

Anti-Dumping Questionnaire for Contributors and Interested Parties

Transition review of anti-dumping measures

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

Period of Investigation (POI):	1 April 2020 to 31 March 2021
Injury period:	1 April 2017 to 31 March 2021
Deadline for response:	28 June 2021
Contact details:	TD0011@traderemedies.gov.uk
Completed on behalf of:	The Ministry of Economic Development

A1 General information

1. Please complete the table below. Make sure the point of contact you name has the authority to provide this information.

Name (point of contact):	
Address:	125039, 10, build 2, Presnenskaya embankment, Moscow, Russia
Telephone No:	
Email:	
Website:	www.economy.gov.ru

2. Please explain your interest in this review.

Goals of the respective Russian Ministries include securing non-discriminatory and favourable conditions for Russian exporters on foreign markets and ensuring due compliance of all procedures in their respect with the rules of the World Trade Organization (WTO).

Appendix reference:-

A2 Information about this review

1. Please provide any information about the goods subject to review that you consider relevant.

The relevant information was provided by the Russian side in the Registration form (Section B – Additional Information).

For convenience of the investigative authority, please see an excerpt from the Registration form, which is particularly relevant in this case.

Please also see the relevant excerpt from the Registration form.

“C. Procedural errors during initiation of the review

1. In the framework of that procedure, the UK producers of goods subject to EU trade remedy measures should have expressed their opinion whether they support, are neutral to, or oppose the continuation of those measures when the UK operates its independent trade remedies system. They were also asked for data about their production and sales during so-called Call of Evidence conducted by the Department “to identify anti-dumping and countervailing duties imposed by the EU that matter to UK industry”.

Thus, the Department initiated the review without an application from the UK industry. However, before its initiation the Department collected data from the UK producers on their support for, or opposition to the current review.

After the initiation of the review, the Department has not provided the interested parties with the information acquired during the Call of evidence procedure, particularly, data on production and sales of CRFS in the UK and which companies provided this data.

In other words, for the purposes of the initiation of the review the Department has not demonstrated that the UK CRFS producers supporting the initiation are exactly the ones:

- who account for no less than 25 per cent of total production of the like product produced by the domestic industry, and
- whose collective output constitutes more than 50 per cent of the total production of the like product produced by that portion of the domestic industry expressing either support for or opposition to the initiation of the review.

Thus, the Department failed to demonstrate that the requirements of Article 5.4 of the AD Agreement have been adhered to, and the review was initiated unlawfully.

2. Article 5.6 of the AD Agreement provides that if the authorities concerned decide to initiate an investigation without having received a written application by or on behalf of a domestic industry for the initiation of such investigation, they shall proceed only if they have sufficient evidence of dumping, injury and a causal link, as described in Article 5.2 of the AD Agreement, to justify the initiation of an investigation.

The Russian side does not have the information that in the understanding of the Department constitutes “sufficient evidence” for initiation of this review.

First, in the Notice of initiation or elsewhere, the Department did not provide evidence substantiating the need to conduct the review for the purposes that were determined by the Department itself, namely to consider:

- 1) whether the application of the anti-dumping amount is necessary or sufficient to offset dumping of the relevant goods in the UK market; and
- 2) whether injury to the UK industry in the relevant goods would occur if the anti-dumping amount were no longer applied to those goods.

Therefore, the requirements of Article 5.6 of the AD Agreement have not been fulfilled even at the minimum level that was determined by the Department for itself.

Secondly, as it was previously mentioned and will be mentioned further, the Russian side does not agree that the abovementioned scope of the review is enough for due and valid determination of the necessity to apply the measure.

In our view, in order to initiate the review the Department should have sufficient "evidence of dumping, injury and a causal link in the sense of Article 5.2. The Department has not demonstrated that it actually has this evidence.

As a result, the Ministry believes that the Department did not fulfill its obligations in accordance with Article 5.6 of the AD Agreement at an appropriate level.

3. As we have no information on the support of the UK WTP industry of the measure as well as on full and comprehensive evidence on existence of dumping, injury and a causal link, as it is provided in Article 5.2 of the AD Agreement, the Russian side's opportunity to comment on the issue is limited.

These comments are given only on the basis of information that the Russian side has at its disposal. However, having no other data the Russian side does not have an opportunity to provide exhaustive and comprehensive comments.

In other words, the Department has failed to comply with Article 6.2 of the AD Agreement that states "all interested parties shall have a full opportunity for the defense of their interests", and with Article 6.4 of the AD Agreement, according to which

"the authorities shall whenever practicable provide timely opportunities for all interested parties to see all information that is relevant to the presentation of their cases, that is not confidential as defined in paragraph 5, and that is used by the authorities in an anti-dumping investigation, and to prepare presentations on the basis of this information".

The Ministry fails to see what, if anything can make it "impracticable" to provide an opportunity to see the evidence described above.

Taking into account the abovementioned, the Russian side sees no grounds for initiating the review. Hence, the Russian side urges the Department to finish this review without extension of the measure."

Appendix reference:-

2. Provide any information, which you think, could help us assess the likelihood of dumping occurring if the existing anti-dumping measure for the goods subject to review no longer applied.

The relevant information was provided by the Russian side in the Registration form (Section B – Additional Information).

For convenience of the investigative authority, please see an excerpt from the Registration form, which is particularly relevant in this case.

“According to UK Trade Info, Russia has not been exporting CRFS since 2017 (statistical data is available only for the period before March 2021, but the situation is unlikely to change).

According to Article 2.1 of the Anti-dumping Agreement

“a product is to be considered as being dumped, i.e. introduced into the commerce of another country at less than its normal value, if the export price of the product exported from one country to another is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country.

As a result, if the product is not exported from one country to another the fact of dumping cannot be established according to WTO rules.”

Appendix reference:-

3. Do you think there would be injury to the UK industry if the existing anti-dumping measure for the goods subject to review no longer applied? Provide any information supporting your conclusions including what the cause of this injury would be. You can refer to our guidance on how we assess injury for a definition of injury.

The Russian side has no information that the UK industry will be injured if the measure is lifted.

Appendix reference:-

4. Please provide any information about the possible economic effects on the UK if the existing anti-dumping measure on the goods subject to review were no longer applied.

Lift of the measure will have a significantly positive effect on the UK economy. According to open sources as well as to the data provided by the Russian side in the Registration form the price of the Product has increased in recent years at least twice which harms UK consumers.

One of the reasons of such an increase is excessive trade defence measures imposed by the EU and the USA.

The Russian side supposes that elimination of the measures will give a free breath to industries affected by such a price increase.

Please also see the relevant excerpt from the Registration form.

“E. Negative effect of the measure on the UK FCRS consumers

The measure as well as other UK trade defense measures on steel products causes shortages and complicates economic recovery amid COVID-19 pandemic. CRFS

consumers continue to state that steel producers are benefiting from the current situation, while users have to pay the overprice.
We urge the Department to take into consideration interests of the UK users that have been already suffering from sharp increase of CRSP prices and shortages for a long time.”

Appendix reference: “Annex -Conf.xlsx” and “Annex.xlsx” to Registration form of the Russian side

5. If you have any other information which may help us with this review, please provide it below. These comments may include but need not be limited to:
- The potential impact on upstream and downstream industries if the existing anti-dumping measure on the goods subject to review were no longer applied.
 - Whether a particular market situation (PMS) exists in the People’s Republic of China and/or the Russian Federation that affects the goods subject to review.

The relevant information was provided by the Russian side in the Registration form (Section B – Additional Information).

For convenience of the investigative authority, please see excerpts from the Registration form, which are particularly relevant in this case.

“A. Wrongful scope of the review

According to paragraph 98 of The Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 and the Notice of initiation the scope of the review includes:

- 1) whether the application of the anti-dumping amount is necessary or sufficient to offset dumping of the relevant goods in the UK market; and
- 2) whether injury to the UK industry in the relevant goods would occur if the anti-dumping amount were no longer applied to those goods.

We would like to draw your attention to the fact that the examination of these two issues in the framework of this review is not exhaustive. The results of the review with such a narrow scope cannot determine if there are enough grounds to maintain the measure. Application of the measure, which was introduced in the EU to protect its industry, on the UK territory after the end of transition period can be justified only if

- 1) full comprehensive analysis during which all requirements of Article VI of General Agreement on Tariffs and Trade (‘GATT’) are met;
- 2) as a result of such analysis the UK Department for International Trade (hereinafter referred to as ‘the Department’) will establish
 - a) existence of dumping on the UK territory in accordance with Article 2 of the Agreement on implementation of Article VI of GATT (hereinafter referred to as ‘AD Agreement’);
 - b) presence of material injury or a threat of such injury to the UK CRFS industry in accordance with Article 3 of the AD Agreement;

Such a thorough analysis of the situation in the UK CRFS market has not been conducted yet. The measure was originally introduced after investigation of dumping and its effects on the whole EU CRFS industry.

The determinations and conclusions made during the EU anti-dumping procedures cannot be used for the purposes of current procedure. First of all, because the situation in the UK has not been specifically analyzed during the original investigation by the EU. Secondly, because the investigation of the EU authorities was not conducted in an objective and unbiased manner and was full of misconducts.

In light of the aforesaid, that the review type chosen by the Department in order to determine if application of the measure necessary, does not release the UK from the obligation to assess all of the abovementioned factors in relation to the UK CRFS market. In other words, such a format does not let the Department avoid conduction of the analysis the scope of which is equivalent to the original investigation.

If such an analysis of dumping, injury and a causal link specific to the UK only is not done the decision to continue application of the measure in the UK territory will be fundamentally inconsistent with Articles 2 and 3 of the AD Agreement, as well as in Article VI of GATT.”

“B. Lack of reasons for current application of the measures

After the end of the transition period, the UK continues to apply the EU measures. However, obviously the UK no longer belongs to the EU Customs territory, and is now a completely independent market. Before its actual disintegration from the EU the UK has not conducted and finished any procedure enabling it to apply the anti-dumping measures on CRFS. Hence, the Ministry fails to see the grounds for current application by the UK of the anti-dumping measures of another WTO Member, i.e. the EU, and requests the Department to withdraw the measures immediately.

“D. WTO dispute over the original investigation of the EU

The Russian side draws the attention of the Department that the EU anti-dumping measures imposed as a result of the original investigation are currently challenged by the Russian Federation within the WTO dispute European Union – Anti-dumping measures on certain cold-rolled flat steel products from Russia (DS521). The Ministry reiterates its reasons to believe that the EU measures are inconsistent with the EU obligations under the GATT 1994 and the AD Agreement and refers the Department to Russia’s request for the establishment of a panel (WTO document WT/DS521/2).”

In light of the abovementioned, the Russian side kindly ask the Investigative authority to lift the measure.

Appendix reference:-

B. Declaration

By signing this declaration, you agree that all information supplied in this questionnaire is complete and correct to the best of your knowledge and belief and that you understand that the information you submit may be subject to verification by TRID.

Please ensure that you remove or redact any personal data (including but not limited to names, signatures, contact details and job titles) from the non-confidential version of the questionnaire, which is to be uploaded to the public file by TRID. Where personal data has been removed, please note this in the non-confidential summary/version of the questionnaire.

Company name: The Ministry of Economic Development & the Ministry of Trade and Industry of the Russian Federation

23 June 2021

Date

Signature of authorised official

confidential

Name and title of authorised official