

**Comments of the Ministry of Economic Development of the Russian Federation and the Ministry of Industry and Trade of the Russian Federation regarding the Statement of Essential Facts of transition review of the anti-dumping measure applying to certain hot rolled flat and coil products originating in the Russian Federation, Federative Republic of Brazil and Islamic Republic of Iran**

On March 8, 2023, the Trade Remedies Authority of the Department for International Trade of the Government of the United Kingdom (hereinafter – the Authority) issued the Statement of Essential Facts of transition review of anti-dumping measure on imports of hot rolled flat and coil products (hereinafter – HRFS) exported from the Russian Federation, Federative Republic of Brazil and Islamic Republic of Iran.

The Ministry of Economic Development of the Russian Federation and the Ministry of Industry and Trade of the Russian Federation (hereinafter – the Russian side) would like to draw the Authority's attention to the following considerations.

**1. The continuation of application of the measure is inconsistent with the WTO rules**

According to the Statement of Essential Facts, the Authority recommends maintaining the form and levels of the original EU anti-dumping measure for the Russian HRFS. The Authority found that 1) Russian imports of HRFS would occur if the measure were no longer applied, 2) injury to the UK industry caused by Russian HRFS imports would occur if the measure were no longer applied, 3) the application of this measure meets the economic interest test (EIT).

The Russian side would like to reiterate its position submitted in Transition Review Questionnaire on September 5, 2022 that continuation of application of the EU measure in the UK territory will be not in line with the requirements set out by Articles 2 and 3 of the Agreement on Implementation of Article VI of GATT 1994 (hereinafter – ADA).

The WTO rules envisage that an anti-dumping measure shall be applied only under circumstances provided for in Article VI of GATT 1994 and pursuant to investigations initiated and conducted in accordance with the provisions of the ADA. However, the analysis within the review cannot be equivalent to the one within an original investigation. As an exemplifying illustration we draw the attention of the Authority to numerous reservations regarding its inability to recalculate the anti-dumping duty or its consideration that it is inappropriate to do so.<sup>1</sup>

As for this illustration, it should be noted that recalculation is one of the things the Authority must have done, and thereby it must have duly observed the United Kingdom's WTO obligations. Lack of imports to the United Kingdom due to the EU's anti-dumping measure is not an excuse to fail to do so. Article 2 of the ADA includes instruments enabling to calculate the margin in multiple situations, and the appropriate ones could have been found by the Authority.

## 2. Disregarded submission

According to para 39 of the Statement of Essential Facts the Authority disregarded information submitted by Severstal because of Severstal did not provide a non-confidential version of its confidential questionnaire submission. Therefore, as it is explained in para 80 of the Statement of Essential Facts, the Authority reviewed the likelihood of the continuation or recurrence of alleged dumping from Russia based on the overall data for the country. The Russian side would like to emphasize that according to Article 6.5.2 of the ADA *“If the authorities find that a request for confidentiality is not warranted and if the supplier of the information is either unwilling to make the information public or to authorize its disclosure in generalized or summary form, the authorities may disregard such information unless **it can be***

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<sup>1</sup> See e.g. paras. 22, 107, 248, 515 of the Statement of Essential Facts.

*demonstrated to their satisfaction from appropriate sources that the information is correct.*<sup>2</sup>

Footnote 18 of the ADA further clarifies that “*Members agree that requests for confidentiality should not be arbitrarily rejected.*”

In connection with the foregoing, the Russian side requests the Authority to provide in its final determination an analysis of the reasons why the submitted information was not deemed to be correct, as well as explain what exact provision of the ADA permits, in the Authority’s view, to disregard the information in question.

### **3. No likelihood of recurrence of injury due to the Russian imports**

The threat of injury shall be based on facts and not merely on allegation, conjecture or remote possibility.

The Russian side would like to emphasize that Russian imports into UK market do not have an opportunity to renew for an unpredictable period of time due to the ban and other restrictions imposed by the UK on imports of Russian products, including HRFS. Remarkably, the Authority totally ignores such restrictions, as if they simply had not existed<sup>3</sup>. However, they do exist, and do preclude Russian companies from exporting to the UK, which must not be disregarded.

Moreover, according to UN Comtrade Database for 2022, Turkey and Uzbekistan were the primary markets of Russian HRFS: Turkey imported about 1.2 million tons of HRFS (\$ 937 million), Uzbekistan – 0.6 million tons of products (\$ 448 million). These values are much higher than historical Russian exports to the UK market and may indicate the ability to absorb volumes of products previously destined for the UK market.

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<sup>2</sup> Emphasis added.

<sup>3</sup> Para 82 of the Disclosure of the Essential Facts states the following: “The sanctions against Russia are intended to be a temporary measure, are political in nature, and have been implemented for reasons other than to obviate the likelihood of dumping. Therefore, this assessment considers whether dumping is likely to recur but for these sanctions, if the anti-dumping measure were removed.”

As it is stated in the Statement of Essential facts “import shares from Russia as a percentage of total UK imports have remained relatively high despite the anti-dumping measure in place, recovering in 2019 to levels seen prior to the imposition of measures.”

At the same period the producer of the like products in the UK (TSUK) increased its export sales by 12 p.p.<sup>4</sup>, while its volume of production remained unchanged in the IP<sup>5</sup>.

This situation in our opinion was caused by the growth in demand for the HRFS in developing countries in 2018-2020 amid declining demand for HRFS in the domestic UK market, as confirmed by the Authority<sup>6</sup>. It appears that export reorientation of TSUK in the IP brought about certain unsatisfied domestic demand, which was strong enough to be satisfied by Russian imports even bearing in mind that the anti-dumping measure has been in place.

In this regard, the Russian side would like to note, that according to Article 3.5 of the ADA, *“The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injury caused by these factors must not be attributed to dumped imports.”*

The Russian side would like to request the Authority to analyze the impact of the temporary change in the TSUK’s supplies on the current state of the domestic industry.

The development of the Russian steel industry is focused on increasing domestic demand, such as production of pipes and tubes for booming expansion of oil and gas sector and construction after lifting lockdown and other pandemic restrictions in the Russian economy. As a result, significant demand for Russian products exists in the domestic market and in markets other than the UK. For example, currently in Russia there is a national project “Housing and urban environment”, aimed at increasing the volume of housing construction to

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<sup>4</sup> Table 9 of the Statement of the Essential Facts

<sup>5</sup> Table 23 of the Statement of the Essential Facts

<sup>6</sup> Para 121, 356 of the Statement of the Essential Facts

at least 120 million square meters per year. Also, at the present time the Government of the Russian Federation is taking measures to implement the Comprehensive Plan for the Modernization and Expansion of the Main Infrastructure for the period up to 2024<sup>7</sup>, which provides for nine federal projects to expand the transport network of the Russian Federation. These measures prove to be effective, since, according to the OECD estimates, in 2021, domestic steel consumption in the Russian Federation increased by 2.4% due to the significant development of the construction industry.

In June 2022, the Ministry of Construction of the Russian Federation, with the participation of the Ministry of Industry and Trade of the Russian Federation, also developed and approved a roadmap to further expand the use of metal in construction. This roadmap provides for the development of the construction of large infrastructure facilities and multi-storey residential buildings using steel structures. According to expert estimates, the implementation of the program is able to provide additional demand for steel products in the domestic market in the amount of about 5 million tons per year.

In addition, the Authority's reference to the OECD report<sup>8</sup> on changes in steel capacity for 2021 reflects erroneous idea about the intention of Russian manufacturers to increase production capacity.

Firstly, none of the projects listed in the OECD report has yet been implemented, there is no confirmation of the availability of ready-made investment projects, and even more so about the timing of their implementation. Therefore, it is incorrect to assert about a remote possibility, the probability of which is not confirmed by any argument.

Secondly, the company LLC "Don-metall" ([http://www.don-metall.ru /](http://www.don-metall.ru/)) is engaged in business in the field of scrap metal trade, does not have the capacity to produce HRFS.

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<sup>7</sup> [Government.ru/rugovclassifier/867/events](http://Government.ru/rugovclassifier/867/events)

<sup>8</sup> Para 88 of the Statement of the Essential Facts

Thirdly, based on the public information posted on NLMK's website on the Internet, the NLMK is not expanding its capacity, but is carrying out environmental modernization of the existing steelmaking production.

Moreover, Authority's allegations regarding growing inventory levels of the Russian companies, in excess of likely domestic need<sup>9</sup> are not true. Thus, according to official statistical information provided in the Unified Interdepartmental Information and Statistical System (EMISS) of the Federal State Statistics Service, since October 2021, Russian manufacturers of HRFS have indeed increased stocks of unsold products.

However, statistics from July 2022 show a sharp decline in stocks of HRFS in Russia to the lowest level in the last three years (338 thousand tons),<sup>10</sup> which indicates the reorientation of export supplies and the opening of new sales channels for HRFS in the domestic market of Russia.

In addition, destroyed trade flows and supply chains in light of so-called "sanctions" of the UK against Russia led to the lost attractiveness of the UK market for Russian suppliers. It will need a lot of time and effort to repair and rebuild trade ties. Besides, in long-term perspective return of Russian steel products to the UK market is unlikely as currently the UK is reportedly perceived by the Russian business as a non-attractive market due to high risks of introduction of severe trade restrictions whose legitimacy might appear questionable under international law.

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<sup>9</sup> Para 96 of the Statement of the Essential Facts

<sup>10</sup> <https://www.fedstat.ru/indicator/57789>

#### **4. Stable situation in the UK industry**

According to the Statement of Essential Facts, economic indicators of the UK industry demonstrate stable development<sup>11</sup>. It would be seen that TSUK has enhanced the following indicators over exactly IP in compare with the previous year:

- domestic sales by value +69 p.p
- export sales by value +101 p.p
- output by value +36 p.p%;
- domestic market share +14 p.p;
- total sales by value +80 p.p;
- median wage +15 p.p

Production capacity has remained constant throughout the IP. It reflects sustainable financial condition of the TSUK.

Based on the foregoing, we can conclude about the positive dynamics of development, the prosperous state of the UK industry and, accordingly, the absence of material injury to the UK producers caused by the import from Russia.

#### **Conclusions.**

The Russian side is of the view that there is no evidence of likelihood of continuation or recurrence of injury to the UK industry and continuation and recurrence of dumping.

Given that the Statement of the Essential Facts does not provide positive information substantiating the need for extension of anti-dumping duty, the Russian side asks the Authority to terminate the transition review without extension of measure.

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<sup>11</sup> Table 8,9,10,11,12 of the Statement of the Essential Facts