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VIA ELECTRONIC FILING

NON-CONFIDENTIAL SUMMARY

Dear sir/madam

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

We are writing with respect to the transition review of anti-dumping measures in "Case TD0011: Certain cold rolled flat steel products exported from the People's Republic of China and the Russian Federation" on behalf of Tata Steel UK Ltd (**Tata**).

I. The law on costs in dumping calculations

Tata submits that the costs of production (along with administrative, selling and general costs and profits (**SGA and Profits**)) are critical in any dumping calculation. They are used to work out whether sales of the like goods in the domestic market were made in the ordinary course of trade and, as such, whether domestic sales prices can be used as the normal value in any dumping calculation.[1] They are also used when constructing normal value (should domestic sales prices be rejected).[2]

The rules surrounding the valuation of costs of production are contained in regulation 11 of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (the **Dumping Regulations**). The comparable rules on SGA and Profits are contained in regulation 12.

[1] See regulation 9 of the Dumping Regulations
[2] See regulation 8 of the Dumping Regulations

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Under regulation 11 costs of production must normally be calculated on the basis of records kept by the overseas exporter. However, there are a number of exceptions to this: (i) where the records are not kept in accordance with generally accepted accounting principles of the exporting country; and (ii) costs do not reasonably reflect the costs associated with the production and sale of the goods in the exporting country. Where costs fail either criteria they can be calculated on any reasonable basis. Finally, adjustments to costs can be made, under regulation 13, if costs "*do not reasonably reflect the overseas exporter's production, administrative, selling and general costs or profits in a market if those costs and profits were substantially determined by market forces*" (which includes, but is not limited to, factors like substantial government intervention).[3] Similar rules apply to SGA and Profits.

In a highly vertically integrated company, the records kept will not reasonably reflect the costs of production nor will they have been substantially determined by market forces 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. Thus, the TRA should treat the costs of highly vertically integrated companies with caution.

II. NMLK

In its 2020 Annual Report, NMLK describes itself as a highly vertically integrated group with high or total self-sufficiency with respect to a number of inputs including coke and iron ore concentrate. In terms of midstream and downstream production, this too is highly vertically integrated. Because of the vertically integrated nature of production NMLK can achieve unusually low costs.

High vertical integration and the presence of transfer pricing means that the records kept by the company will not reasonably reflect the costs of production for cold rolled flat steel. Hence, the TRA is entitled to discard such data and use another basis to make its cost estimate or adjust those costs as they were not substantially determined by market forces. Similar arguments can also be made with respect to SGA and Profit for cold rolled flat steel.

III. Severstal

In its 2020 Annual Report, Severstal also describes itself as a highly vertically integrated business with high or total self-sufficiency in a number of inputs including iron ore and hard coking coal. In terms of midstream and downstream production as well as distribution, this too is highly vertically integrated. As a consequence of the vertically integrated structure, Severstal can achieve unusually low costs.

High vertical integration and the presence of transfer pricing means that the records kept by the company will not reasonably reflect the costs of production for cold rolled flat steel. Hence, the TRA is entitled to discard such data and use another basis to make its cost estimate or adjust those costs as they were not substantially determined by market forces. Similar arguments can also be made with respect to SGA and Profit for cold rolled flat steel.

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[3] See regulation 13(3) of the Dumping Regulations

IV. Costs in Russia more generally

On 22 October 2020, the European Commission published a document on the "significant distortions in the economy of the Russian Federation for the purposes of trade defence investigations" (the **Commission Report**).[4] The document was produced for the purpose of assisting the Commission in its assessment of 'significant distortions' under Article 2(6a) of Regulation (EU) 2016/1036 (the parallel provision to Article 13 of the Dumping Regulation).

The Commission Report found significant distortions across inputs which would affect all industries, including the steel industry, as well as distortions specific to the steel industry itself. All this should give the TRA reason to question the reliability of cost figures both under regulations 11 and 13 of the Dumping Regulation.

V. Costs in China more generally

Tata cannot locate any co-operating Chinse exporters on the public file. However, Tata also has concerns with respect to the reliability of cost data in the Chinese iron and steel market.

Tata reserves the right to make further submissions on prices and costs in Russia and China.

Respectfully submitted,

[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