined with the wide range of import options available can easily meet the needs of the UK construction sector for the foreseeable future. Demand was higher in 2017 and 2018 when the measure was already in place and this posed no challenges to the UK construction sector and its supply chain.

Table 1: UK Construction GVA and steel demand by the construction sector – Historical & Forecast [INDEXED IN NON CONFIDENTIAL VERSION]

Year	Construction GVA (Billions £)	Steel demand (Tonnes)
2017	100	100
2018	100	97
2019	102	94
2020	88	75
2021	86	90
2022	90	93
2023	92	95

Source: GVA historical data and forecast sourced from Oxford Economics, Historical steel demand data at product level sourced from ISSB, Steel demand forecast by UK Steel (data provided in Annex 1, tab 3.)

The above is based on May data, and as noted earlier, all forecasts have been revised downward each month and will continue to do so the longer the war lasts. Oxford Economics have produced some analysis for UK GDP and UK overall Manufacturing GVA (which includes construction) based on a downside scenario of war in Ukraine lasting until 2023 and with further sanctions applied from both sides. Based on this, Oxford Economics forecast a recession for 2023 with a -0.48% decline in UK GDP and a -1.16% drop in UK Manufacturing GVA. The analysis was originally produced shortly after the start of the war but was then revised downwards in May as can be seen below.

Table 2: UK Manufacturing GVA Forecast [RANGES PROVIDED FOR NON CONFIDENTIAL VERSION]

	Q2 forecast		Q1 forecast	
	Baseline forecast	Protracted war scenario	Baseline forecast	Protracted war scenario
2022	[2-3]%	[1-2]%	[3-4]%	[2-3] %
2023	[1-2]%	[-1-2]%	[2-3]%	[0-1]%

Source: Oxford Economics

Based on a wide variety of sources, it should be clear that there is no boom in construction activity to be expected in the coming years. Far from it, all indicators point to a slowdown in activity and at best some modest growth in construction demand which is not expected to exceed pre-pandemic levels.

Impact of war in Ukraine and sanctions:

Rebar is not a speciality product, it is a highly commoditised and internationally traded product which can be easily sourced from multiple origins and does not depend on particular countries, certainly not Russia or Belarus as highlighted by the TRA. Virtually every steel producing country in the world produces rebar.

The TRA claims that Belarus, Russia and Ukraine are three of the UK's biggest international suppliers, but the TRA's own analysis, as shown in Table 15 of the SEF, shows that there have been considerable fluctuations in the share of imports coming from these three countries in recent years. On the whole, the UK's HFP rebar imports are varied in origin which is not surprising for a commodity product which as mentioned is highly price sensitive and can be provided by a multitude of different sources. Portugal is the main consistent source of imports accounting for 20-30% of rebar imports into the UK per year over the last five years. Turkey, Belarus and Spain are also regular suppliers to the UK but with considerable variation to their import share from year to year. There are also opportunistic sales made by a number of other countries not listed in the table below, as rebar is a commodity product and imports are price driven.

Table 3: Main suppliers of UK HFP rebar imports 2017-2022

Origin	2017	2018	2019	2020	2021	2022 (Jan-May)
FRANCE	4%	5%	3%	5%	5%	4%
PORTUGAL	26%	22%	22%	27%	29%	31%
SPAIN	9%	6%	9%	17%	13%	3%
TURKEY	20%	21%	17%	3%	8%	28%
UKRAINE	8%	12%	5%	0%	2%	0%
BELARUS	9%	12%	23%	28%	1%	10%
RUSSIA	5%	3%	4%	3%	11%	1%
ALGERIA	0%	0%	0%	1%	9%	3%
INDIA	0%	0%	0%	0%	3%	4%

Source: HMRC via ISSB, (data provided in Annex 1, tab 4.)

Imports from Belarus increased sharply in 2019-2020 supplying around 100KT to account for over 20% of UK imports. But the UK is far from reliant on this supply and indeed imported only 2.5KT from Belarus in 2021 and 23KT in the first five months of 2022. Furthermore, the surge in imports in 2019 and 2020 were also at prices that significantly undercut other origins and industry had concerns over dumping at the time. Imports from Russia typically account for less than 5% except for one year when they rose to 11% in 2021. Ukraine has also not represented more than 5% of UK imports since 2019 and imports dropped well before the outbreak of the war. Increasingly there have also been new entrants in the UK market with imports from Algeria increasing sharply to 44KT in 2021 from barely any previously and have continued to flow in the first half of 2022, while India is increasingly showing a greater presence in steel export markets including HFP rebar to the UK. The UK is clearly not dependent on supply from Russia, Belarus and Ukraine, but even ignoring that, the impact on UK HFP rebar supply and damage to the UK supply chain would be far greater if UK domestic production were disrupted.

Impact of dumping on supply chain:

It is highly questionable to conclude that dumped imports are the solution to any supply chain difficulties, perceived or actual. UK Steel will continue to argue that claims around HFP rebar shortages in the UK are merely perceived and unsubstantiated, but that aside, there is a serious question of principle here. Surely saying that dumping is the answer to any supply chain challenges is not a sustainable option and not one that ultimately benefits the UK supply chain. When China dumped rebar into the UK back in 2015, it crowded out virtually all other suppliers, making the UK overly dependent on a single origin of imports and which is ultimately to the detriment of the UK supply chain long-term. The recent lockdowns in China following COVID-19 resurgence when the rest of the world was operating normally is but one example of how over-reliance on imports and even worse, imports from a singular country, can jeopardise the UK's security of supply. Furthermore, dumping puts at risk the domestic supplier who is best placed to supply consistently and with shorter lead times. Should the UK market be once again exposed to the levels of dumping from 2015-2016 over a long period of time, this could end rebar production in UK, and ensure no new entrants into the domestic market. This would be the worst possible outcome for UK security of supply.

4. Safeguards provide adequate protection

The TRA argues that steel safeguards offer alternative protection to the UK rebar industry and therefore the anti-dumping measure is now less necessary. But as previously submitted by UK Steel, these are not only different measures serving different purposes, but crucially, the current safeguards cover a much more limited timeframe than the rebar anti-dumping measure and therefore cannot be counted on for protection, especially given that China is presently exempt from the safeguard on rebar.

The safeguard measures are due to expire in June 2024 providing no protection at all after this point. The TRA notes the possibility of a safeguard extension until 2026, but this is extremely uncertain to say the least. An extension of the anti-dumping measure would provide critical protection for at least two years beyond 2024. Additionally, currently China is exempt from the safeguards on rebar, as it is considered a developing country whose exports to the UK fall below the 3% threshold. But the reason for this is precisely because anti-dumping measures have been in place on this product. If the anti-dumping duty was dropped, there would be no safeguarding mechanism in place at least for a period of time until the developing country exemption was reassessed. Recent experience has shown this would take around a year, in which time China could export unlimited quantities causing massive damage to the UK market. We could then have a year where Chinese rebar imports were limited to around 20% of current market supply (circa [100-120]KT), still enough to cause significant damage, followed a year later by the scheduled expiry of all safeguard measures. Therefore the view that the current safeguard measures can provide adequate alternative protection against dumping of Chinese rebar is misplaced.

Considering that safeguards are likely to only offer protection for another two years, of which realistically possibly only one year or less may be covered by a rebar safeguard on China given the exemption and when accounting for process delays, it should be clear that safeguards cannot in reality constrain dumping and injury in this case. More broadly, safeguards and anti-dumping measures of course serve different purposes and we are concerned by the precedent set for any future cases over the next two years. Safeguards will protect from surges in imports and trade diversion but cannot guarantee that imports are coming at non-dumped prices. WTO rules and the UK trade remedies framework allow for both types of measure to apply simultaneously for this reason. For products that are subject to both measures, only one of the two duties applies at any one time; the stated AD duty applies until the quota is exhausted, after which time both apply but the AD rate is adjusted to ensure that the maximum charged is either 25% or the stated AD duty level, whichever is the higher. Safeguard measures act to limit imports above a certain level, and therefore will have some impact on the volumes of dumping. However, dumping is perfectly possible within the volumes allowed by a TRQ.

The European Commission agrees with this assessment and this is presented in numerous reviews in response to exporter requests to remove a measure when a safeguard and anti-dumping/anti-subsidy duty apply at the same time. There are numerous products in the EU with anti-dumping and anti-subsidy measures in place that are also subject to safeguards and the EU robustly addresses exporter requests against a dual measure, including in the latest safeguard functional review[13] where it states:

(77) Some interested parties claimed that the Commission lifted the safeguard measure for those product categories that are subject to anti-dumping and/or countervailing duties as, they claimed, they would grant the Union industry sufficient protection.

(78) The Commission recalled that the rationale and objective of the safeguard instrument and that of other trade defence instruments is different, as they do not address the same issues. While safeguards deal with increase imports being the result of unforeseen developments, anti-dumping and countervailing instruments deal with unfair trading practices. One can consider a situation where a country is found to be dumping in a given product category at a point in time, and that later on, a surge of imports resulting from unforeseen developments nevertheless takes place from a combination of origins. In addition, the scope of both instruments in terms of the origins covered is usually substantially different, as so are the types of investigations conducted, including procedural rules. Applying both instruments on a given product category simultaneously is thus fully compatible under both WTO and EU rules.

[13] Point 4.6. EUR-Lex - 32022R0978 - EN - EUR-Lex (europa.eu)

If safeguards offered adequate protection, then the EU would just remove all other anti-dumping and countervailing duties. Similarly the US has Section 232 tariffs in place but this does not prevent it from having over 150[14] anti-dumping and countervailing measures in place.

But general principle aside, we would like to reiterate that in this particular case, any possible mitigation of dumping and injury by the safeguard is even less plausible given the aforementioned differences in timeframe, made even worse by China's exemption from the safeguard for the foreseeable future. The TRA therefore must recognise that the UK's steel safeguards cannot be used as justification that dumping and injury would be minimised.

5. The downstream sector is more economically significant than UK producers

The TRA contends that while UK producers represent the most vulnerable segment of the supply chain, they are not as economically significant as the downstream sector and hold too large a market share, therefore swaying the economic interest considerations. This logic is misguided and sets a dangerous precedent for future cases involving steel products. For most steel products there is only one or two UK producers, the market is simply not big enough to support more than this. Even outside of the UK, the downstream sector(s) will always be larger in simple GVA terms purely because of their position in the supply chain.

According to the TRA's logic here there should rarely be any trade remedies measures on steel products. While Celsa Steel is the main domestic supplier of HFP rebar in the UK and is the one the TRA verified, it is not true that it is the only domestic producer. When considering the impact of the measure being removed this is not only in relation to current production but also future production and investment. Liberty Steel have production capacity of the product in question and certainly intend to produce in future, but this would be hampered if the UK market conditions were unfavourable. Furthermore, dumped HFP rebar imports into the UK would also block any investment plans such as those published by the Ardesier Port Authority in Scotland where there are plans to build a new renewable-powered electric arc furnace utilising scrap from a decommissioned oil rig to produce reinforcement steel over the next five years.[15]

Meanwhile, all of the TRA's analysis points to rebar being an insignificant fraction of the costs for the construction sector and for importers and prefabricators to have high resilience, showing positive profit margins. The TRA concludes that of all the segments of the supply chain, the UK producer is the most vulnerable and the only one who made losses throughout the IP. Surely based on this analysis, the only sensible outcome would be to conclude that on balance the risk to the UK producer is much larger than for any other part of the supply chain and given the central role of the UK producer to domestic supply chain resilience, maintaining the measure would ultimately be to everyone's benefit in the long run. The EIT is not something that should just be measured in terms of employee numbers and GVA contributions, but should crucially consider the bigger picture and the importance of the measure relative to each group. For Celsa, the measure is of existential significance; for importers and prefabricators, the existence or not of the measure will have marginal effect and does not threaten the entirety of their business.

Even if we were to purely examine and compare the GVA and employment numbers, the TRA has overestimated the relevance of this measure to the downstream sector as it has not compared employment in rebar production with employment in purely rebar import and fabrication. Already the TRA recognises the limitations of the data it has used particularly in relation to importers and that the measure of rebar import value relative to importer turnover is likely an overestimate. But in addition to that, when the TRA measures the jobs supported by importers, these are not pro-rated based on those occupied by rebar imports but are based on total numbers of employees many of which are likely unrelated to the import of rebar. Clearly the relevance of the measure to these jobs is not equivalent to the relevance for the employees of a rebar producer.

The TRA notes that for importers HFP rebar is highly significant based on the value of imports of the product versus importer turnover. However, this is hardly surprising given that rebar is one of the most commoditised

[14] Section 232 Investigation on the Effect of Imports of Steel on U.S. National Security | U.S. Department of Commerce
[15] Ardersier Port Authority (ap.uk)

products and therefore it makes sense that its value represents a larger share of turnover. But equally an importer is hardly tied to this product, they have flexibility to import wherever they see opportunity and are not tied by any significant capital investment or fixed costs in the way a steel producer is. It is also worth noting that the anti-dumping measure has not directly resulted in higher costs for importers given that virtually no one is paying the tariff to import from China and this is a commodity product which is very easy to replace from other origins. Overall, importers and prefabricators have far greater flexibility to adapt and source from elsewhere. This is evidenced by the lack of participation by downstream participants in this case and by the lack of injury suffered throughout the period the measure has been in place.

Finally, the TRA automatically assumes that importers would benefit from a removal of the measure, when actually some importers could suffer if their suppliers are crowded out of the market. As an example, in the Chinese PSC wire and strands anti-dumping case (TD0003) an importer of the product in question but not from China was in favour of retention of the measure and submitted that the sharp rise of imports from China had a disruptive and distortionary effect on the market (Kromat Trading Limited pre-sampling questionnaire published on 9 October 2020). That is not to presume that this importer would support maintaining the measure in this particular case, but it is to make the point that there should not be a general presumption that all importers are against all import tariffs. Therefore the TRA should not predetermine that all importers would favour and benefit from a removal of the measure in its cost-benefit analysis.

6. Competitive environment

The TRA contends that Celsa Steel has a large market share and maintaining the measure could cause the UK market to be more concentrated, however this assessment is incorrect. First, maintaining the measure would support a favourable environment for Liberty Steel to commence production and for other investments to go ahead, as the one announced by the Ardesier Port Authority mentioned earlier. On the other hand, dropping the measure exposes the UK to the real risk of not having a domestic producer at all, which would be much more damaging to the supply chain and the competitive environment. Neither will the diversity of import sources be improved, as claimed by the TRA, simply because Chinese dumped imports have the capacity to very quickly dominate the import market as back in 2015 when they very quickly controlled 63% of the import market from virtually none three years prior. This resulted in crowding out other origins and making the UK market less attractive by keeping prices suppressed. Therefore there is no argument to be made that removing the measure would improve supply chain resilience and the competitive environment.

7. Captive sales of verified producer

The notion that just because the majority of Celsa's sales are directed to associated parties, these sales and market share would be unaffected by cheaper imports from China in the short-term is misguided. Rebar is a highly commoditised product and therefore highly price sensitive, as noted by the TRA. This means that UK producers can quickly lose customers who would easily switch to the cheapest source, therefore resulting in lower sales, production and capacity utilization. That could leave UK producers with no choice but to lower their prices, leading to further injury. Even if the producer does not lose their customers, these customers will be demanding prices that are in line with market prices and therefore it is implausible to assume that the producer would somehow have the bargaining power to sell at a premium to the market price. Captive sales do not mean that these sales do not react to market forces – if the producer does not reduce the prices of its internal sales, then its own fabricators would lose market share. Clearly Celsa already operated in a captive sales environment back in 2015 and this did not prevent injury from occurring. Back in 2015-2016, the European Commission found injury margins of 18.4-22.5%[16] and Celsa was of course one of the main Union producers and, as the TRA notes, the EU HFP Rebar case was conducted with full consideration of the UK industry. If captive sales did not prevent injury back then, there is no reason why they would now.

8. Environmental impacts

There are clear environmental implications of removing the measure and it is within the TRA's capacity to consider this as part of the EIT should the TRA deem it is relevant. Removing dumping duties on Chinese

[16] COMMISSION IMPLEMENTING REGULATION (EU) 2016/ 1246 - of 28 July 2016 - imposing a definitive anti-dumping duty on imports of high fatigue performance steel concrete reinforcement bars originating in the People's Republic of China (europa.eu)

imports at a time when the UK has ambitions to lead on net-zero steel is surely at odds with government objectives. Rebar produced in the UK is entirely from recycled steel using increasingly green electricity. To substitute this for a product made halfway around the world in blast-furnaces seems counterproductive. The UK Steel submission stated that UK carbon emissions per tonne of crude steel produced are estimated at around 1.6 tonnes versus 1.85 tonnes of CO2 globally.[17] This however includes production from both blast furnaces and electric arc furnaces in the UK. Celsa and Liberty both produce through the arc furnace route using scrap and therefore their carbon footprint will be even lower than the UK average. Celsa's rod and bar mill emits [CONFIDENTIAL] tonnes of CO2 per tonne of steel produced and this includes scope 1, 2 and 3 emissions. This is considerably lower than the global average and markedly lower than the blast furnace produced Chinese rebar.

In the SEF, the TRA comments on the environmental argument as follows:

In the section covering other relevant matters, we estimated that maintaining the measure as recommended could lead to lower global emissions. This is an international benefit and so only partially in scope of the EIT.

We recognise that public interest considerations are not strictly within the TRA's remit. But even from an economic interest perspective, the UK stands to lose out from lagging in decarbonising its steel sector. Net zero will be a central pillar of development and investment for the UK economy in the coming decades. Undermining this and discounting its significance is not only short-sighted but also underestimates the huge degree of transformation that the UK's steel sector will need to undertake to secure its future. In order to remain competitive long term and retain these highly skilled well-paid jobs in the UK, the decarbonisation of UK steelmaking is vital.

In the next few years the EU will be introducing a Carbon Border Adjustment Mechanism (CBAM) which will penalise high emission steel with tariffs. This could see UK exports to the EU suffer if the pace of decarbonisation doesn't pick up. Even worse, if the UK does not introduce an equivalent CBAM, then large volumes of high emission steel could be diverted to the UK, putting UK production and jobs at risk. Decarbonisation is essential for the future of the UK steel industry and will require a huge amount of investment. This in turn requires an environment which makes the UK steel industry an attractive investment proposition for the international parent companies who own them. A market which is exposed to damaging dumped imports is exactly the opposite of what is required at this critical period of transition. In this sense we believe there are good reasons why the environmental impact can and should be part of the EIT.

[17] WorldSteel, CO2 Data Collection Summary Report 2018