

TD 0010

**High Fatigue Performance Steel Concrete
Reinforcement Bars (REBAR)
From China**

**Meeting for China Iron and Steel Association
(CISA)**

28 March 2022

[Non-Confidential Version]

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Procedural Observations (1)

- **Absence of Domestic Legal Basis**

- ❖ UK has applied a *de facto* expiry review of measures imposed by the EU in 2016
- ❖ On 31 December 2020 (effectiveness of Brexit), the UK took over EU measures in relation to rebar in its own legal order
- ❖ However, this situation is **legally questionable** – no legal succession from Brexit
- ❖ Legal relationship between the UK and the EU is governed by independent international agreements
 - ❑ UK has entered into separate agreements with the EU
- ❖ **So why are third countries still bound by EU measures in their independent relationships with the UK?**

Procedural Observations (2)

- **Absence of International Legal Basis**

- ❖ WTO ADA requires a determination of the **domestic market** in the initial investigation

*a determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices **in the domestic market** for like products, and (b) the consequent impact of these imports **on domestic producers** of such products*

- ❖ As well as transition review by **the authority**

***the authorities** shall review the need for the continued imposition of the duty*

- ❖ Both conditions are violated:

- ☐ **Measures adopted following a determination of the EU market, by the EU Commission**

- ❖ **Investigation is unlawful continuation of EU measures, without an assessment ever having been made in relation to the UK market**

Authority of course **welcome to conduct autonomous investigation**

Comments on Allegations of Injury

- Findings in relation to state of EU producers **cannot be taken over for the UK** market without independent assessment having occurred first
- UK producers already benefit from **double protection** under **UK safeguard measures on certain steel products**
 - ❖ Safeguard measures take form of tariff-rate quota with ceiling
 - ❖ Imports of rebar from may not exceed 3% of total (developing country status)
 - ❖ Safeguard duty is even higher than anti-dumping duty
 - ❖ As a result, even if anti-dumping measures were removed, **imports would not increase** without being subject to higher safeguard duties
- **Conclusion: No state of injury ever assessed for UK producers, and no threat of injury whatsoever**
- **Unclear how normal value is to be constructed in absence of exporter's information**

Recent Developments (1)

- **Expiry of EU measures**

- ❖ EU measures targeting rebar have expired (**without initiation of expiry review**) on 30 July 2021
- ❖ **Bizarre situation** where UK transition review actually is undertaken on the basis of lapsed EU measures
- ❖ Decrease of risk of any trade diversion

- **Negligible imports** of rebar from China into UK market

- ❖ Proportion of Chinese imports from 1 April 2017 – 31 March 2021 **never exceeded 1.6%** (average 1.14% in last year)

- **Cancellation of VAT rebates**

- ❖ Chinese Ministry of Finance announced unambiguous lapsing of VAT export rebates for steel products, including rebar – **significant decrease expected**

Recent Developments (2)

- Impact of EU / UK sanctions

- ❖ Due to the regrettable situation in Ukraine, far-reaching and **enormously significant impact** on imports from Russian / Belarus
- ❖ EU and UK have adopted hundreds of asset freezes and travel restrictions
- ❖ Various financial measures targeting Russian economy
- ❖ Import restrictions targeting Belarusian and Russian steel, **both in the EU and the UK**
 - ▲ (in the UK) Russian imports of iron and steel products will face an additional tariff increase of 35 percentage points, over and above any existing tariff rate
- ❖ Uncertainty on Russia's MFN status
- ❖ Situation on the ground will affect Ukrainian imports
- ❖ Both **Ukraine** and **Belarus** received “country-specific quota” in the UK steel safeguard measures. *It indicates that both countries were major exporting countries of rebar to the UK market.*
- Expectation of immediate decrease of imports from Russia, Belarus and Ukraine – Heavy reliance on these sources for UK imports
 - ❖ Should prompt immediate cessation of transition review.

Recent Developments (3)

- UK Imports under Section 232

- ❖ As of 1 June 2022, the US will replace the existing 25% tariff on UK steel imports with a tariff-rate quota.
- ❖ The quote will be set at **0,5 Million Metric Tons** with 54 product categories and allocated in line with the 2018-2019 historical period
- ❖ Steel products (**including rebar**, HTS code: 7214200000 and 7228308010) from the UK that are within-quota will **enter free of any Section 232 duty**
- ❖ TRQ arrangements will provide **significant tariff relief for UK exporters. UK rebar producers are expected to improve their export performance.**

Responses to UK Steel Submission

- Recurrence of Injurious Dumping

- ❖ **Not a single investigation has ever found** existence of dumping in UK market of rebar – “recurrence” impossible
- ❖ Negligible market share, recent developments and double protection make **threat of injury incredibly unlikely**

- Alleged market distortions in China

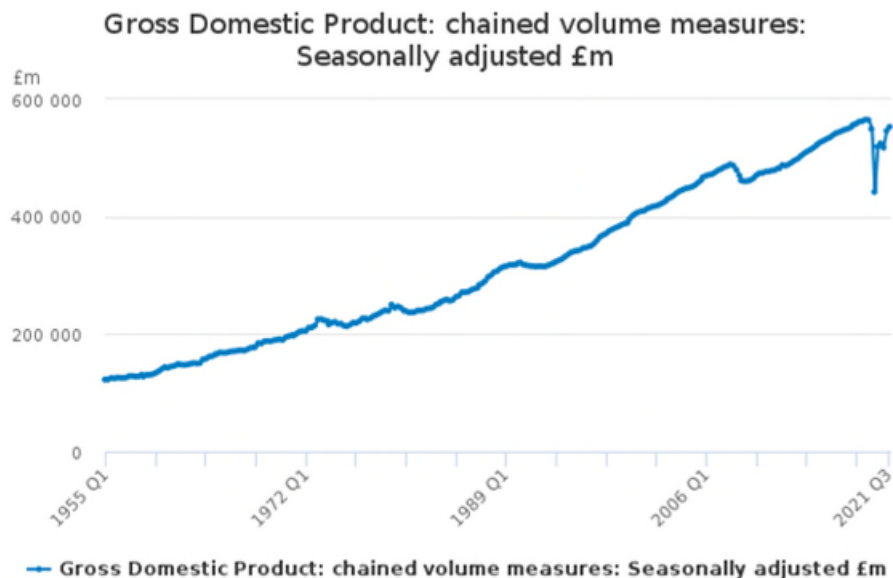
- ❖ Based on **unfactual and erroneous perceptions on Chinese legal system**
- ❖ UK industry has multiple examples of similar guidance documents (UK Parliament November 2021 Report)
- ❖ Reliance on third country findings constitute **reversal of burden of proof**

Causality

- Various causality-breaking factors

- ❖ Period of investigation coincides with height of COVID-19 pandemic

- April 2020 – March 2021



Crisis is a **demand-side crisis**, which alone **breaks causality** between:

imports (already negligible); and

state of industry (not injured)

Economic Interest

- Not in the UK's interest to continue measures

- ❖ Ongoing supply chain crisis:

- ❑ Steel was one of the **most in-demand products among manufacturers** at the end of 2021

- ❑ Third most-sourced product

- ❖ Industry concerns on restricted supply – made by UK industry in the EU initial investigation

- ❑ UK industry had **no opportunity** to comment on non-existing UK investigation

- ❑ Independent fabricators require diversified and price-competitive supply of rebar products

- ❑ Importance of jobs in downstream industries

Further Discussions on the Product Scope (1)

Reflection of the Original Investigation in the EU (AD 619)

“ISTA members report that **all Chinese material imported to the UK from outside the EU is Grade 500B**. This grade is used in virtually all UK construction, unless 500C is specifically requested, typically for seismic projects like Nuclear or those in Earthquake zones. A, B, and C relate to Ductility of the steel. **A is the lowest; C is the highest**. Grade C has both maximum and minimum applied to Yield Strength and higher levels of elongation and stress ratio than required in the old BS4449:1997 Grade 460B standard. Grade C also has a different rib pattern on the bar to distinguish it from Grade A or B. Members report that the UK Rebar producer is pushing for Grade C to become the norm for all Rebar.

500B is the standard Rebar grade produced in the majority of European countries, although many have the capability of producing 500C if required.....

The UK Rebar mill only produces 500C and uses this to market their product as better than all others. Producing Grade C has little impact on production costs but would require more stringent testing.”

Confidential information, with the submission of the International Steel Trade Association (ISTA) in the EU original investigation (AD 619)

Who were the producers of Grade 500 B in the EU? (before Brexit)?

Answer: NOT UK Mills!

List of Union Producers: (in AD 619)



a) *Union producers*

- Celsa UK, United Kingdom
- Megasa Siderur, Spain
- Riva Acier, France
- SN Maia, Portugal

Further Discussions on the Product Scope (2)

Reflection of the Original Investigation in the EU (AD 619)

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

- (43) In response to these claims, the Commission notes that the investigation showed that there are different standards and grades used in the construction industries in different Member States. Whilst the standard of HFP rebars corresponds to the standard suitable to be consumed only in the UK and in Ireland, production takes place in both the UK and several other Member States, in particular in France, Spain, and Portugal. The Commission confirms that the determination of undercutting should be based on a fair price comparison between matching product types. The investigation has established that the matching product types are exclusively produced by the Union producers located in the continental Europe who deliver their products by sea to harbours in the UK and in Ireland. By contrast, the investigation also showed that HFP rebars produced in the UK are of a different grade than the imports from China and could thus not be compared with the imports from China.

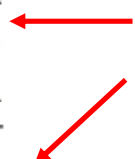
In its final determination in AD 619, the European Commission confirmed that HFP rebar produced in the UK are of a different grade than the imports from China and could **not** be compared with the imports from China...

Further Discussions on the Product Scope (3)

Reflection of the Original Investigation in the EU (AD 619)

	2011	2012	2013	2014	IP
Sales volume related sales (tonnes)	255 388	249 832	206 004	246 055	248 213
Sales volume unrelated sales (tonnes)	269 728	319 148	292 521	260 470	261 180

Sales
Volume of
the Union
Industry in
AD 619



A confidential table providing the injury margin calculation of a sampled Chinese exporter in AD 619, indicting that all matching PCN are related to 500 B grade. It also shows that the volumes of “comparable sales” of the EU industry are much smaller than the total sales volume of the EU’s industry.

- This reflects the quantity sold by EU producers located in Spain, Portugal and France, not in the UK.
- Because Chinese exporters only exported 500B to the UK Market.

Data Source: [a Chinese exporter]’s undercutting and injury calculations
(final disclosure – AD 619) (Confidential Data)

Further Discussions on the Product Scope (4)

Reflection of the Original Investigation in the EU (AD 619)

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Jiangyin Xicheng Steel Co., Ltd Jiangyin	18,4	62,1	18,4
Jiangyin Ruihe Metal Products Co., Ltd Jiangyin	18,4	62,1	18,4
Jiangsu Yonggang Group Co., Ltd Zhangjiagang	22,5	48,1	22,5

Company	Injury margin (%)	Dumping margin (%)	Definitive anti-dumping duty rate (%)
Jiangsu Lianfeng Industrial Co., Ltd Zhangjiagang	22,5	48,1	22,5
Zhangjiagang Hongchang High Wires Co., Ltd Zhangjiagang	22,5	48,1	22,5
Zhangjiagang Shatai Steel Co., Ltd Zhangjiagang	22,5	48,1	22,5
All other companies	22,5	62,1	22,5

Question:

- The original EU measures were imposed based on the injury margin (“lesser duty rule”)
- Considering the findings of the European Commission in the original investigation, will the UK TRA still maintain the same product scope and the same level of duty (i.e., injury margin based on the EU investigation)?

Conclusions

- Absence of legal basis means it is appropriate to terminate measures
- It has never been demonstrated that UK industry is injured
- Devastating impact of sanctions as well as other recent developments (expiry of EU measures, negligible level of imports and cancelation of Chinese VAT rebates) should prompt the authority to terminate the measures
- No chance of “recurrence” and UK Steel submission shows erroneous views on Chinese legal system
- Covid-19 pandemic clearly breaks causality
- Not in the UK’s interest to apply measures
- The original product scope and the level of duty in the EU proceeding is no longer applicable in the UK transition review.