TD0011 – Cold rolled flat steel from China and Russia

UK Steel response to submissions on the public file

This paper responds to the following documents submitted to the TRA public file:

- Comments submitted by the China Chamber of International Commerce ("CCOIC")
- Comments submitted by the China Iron & Steel Association ("CISA")
- Comments submitted by the Ministry of Commerce of the People's Republic of China ("MOFCOM")
- Comments submitted by the Ministry of Economic Development of the Russian Federation ("Russian Ministry")
- Comments submitted by PAO Severstal ("Severstal")
- Comments submitted by NLMK International B. V. ("NLMK")

1. Threat of injury is lessened by China's cancellation of export tax rebate

The CCOIC and CISA submissions both point to China's cancellation of export tax rebates on some steel products as an indicator that China will be more focused on the domestic market and will have less of an incentive to export, therefore reducing the threat of injury to the UK. This however is no guarantee that Chinese exporters will not dump.

First of all, these VAT rebates of 13% that have been removed are lower than the anti-dumping duty of 19.7-22.1% therefore the removal of this tax incentive does not match the effect of the anti-dumping measure. Furthermore, in some cases in the past, Chinese steel producers developed inventive ways to continue claiming rebates, including fraudulently miscategorising their products, or adding small amounts of minerals to classify them as alloy steels[1]. CCIC further claim that removing import duties on raw materials such as pig iron, DRI, scrap and billets is additional evidence that China is reorienting to importing more steel resources and reducing domestic steel production, but this is misleading. The removal of these tariffs is aimed at reducing raw material costs for steel producers, including those of cold-rolled flat products. It alone says nothing about a strategy to reduce domestic steel production or exports, and indeed it could easily result in the opposite – higher levels of finished steel production and increased export at lower prices.

Impact on market incentives aside, such government policy is easily reversible, with export tax rebates being provided again in the future. Finally, the presence and removal of such tax incentives with the purpose of influencing trade flows is clear evidence of government intervention in the Chinese steel market. It is evidence, in addition to that provided in the UK Steel submission, that prices and costs are distorted and reflect non-commercial factors, so that a particular market situation evidently applies.

2. There are other causes of injury to UK steel industry than Chinese imports

The UK Steel industry faces a number of competitive challenges and the CCOIC quotes extensively from UK Steel reports outlining some of these. The Severstal submission also points to other causes of

[1] https://www.reuters.com/article/uk-usa-trade-china-steel-factbox-idUKKBN1KF0DY

injury to the UK industry. However, the presence of these does not mean that Chinese and Russian imports at dumped prices have not been a major cause of injury in the past and could not be so once again. Far from it, the fact that the UK steel sector faces these challenges means that it is even more likely that any injury suffered will have severe consequences. The existence of antidumping measures on cold rolled flat steel in several countries including the EU, Canada and the US is clear evidence of Chinese and Russian exporters dumping cold rolled flat steel in other key export markets. The fact that the UK steel sector has suffered from other causes of injury does not negate the huge spare capacity in China and Russia and the clear risk of trade diversion and dumping as a result of trade measures in other countries, limiting exporting options for Chinese and Russian producers. The only reason why Chinese and Russian exports to the UK have reduced in recent years is due to the presence of anti-dumping measures. Dumping is likely to resume should the measure be removed and particularly given the situation of the UK industry, this would cause material injury.

3. UK cold rolled sheets already benefit from safeguard protection

The CCOIC submission contends that “safeguard measures against nonalloy and other alloy cold rolled sheets, whose commodity codes closely resemble the goods subject to review of this case” make anti-dumping duties redundant. This view is palpably incorrect.

Safeguards and anti-dumping duties are different measures, designed to address different issues. 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. Indeed, UK Steel already has concerns of manipulative market behaviour by exporters of other products, for example certain steel tubes and merchant bar/light sections which it will continue to monitor.

Other than the general point around the difference between the two measures, currently China is actually exempt from the safeguards on cold-rolled steel 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. In that period, China could export unlimited quantities without any restriction in place and by the time its exempt status was reassessed its exports could cause considerable damage to the UK market.

Additionally, the safeguard measures will only be in place until June 2024 providing no protection at all after this point. An extension of the anti-dumping measure would provide critical protection for at least two years beyond this point.

Finally, there are differences in product coverage of this anti-dumping measure and those relating to cold-rolled flat products (category B) in the safeguard measure. Most importantly one tariff code covered by the anti-dumping duty (72 09 18 99 90) is not subject to safeguarding measures. This would further open the risk of injurious dumping into the UK should it rely exclusively on safeguard measures for protection.

4. UK imports from China and Russia are negligible and import prices are higher than average

UK imports of cold rolled flat steel from China and Russia are negligible since 2016 when the EU anti-dumping duty was imposed. Far from this being justification for dropping the measure, as the MOFCOM and Russian Ministry submissions suggest, it simply demonstrates that the measure has been effective. The negligible import volumes since the measures have been in place also mean that any import pricing information is not representative. When volumes are small the sample size is not big enough to provide a useful average and smaller volumes are also typically higher priced. There is therefore no useful import price indication that can be inferred from trade statistics during the injury period. For the same reason, Chinese export prices to the EU, which the CCOIC submission examines, are also not meaningful given the EU has had the same measure in place.

As noted in the UK Steel submission, 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[2].

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.

5. Economic interest

The CCOIC and Russian Ministry submissions argue that the measure is not in the economic interest of steel consumers in the UK and that removal of the measure will result in more competition and lower prices for end-users. The Russian Ministry submission further argues that such measures cause shortages and complicate the economic recovery from the pandemic.

First, these submissions have not provided any evidence of injury to downstream consumers caused by the AD measure even though it has been in place for five years now. In the absence of this, or any representation in this review from UK consumers, one can only reasonably conclude that no notable injury has been caused by the AD duties. Two trading companies and a trade body representing manufacturers registered interest in the case but did not proceed to make a submission or provide any evidence of injury.

In contrast, the surge in imports ahead of the measure being introduced, caused significant injury to the UK cold rolled steel producer, with knock on effects on the UK economy (including UK based fabricators, steel service centres and the construction and manufacturing sector) far greater than any posited harm caused to downstream consumers/traders.

Critically, the likely injury caused by the removal of these AD duties, and the resumption of dumping must be viewed not only in terms of direct loss in steel company GVA and jobs, but also damaging the domestic supply chain. Downstream businesses would be far worse off if they depended solely on imports and had no domestic supply chain which could respond to shorter lead time requirements and would not be impacted by trade flow restrictions, Brexit and Covid-19 being prime examples of this. Domestic production is essential for supply chain resilience and a domestic supply chain multiplies the economic value to the UK, supporting additional jobs in logistics, warehousing and processing. It is therefore in the economic interest of end-users but also of the UK as a whole to maintain and support domestic production of steel.

[2] 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)

6. Severstal and NLMK costs

Severstal and NLMK claim there are no distortions affecting their input costs or reflecting non-commercial factors. However, as evidenced in Tata Steel's submission (as represented by Steptoe) and the UK Steel submission, Severstal and NLMK are vertically integrated companies which enable them to benefit from unusually low costs which do not reasonably reflect the costs of production of cold rolled flat steel in the ordinary course of trade. 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. The TRA should therefore treat the accounting data of Severstal and NLMK with caution and is entitled to discard such data and use another basis to make its cost estimate. Similarly, adjustment can also be made to those costs as they were not substantially determined by market forces. This also applies to SGA and Profit.

Furthermore, costs of steel production in Russia more generally are impacted by distortions in the energy and transport sectors. The Russian government highly regulates domestic gas and electricity prices and intervenes in the rail sector, meaning that such costs do not reflect market rates. NLMK claims that the Russian natural gas market is in line with the global market and that in 2020, it was more profitable for Russian gas suppliers to sell to the domestic market than export, particularly in April 2020. UK Steel does not have access to Russian domestic prices and neither does NLMK provide any evidence of this. But even assuming that this was true for 2020, or even more specifically in April 2020, this is an extremely narrow window to use as a reference point. First of all, 2020 as a whole is not a representative year, with most of Europe in lockdown at least for the first half of the year, and gas consumption and prices were well below average as a result, as can be seen in the table below. Meanwhile, Russia had less strict restrictions during that period which could partly explain higher domestic prices for April or the first half of the year than Western Europe. Furthermore, April 2020 was when the price of oil plummeted to historic lows[3] which would have further encouraged demand substitution to oil instead of gas for several importing countries.

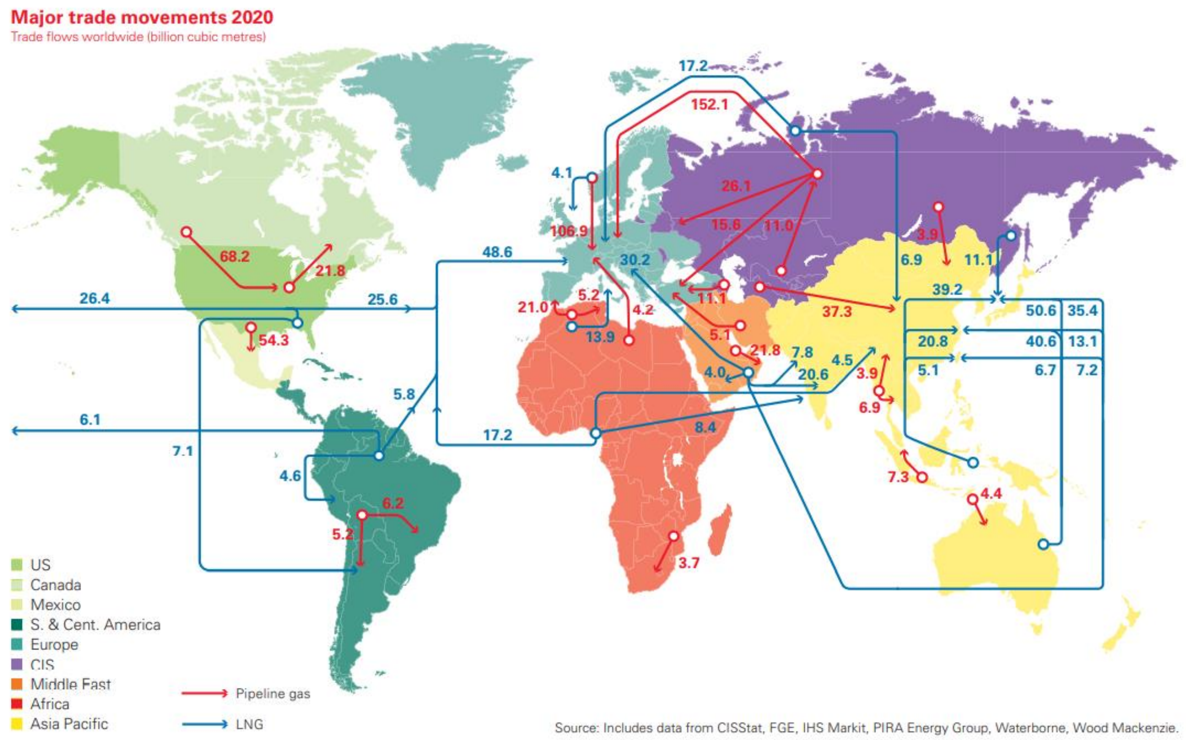
Prices

US dollars per million Btu	LNG		Natural gas					Crude oil
	Japan CIF[1]	Japan Korea Marker (JKM)[2]	Average German Import Price[3]	UK (Heren NBP Index)[4]	Netherlands TTF (DA Heren Index)[4]	US Henry Hub[5]	Canada (Alberta)[5]	OECD countries CIF[6]
1990	3.64	–	2.78	–	–	1.64	1.05	3.82
1991	3.99	–	3.23	–	–	1.49	0.89	3.33
1992	3.62	–	2.70	–	–	1.77	0.98	3.19
1993	3.52	–	2.51	–	–	2.12	1.69	2.82
1994	3.18	–	2.35	–	–	1.92	1.45	2.70
1995	3.46	–	2.43	–	–	1.69	0.89	2.96
1996	3.66	–	2.50	1.87	–	2.76	1.12	3.54
1997	3.91	–	2.66	1.96	–	2.53	1.36	3.29
1998	3.05	–	2.33	1.86	–	2.08	1.42	2.16
1999	3.14	–	1.86	1.58	–	2.27	2.00	2.98
2000	4.72	–	2.91	2.71	–	4.23	3.75	4.83
2001	4.64	–	3.67	3.17	–	4.07	3.61	4.08
2002	4.27	–	3.21	2.37	–	3.33	2.57	4.17
2003	4.77	–	4.06	3.33	–	5.63	4.83	4.89
2004	5.18	–	4.30	4.46	–	5.85	5.03	6.27
2005	6.05	–	5.83	7.38	6.07	8.79	7.25	8.74
2006	7.14	–	7.87	7.87	7.46	6.76	5.83	10.66
2007	7.73	–	7.99	6.01	5.93	6.95	6.17	11.95
2008	12.55	–	11.60	10.79	10.66	8.85	7.99	16.76
2009	9.06	5.28	8.53	4.85	4.96	3.89	3.38	10.41
2010	10.91	7.72	8.03	6.56	6.77	4.39	3.69	13.47
2011	14.73	14.02	10.49	9.04	9.26	4.01	3.47	18.55
2012	16.75	15.12	10.93	9.46	9.45	2.76	2.27	18.82
2013	16.17	16.56	10.73	10.64	9.75	3.71	2.93	18.25
2014	16.33	13.86	9.11	8.25	8.14	4.35	3.87	16.80
2015	10.31	7.45	6.72	6.53	6.44	2.60	2.01	8.77
2016	6.94	5.72	4.93	4.69	4.54	2.46	1.55	7.04
2017	8.10	7.13	5.62	5.80	5.72	2.96	1.58	8.97
2018	10.05	9.76	6.66	8.06	7.90	3.12	1.18	11.68
2019	9.94	5.49	5.03	4.47	4.45	2.51	1.27	10.82
2020	7.81	4.39	4.06	3.42	3.07	1.99	1.58	7.19

Table found here: Natural gas – Statistical Review of World Energy 2021 (bp.com), page 41

[3] US oil prices turn negative as demand dries up - BBC News

It should therefore be clear that even if the Russian domestic gas market was briefly more attractive than the export market, this was likely an exception rather than a rule. Russia is the largest exporter of gas in the world, so it would be rather irrational if the domestic market was consistently more attractive. Even in 2020, Russia exported 170 billion cubic meters to Europe alone and over 220 billion cubic meters in total, more than double the size of the US's exports, the second largest exporter of gas, as can be seen in the map below.



Graphic found here: Natural gas – Statistical Review of World Energy 2021 (bp.com), page 45

NLMK's claims with regards to the Russian gas market are therefore misleading. To the contrary, the Russian gas market is defined by significant distortions as is evidenced in the European Commission's document on the "significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations"[4]. The report reaches the same conclusion when it comes to labour costs and transport. It states that "while Russian labour regulations are relatively strict, law enforcement is considered to be poor". It also states 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 notes the cross-subsidisation of certain raw materials by the revenues obtained from the transport of finished goods including steel products, as is referenced by NLMK, which means the transport of steel is more expensive than coal and iron ore. However, a vertically integrated company still benefits from this. Also the report confirms NLMK's assertion that the Government has applied an export surcharge on top of regular tariffs. But the fact that Government has a large discretion in introducing or removing additional charges on top of regular tariffs is further evidence of the high degree of Government intervention in the market and the possibilities Government has to influence the competitiveness of various segments of the Russian steel sector. Similarly, Russia's recent export tax on a range of metal products including steel, further demonstrates government intervention and distortion of costs and prices in the Russia steel sector.

[4] 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

7. PMS in China and Russia

The Russian Ministry and MOFCOM both reject the existence of a particular market situation in Russia and China but neither provide any evidence to the contrary. Both dismiss the EU Commission reports on distortions in China and Russia but neither justify why they deem it invalid or provide any proof of changed circumstances since the publication of that report. The Commission report is a reliable secondary source and can and should be considered alongside other resources as best facts available. The UK Steel submission has also provided extensive additional evidence demonstrating widespread government intervention in China's and Russia's economies and steel sectors.

The Russian Ministry also references the WTO Appellate Body decision in 2016 on EU – Biodiesel (DS473) ruling that the EU erred in rejecting the Argentinian producers' production costs because of state distortions affecting internal soybean prices. The Russian Ministry states that this demonstrates that "Article 2.2.1.1 does not permit an investigating authority to enquire into whether the records of the producer reasonably reflect international prices". This however is not accurate.

Article 2.2.1.1 states that: *"Costs shall **normally** be calculated on the basis of records kept by the exporter or producer under investigation, provided that such records are in accordance with the generally accepted accounting principles of the exporting country and reasonably reflect the costs associated with the production and sale of the product under consideration"* (emphasis added). The two conditions in the second half of the sentence dictate when domestic costs should normally be used. Clearly if these conditions are not met, the investigating authority has the right to ignore domestic costs. The use of the word "normally" also indicates that the authorities can reject domestic costs under other, unspecified (*abnormal*) circumstances even if these two conditions are met.

Although the WTO Appellate Body ruled that the EU erred in rejecting Argentinian producers' production costs, they did not rule on the interpretation of the word "normally". The EU had relied on the argument that because of the state distortions, the producers' records did not "reasonably reflect the costs associated with the production and sale of the product", and the Appellate Body accordingly restricted itself to considering this issue: "we consider it unnecessary to the resolution of the present claim to express any views on the arguments presented by the parties and third parties as to whether, in general terms, Article 2.2.1.1 permits derogations on grounds other than those expressly listed in Article 2.2.1.1". The Appellate Body ruling therefore rejected the EU's reasoning for rejecting these costs, but this does not mean that an enquiry and rejection of producer costs is not permitted altogether.