UK STEEL
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# Case TD0011: Certain cold rolled steel products exported from the People's Republic of China and the Russian Federation

APPENDIX TO UK STEEL QUESTIONNAIRE RESPONSE

# 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 with respect to Chinese producers and as such it would not be appropriate to use any domestic Chinese prices or costs in this review.

### 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 with respect to China, where cooperating producers are unable to clearly demonstrate that market conditions exists.

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 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 the TRA should determine that this provision applies and that the TRA should calculate normal value in line with the options available under Regulation 14. These include:

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

- *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 submits that it is appropriate for the TRA to apply Regulation 14(1)(b) in constructing a normal value for China.

### 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 <u>unless it is not appropriate to use that price.</u>
- 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 section 4 of this appendix, UK Steel claims that a particular market situation exists in the Chinese cold rolled flat steel industry. Prices and costs are artificially low and reflect non-commercial factors. Other trade remedy authorities (e.g. Canada, US, European Union) have also made similar findings that Chinese steel markets, including those of cold rolled products, 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.

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

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 cold rolled steel 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.

### 1.1.5 It is not appropriate to use domestic Russian prices and costs

Regulation 13 requires the TRA to make adjustments to costs that *"are unrepresentative because they do not reasonably reflect the overseas exporter's production, administrative, selling or general costs or profits in a market if those costs and profits were substantially determined by market forces".*

In a highly vertically integrated company, the records kept will not reasonably reflect the costs of production (under regulation 11(3)(b)) as those costs will be internal costs (or transfer prices) rather than the costs which would ordinarily be payable by a non-vertically integrated company. A similar point can be made about SGA and Profits. In addition, those production costs have not been substantially determined by market forces, as per regulation 13, because they are internal costs. Therefore UK Steel submits that the TRA should treat the costs recorded in the accounting records of vertically integrated companies with caution and is entitled to adjust them.

Russian producers NLMK and Severstal which have registered for this case are both vertically integrated companies. NMLK describes itself as "*a vertically integrated group with a well-balanced value chain controlling every stage of steel production, from the mining of raw materials through to finished high-tech product sales to end-users*". NMLK reports that it is 64% self-sufficient in energy, 64% self-sufficient in scrap, 100% self-sufficient in coke along with iron ore concentrate (as well as 95% self-sufficient in pellets).[2] Severstal also refers to its "*vertically integrated business model*" in its Annual Report 2020[3] covering raw materials, midstream and downstream operations and distribution. Severstal explicitly makes the connection between its vertically integrated model and its unusually low costs in this report: "*Severstal's efficient, vertically integrated structure means it is largely self-sufficient in primary steel-related raw materials, which enables the Company to maximise efficiencies and reduce production costs*."[4]

In light of this, the records kept by the companies will not reasonably reflect the costs of production of cold rolled flat steel (under regulation 11(3)(b)) as the vertically integrated nature of the production process mean that those costs would be far too low and are not properly reflective of what would ordinarily be paid in the market. Furthermore, based on the evidence presented in section 5 of this appendix, UK Steel claims that there are significant distortions across inputs which affect the steel industry in Russia, as well as distortions specific to steel industry itself, including cold rolled flat steel production. The TRA is therefore entitled to reject any cost data provided by Russian producers and use another basis to make its cost estimate for the purposes of normal value calculation or adjust these costs as they were not substantially determined by market forces (as per regulation 13).

### 1.2 Comment on product concerned

Cold-rolled flat steel products are produced from hot-rolled coils. The cold-rolling process is defined by passing a sheet or strip – that has previously been hot rolled and pickled – through cold rolls, i.e. below the softening temperature of the metal. Cold-rolled flat steel products are manufactured to meet certain specifications or proprietary end-user specifications. They can be delivered in various forms: in coils (oiled or not oiled), in cut lengths (sheet) or narrow strips. Cold-rolled flat steel products are an industrial input purchased by end-users for a variety of applications, mainly in manufacturing (general industry, packaging, automotive, etc.) but also in construction.

## 2 Likely recurrence of injurious dumping

### 2.1 Developments in Chinese and Russian imports

As a result of the existing measure, Chinese and Russian exports of cold rolled flat steel to the UK have dropped dramatically since 2016 and remain well below 3% of total cold rolled flat imports, which both the UK legislation and the WTO anti-dumping agreement define as negligible imports.

**UK cold rolled flat steel imports**

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|
| All imports | 396,887 | 407,403 | 339,120 | 424,637 | 397,092 | 377,715 | 416,272 | 408,769 | 302,245 | 244,845 |
| Imports from China | 65,433 | 39,860 | 29,958 | 43,296 | 24,807 | 6,542 | 5,531 | 56 | 88 | 144 |
| Imports from Russia | 43,084 | 84,203 | 90,723 | 113,688 | 76,076 | 14,406 | 0 | 0 | 0 | 0 |

Source: UK Trade Info Data (HMRC) (See Annex 1 – Tab 1)

[2] NMLK, Annual Report 2020, page 10, https://nlmk.com/upload/iblock/906/NLMK_about.pdf1

[3] Severstal, Annual Report 2020, page 8, https://www.severstal.com/files/55798/Annual_Report_2020_ENG_final_light.pdf

[4] Ibid., page 17

Cold rolled flat steel imports into the UK peaked in 2014, particularly from Russia. Imports from China had been on a downward trend prior to the imposition of the anti-dumping duty in 2016, but were still significant in the context of the UK market and as a proportion of overall UK cold rolled flat imports.

**UK cold rolled flat imports from China and Russia as % of total**

| | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 |
|---|---|---|---|---|---|---|---|---|---|---|
| Imports from China as % of total | 16.5% | 9.8% | 8.8% | 10.2% | 6.2% | 1.7% | 1.3% | 0.0% | 0.0% | 0.1% |
| Imports from Russia as % of total | 10.9% | 20.7% | 26.8% | 26.8% | 19.2% | 3.8% | 0.0% | 0.0% | 0.0% | 0.0% |

China and Russia were dumping in the EU market, including the UK, before 2016 and continue to do so in other export markets as evidenced by trade investigation authorities in several countries. Back in 2016 the EU Commission found dumping margins of 52.7-59.2% for Chinese exports of cold-rolled flats to the EU and 18.7-38.9% for the Russian exports to the EU[5].

Historical trends also show that China and Russia are able to increase their exports to the UK very quickly and by a huge amount relative to the size of the UK market. To this extent, it can be expected that UK imports from China and Russia 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 in third countries.

### 2.2 Trade Measures in Third Countries

The likelihood of a resumption in injurious dumping by Chinese and Russian exporters is increased and evidenced by the significant number of trade measures in place in third countries on exports of cold-rolled flat products from China and Russia. The EU, Canada, the US and India, all have anti-dumping measures in place against Chinese cold rolled flat products. Russian exports are more concentrated in the geographical vicinity and therefore the main antidumping measures currently in place are from the EU. Reports concerning the most recent determinations and reviews in these cases have been provided in Annex 2. In addition to anti-dumping measures, the presence of safeguards in the EU and Section 232 tariffs in the US, further limit the available export markets for Chinese and Russian producers.

The existence of these trade measures further supports the arguments that China and Russia continue to dump cold rolled flat steel products in their export markets and therefore would be highly likely to do so in the UK if the measures were removed. Should the UK remove its measures while the EU maintains its own, the UK would become an obvious target for dumping as it would be the only exposed market in this geographical area.

### 2.3 Spare production capacity in China

The likelihood of resumption of injurious dumping of cold-rolled flat products by Chinese and Russian exporters is further increased and evidenced by the significant levels of production and spare capacity currently in existence in both these countries. This excess capacity is significantly larger than UK consumption, which increases both the incentive and the ability of Chinese and Russian exporters to dump.

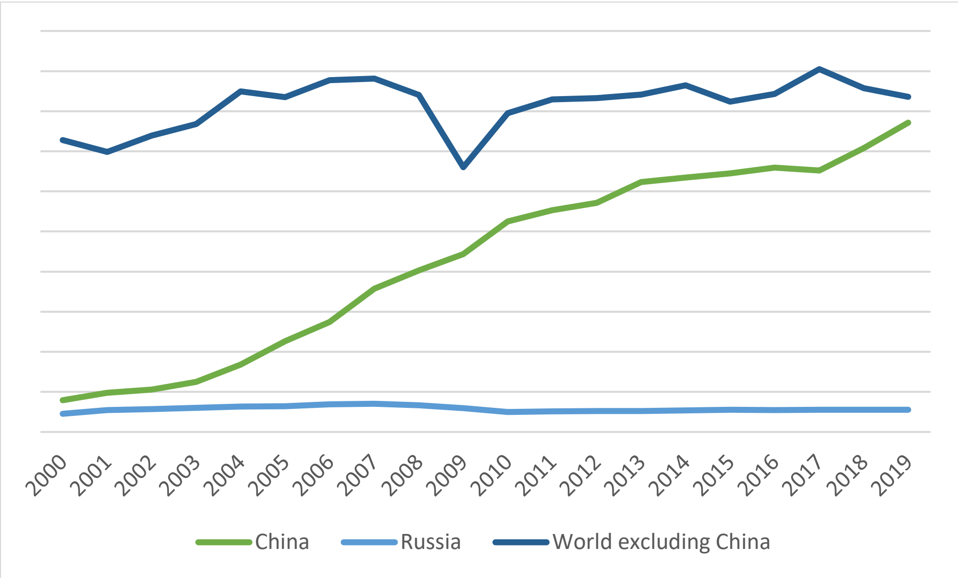
UK Steel does not have access to global production figures for cold rolled flat steel products, however the World Steel Association publishes data for hot rolled flat products, which sit one processing step higher than cold rolled flats. Only a portion of hot rolled flat products will be cold rolled, but assuming this will be a similar proportion across countries, the relative sizes of China's, Russia's and the UK's hot rolled flat markets could serve as a useful indicator and provide a relative sense of scale. China accounts for nearly half the world's hot rolled flat steel production ([Worldsteel copyright, 370-380] million tonnes in 2019). The following chart shows how Chinese production has grown exponentially

[5] COMMISSION IMPLEMENTING REGULATION (EU) 2016/ 181 - of 10 February 2016 - imposing a provisional anti-dumping duty on imports of certain cold-rolled flat steel products originating in the People's Republic of China and the Russian Federation (europa.eu)

over the past 20 years, while the production of the rest of the world stayed relatively constant. Russia's production remained relatively stable, but the [Worldsteel copyright, 20-40] million tonnes produced in 2019 still dwarf the UK's production of [Worldsteel copyright, 2-6] million tonnes.

**Chart: Global Production of Hot Rolled Flat Products (thousand tonnes)**

[Left hand axis removed due to Worldsteel copyright]




Source: World Steel Association. (Data provided in Annex 1, tab 5.)

Both China and Russia also have considerable amounts of spare capacity that could come online in future. It is clear that China and Russia have the capacity to very quickly flood and overwhelm the UK market should the anti-dumping measures be removed. The relative size of the Chinese and Russian markets compared to the UK market means that even a marginal increase of Chinese or Russian exports could completely wipe out the UK industry.

### 2.4 Situation of UK industry

Tata Steel is the producer of cold rolled flat steel in the UK and there are no other domestic producers of the product. The TRA will examine the detailed response from Tata Steel 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 2019, and the impacts of the global pandemic massively reduced demand for steel products. World Steel Association data shows EU finished steel demand fell from 168.1 million tonnes to 157.7 million tonnes between 2018 and 2019, whilst the global market outside China fell from 875 million tonnes to 859.2 million tonnes. In 2020, overall UK steel demand fell by [ISSB copyright, 10-20] % to just [ISSB copyright, 8-10] million tonnes[6] and is not expected to recover back to 2019 levels before late 2022 – in line with projections for wider

[6] International Steel Statistic Bureau survey of UK steel companies

EU steel demand recovery and that of the UK economy as a whole. (see Annex 1 – tabs 6 and 7 for data)

UK cold rolled flat demand also suffered, falling by [5-15]% in 2020, while UK cold rolled production fell by [5-15]%. Over the injury period, UK cold rolled flat demand sharply receded by [15-25]% and production dropped by [10-20]%. Global steel prices have risen in 2021 but so have iron ore prices, so this has not necessarily translated to improved profitability. Even with some profit, it would have to be sustained for a long period to time to offset the losses of 2020 and previous years. The UK steel sector, and including the cold rolled flat industry, has suffered a long period of weak or negative margins as a result of huge global overcapacity, leaving the industry in a fragile state. In this context, the injury and economic impact of a resumption of injurious dumping would be significant.

**UK Cold Rolled Flat Production, Demand, Trade (tonnes) – INDEXED FOR NON CONFIDENTIAL VERSION**

| | Production | Demand | Imports | Exports |
|---|---|---|---|---|
| **2017** | 100 | 100 | 100 | 98,563 |
| **2018** | 100 | 100 | 96 | 81,889 |
| **2019** | 94 | 90 | 72 | 84,823 |
| **2020** | 87 | 81 | 56 | 77,591 |

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

With falling demand levels in 2019 and 2020, production and profitability also reduced. Meanwhile, there is a notable unused capacity. Over the injury period, Tata Steel has on average operated at [see indexed data in table below]% of its cold rolled flat capacity and in 2020-2021 capacity utilisation fell to [see indexed data in table below]%. 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 Cold Rolled Flat Capacity Utilisation - INDEXED FOR NON CONFIDENTIAL VERSION**

| Year | Production capacity for like goods (tonnes) | Production capacity utilisation for like goods (%) |
|---|---|---|
| **April 2017 - March 2018** | 100 | 100 |
| **April 2018 - March 2019** | 100 | 100 |
| **April 2019 - March 2020** | 100 | 93 |
| **April 2020 - March 2021** | 100 | 85 |

Source: Tata Steel

Additionally, as noted in Section 2.3 several other countries have trade restrictions in place on imports from China and Russia. 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. Considering the weakened position of the UK industry, a resumption of dumping would certainly be severely injurious.

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

### 3.1 Importance of the UK cold rolled flat steel industry

The UK cold rolled flat 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 the Government's levelling up agenda which 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.

Cold rolled flat products are primarily produced in Tata Steel's Port Talbot facility, with some additional capacity also at the company's Llanwern plant. Not only do these steel plants employ a large number of workers in Wales, but these steel workers receive wages that are considerably higher than the local median in Neath Port Talbot and Newport respectively. These salaries also rank high in the local wage distribution (for data see Annex 1, tab 4). Most of Wales had Assisted Area status under European state aid rules, including local authorities like Neath Port Talbot and Carmarthenshire which were defined as 'a' areas. These were areas 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. Considering the large amount of unused capacity and the potential for growth, 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 community.

While cold rolled flat steel production is centred at the Port Talbot facility, this is a core product line for Tata and any injury suffered would impact operations in other sites, putting at risk the jobs of a significant number of workers who receive wages considerably higher than the local median across all site locations as shown in the table below. This is particularly pertinent given the interconnectivity of steel products and economics of steel production as explained in the next section.

**Table – Wages: Steel vs Local Authority 2020 (Tata's wage data or percentages from which this can be inferred is confidential, but the data shows that the steel wage is consistently higher than the median wage per local authority)**

| | Median Wage (£) | Steel vs Local Authority |
|---|---|---|
| **Tata Steel** | [CONFIDENTIAL] | |
| **Neath Port Talbot** | 23,543 | [CONFIDENTIAL]% |
| **Newport** | 7,927 | [CONFIDENTIAL]% |
| **Flintshire** | 26,575 | [CONFIDENTIAL]% |
| **Carmarthenshire** | 23,274 | [CONFIDENTIAL]% |
| **Corby** | 25,874 | [CONFIDENTIAL]% |
| **Hartlepool** | 24,914 | [CONFIDENTIAL]% |

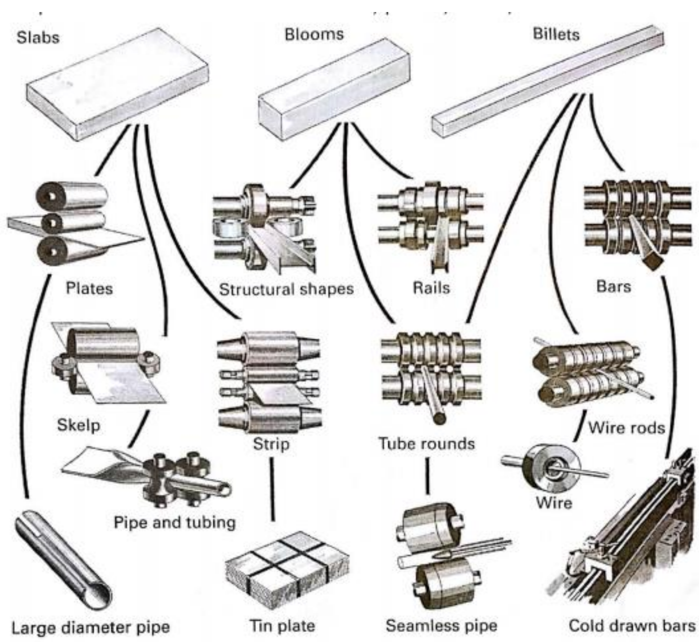
Source: Tata Steel, ONS - Earnings and hours worked, place of work by local authority: ASHE Table 7.7a

### 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.

Cold rolled flat products alone represent a significant portion of overall UK steel production, but the segment's real economic impact is even 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 shown below, a plant that is set up to make slab can then go on to produce a variety of flat products such as strips and plates that can be further worked into pipes and tin mill products 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. Tata's Port Talbot facility does not only produce cold rolled flat products but also hot rolled products, metallic and organic coated sheets and tin mill products. Imports of dumped cold rolled flat products would therefore damage market share and profitability more widely and would impact all production lines.

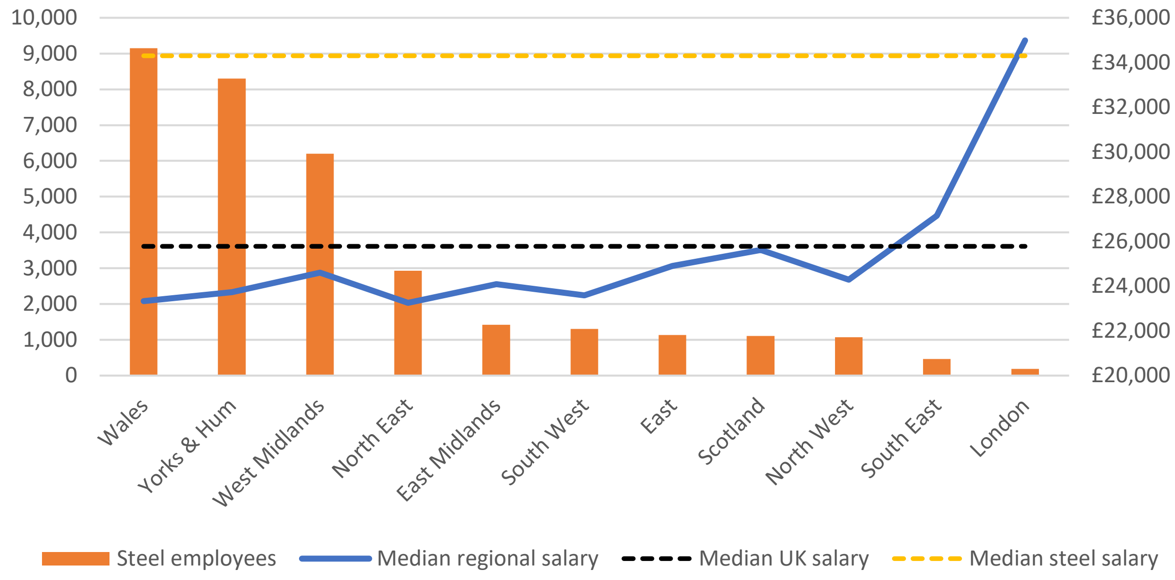
Therefore, in order to assess the economic significance of the cold rolled flat sector, it is useful to evaluate the contribution of the segment but also the wider steel sector that it forms an integral part of.

### 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 compromised[7]
- The UK steel industry also supports a further 42,000 in its high-value supplies chains[8]
- 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.[9]

[7] ONS – Business Register and Employment Survey 2020 and ONS Type 1 employment multipliers
[8] ONS – Business Register and Employment Survey 2020 and ONS Type 1 employment multipliers
[9] ONS – Annual Survey of Hours and Earnings

**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 chains [10]
- UK steel also makes a £1.7 billion direct contribution to the UK's balance of trade[11], 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.

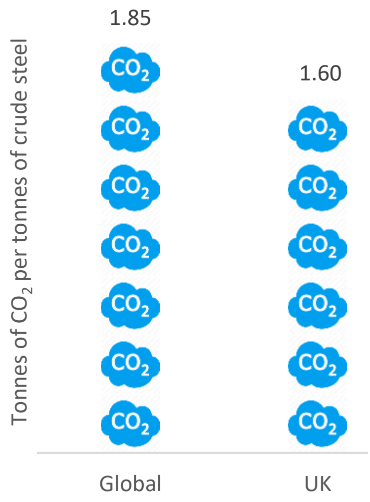
We provide the high-quality materials vital to an array of challenges. From delivering the Government's infrastructure revolution to creating a low carbon economy, steel is an essential ingredient. The UK directly consumes 10-11 million tonnes of steel each and every year – in infrastructure, construction, 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.

[10] ONS GDP Output – low level aggregates 2020 and type 1 multiplier
[11] 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 $CO_2$ per tonnes of crude steel, depending on plant efficiency and production method (i.e. BOF vs EAF), with the weighted average being 1.85t$CO_2$/tCS in 2018.[12] 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 CO2[13]. 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**




Source: Worldsteel, CO2 Data Collection Summary Report 2018

## 4 Distortions in the Chinese market affecting cold rolled flat steel 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 China[14] 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.*

[12] Worldsteel, CO2 Data Collection Summary Report 2018
[13] 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.
[14] http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm

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:

> *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 China[15] 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

[15] 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.

European Commission Staff Working Document on distortions in the Chinese economy (particularly section 4)[16].

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

> *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'[17] 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)[18]. 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[19,20].

A translation of this document is provided in Annex 3[21].

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:

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[16] 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.

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

[18] https://cset.georgetown.edu/wp-content/uploads/t0237_5th_Plenum_Proposal_EN-1.pdf

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

[20] https://www.hellenicshippingnews.com/china-finalizing-high-quality-growth-in-steel-industry/
https://www.chinadaily.com.cn/a/202001/13/WS5e1bfe30a310128217270876.html

[21] This translation was provided to UK Steel by the European Steel Association (EUROFER).

*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.*

*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 40[22] 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.*

[22] http://www.asianlii.org/cn/legis/cen/laws/tpopisa783/

The catalogue identifies industrial sectors as 'encouraged', 'restricted' or 'eliminated'. Decision 40 remains in effect and the latest Guidance Catalogue was published in 2019[23]. The European Commission has confirmed that the steel industry belongs to the encouraged category[24]. The presence 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 investigation[25].

> *…..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.

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[23] 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

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

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

### 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:

- *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 China[26], examined a wide range of Chinese Government plans, strategies and policies as part of its 'Section 20 Inquiry'[27], that demonstrate the significant interventions 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.

The CBSA reaches similar conclusions in its Statement of Reasons for its cold-rolled steel investigation[28]. As part of its Section 20 Inquiry, the CBSA finds high proportions of state-ownership of cold rolled steel producers in China, whose operations are driven by GOC mandates and do not necessarily operate under market forces. The report finds that:

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[26] 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.

[27] 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 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.

[28] CBSA (November 2018), Cold-Rolled Steel 2018 Investigation - Final Determinations (cbsa-asfc.gc.ca)

- Given that the state-owned steel companies produce raw material inputs for cold rolled steel, there is a strong likelihood that prices of cold rolled steel are also distorted in the flat-rolled steel sector.
- Prices of cold rolled steel in China are significantly lower than in other countries, suggesting that the GOC's involvement in the cold rolled steel sector is affecting prices. Cold rolled steel prices in China were lower than domestic pricing in the United States, Japan and the European Union by $164/tonne to $471/tonne in various periods.
- The domestic selling prices of cold rolled steel in China were 28.2 % lower than the reported domestic selling prices in other countries during 2017-2018.

The Section 20 Inquiry concludes:

> *"The wide range and material nature of the GOC measures have resulted in significant influence on the flat-rolled steel sector in China, which includes cold-rolled steel. 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."*

### 4.2.4 Australia

In the recent review of anti-dumping measures on steel rod in coil from China[29], 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.*

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.*

[29] 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.

Similarly in its anti-dumping investigation on steel reinforcing bar from China[30], 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 determination[31] 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 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 Commission[32] 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*

[30] 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)
[31] US DOC Memorandum '*China's Status as a Non-Market Economy'* A-570-053 October 26 2017.
[32] US-China Economic and Security Review Commission, Staff Research Report, *The 13th Five year Plan*, February 14 2017.

The Commission also quotes a report from the Center for Strategic and International Studies[33] 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 cold rolled flat steel cost inputs

#### 4.3.1 Hot-rolled flat products investigation

The EU findings in the hot-rolled flat products CVD investigation[34] confirm that there are significant distortions to the principal raw material inputs of cold rolled flat steel in China.

The Commission found the following subsidy schemes that created distortions on the Chinese market:

- Preferential lending
- Land provision and acquisition at less than adequate revenue (LTAR). Provision of land is non-transparent and prices are arbitrarily set by the authorities.
- Direct tax exemption and reduction programmes.
- Indirect tax and import tariff programmes
- Grant programmes

#### 4.3.2 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*"[35]
- 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

#### 4.3.3 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."* 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*

[33] 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
[34] COMMISSION IMPLEMENTING REGULATION (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China
[35] As required under Regulation 13(3) of the Trade Remedies Act when determining whether adjustments should be made to production costs.

*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 in the Russian market affecting cold rolled flat steel production and prices

### 5.1 European Commission Staff Working Document

The EU Commission's report on "significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations" published in October 2020[36], sets out the areas of intervention by the Russian government affecting the cost of production of steel in Russia. The Commission report found distortions in the energy market and the transport sector as well as government support and tax interventions.

The Commission found distortions in the natural gas market which is dominated by state-owned companies, while the Russian government also highly regulates the electricity sector so that electricity prices are not substantially determined by market forces.

The report makes reference to the Commission's findings from the anti-dumping investigation on certain seamless pipes and tubes, of iron or steel originating in Russia, which found that the state-owned energy producer Gazprom charged the domestic steel producers much less for gas used in production than it charged its customers in Eastern and Western Europe. This was an implication of the company's formal obligation to supply gas to Russian consumers at prices regulated by the FTS which are lower than the international prices for natural gas. As a result, the Commission concluded that:

> *"In view of these findings, it was considered that the gas prices paid by Russian producers in the investigated period could not reasonably reflect the costs associated with the production and distribution of gas. Similarly, in the case of imports of certain welded tubes and pipes of iron or non-alloy steel, the European Commission found that that the domestic gas price paid by the exporting producers was around one fourth of the export price from Russia, far below market prices paid in unregulated markets and, consequently, not reasonably reflected in the exporting producers' records. In view of these findings, the calculations of gas costs of the concerned Russian exporting producers had to be adjusted based on the price of gas for export to Western Europe at the German/Czech border in Waidhaus (the main hub for Russian gas sales to the EU), net of transport costs and excise duty and adjusted for local distribution costs."*

The Commission finds that transport costs also do not reflect market rates. Rail is the main mode of transport for steel products within Russia and Russian railroads are owned and run by RZD, a company which has a monopoly on provision of locomotive services. The report states:

> *"The rail transportation tariffs are regulated according to the Price List No. 10-01. The design of transportation tariffs has a number of features which are relevant in the context of the steel sector. First, the Price List sets the country-wide tariffs for the main component of the cost of freight transport by rail — the payment for infrastructure and locomotive services. This typically*

[36] Commission Staff Working Document on significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations, October 2020, https://trade.ec.europa.eu/doclib/docs/2020/october/tradoc_158997.pdf

*accounts for about 85% of total charges. The remaining 15% are wagon services and this element is partially unregulated. This means that the bulk of the charges related to rail transport are not set according to competitive pressures and market forces but by state policies."*

The Commission report has a specific section on the Russian steel industry which lays out some of the targets and support provided by the state which affects the competitiveness of the industry. Russia's plans for the steel industry are laid out in the Development Strategy of the Steel Industry 2014-2010 and for the Perspective until 2030 and the Draft Strategy for the Development of the Metallurgical Industry for Russia for the Period till 2030 – with a key part of the strategy being to maintain Russian producers' position in foreign markets. In 2016, state support for ferrous metallurgy amounted to RUB 249 million. There is also an export tax on metal waste and scrap under Government Decree No. 754 of 30 August 2013. The Commission Report concludes that:

"*Certain elements of the country's electricity, natural gas and rail transport pricing policies, as well as export restrictions on scrap, may be contributing to lower costs of production and domestic and international delivery of Russian steel products*."

Furthermore, Russia is instituting an export tax on a range of metal products from 1 August 2021, which includes steel products. This constitutes a further market distortion of costs and prices.[37]

[37] Metal Bulletin, 'Russia sets export duties on 340 metal products', 25 June 2021, https://www.metalbulletin.com/Article/3996007/Russia-sets-export-duties-on-340-metal-products-%5bCORRECTED%5d.html