

**Submission of the Ukrainian side regarding Reconsideration of an Original Decision
in Transition Review on Safeguard Measures on Certain Steel Products
(Transition review TF0006)**

On 1 October 2020, the Trade Remedies Investigations Directorate (TRID) published a Notice of Initiation for a transition review of EU tariff rate quotas on certain categories of steel products (case No. TF0006).

The Trade Remedies Authority (TRA) published its analysis and reasoning in its Statement of Intended Preliminary Decision and recommendation to the Secretary of State for International Trade on 19 May 2021 and 11 June 2021. On 30 June 2021, the Secretary of State accepted the TRA's recommendation and extended the measure by a further three years with respect to ten product categories of steel and for one year with respect to five additional product categories.

On 07 September 2021, the Trade Remedies Authority (TRA) initiated a reconsideration of an original decision in transition review.

The Ukrainian side is of the opinion that there are no grounds for maintaining safeguard measures on steel products by the UK as a result of a reconsideration of an original decision in transition review.

1. THERE IS NO LEGAL GROUNDS FOR APPLICATION OF SAFEGUARD MEASURES

The Ukrainian side is disappointed with the UK's decision to extend the measure by a further three years with respect to ten product categories of steel and for one year with respect to five additional product categories.

Any review of safeguard measures is possible only if they are applied based on the results of the original investigation and only on the basis and in the manner specified, *inter alia*, in Article XIX of the General Agreement on Tariffs and Trade 1994 and in the provisions of the Agreement on Safeguards.

Moreover, by the decision of 30 June 2021 a number of products have already been excluded, namely 6 product categories (4B, 14, 15, 19 (certain HS codes), 27 and 28), and now by decision of 7 September 2021 the TRA proposed to reconsider the conclusions for the certain steel products.

The Ukrainian side believes that if the UK intends to protect the domestic steel industry, it should initiate new investigation for every particular steel product, unforeseen developments must be identified, as well as increase in imports, a serious injury, causation, and other necessary factors must be taken into account by the investigating authority.

Moreover, the Ukrainian side is of the opinion that if measures are to be maintained it would not be in line with the UK interest. Application of the safeguard measures in the form of tariff rate quotas could lead to shortages of supply of crucial raw materials, affect the UK downstream steel industries that, in turn, would slow economic recovery after the crisis caused by the COVID-19 pandemic.

2. EXCEPTIONAL CIRCUMSTANCES OF UKRAINIAN ECONOMY SITUATION

Ukraine has continuously suffered from the aggression from the Russian Federation, which significantly affected Ukraine's economy and steel sector in particular. It accounts for 1/3 of Ukrainian exports and 1/3 of industrial investments. Most enterprises are located in the Eastern part of Ukraine, strong and predictable metallurgical sector ensures stability in social and labor scene in the region which directly borders with territories that suffer from Russian military presence. As a result of the Russian armed aggression, numerous steelmaking enterprises already have been closed and since 2013 the steel industry in Ukraine has shrunk, which now makes Ukraine just the 14th steelmaking country in the world.

The iron and steel industry of Ukraine contributes about 10.6% to Ukrainian GDP (5.2% directly and 5.4% via supply-chain). It accounts for 1/3 of Ukrainian exports and 1/3 of industrial investments. Nevertheless, the steelmaking capacity of Ukraine decreased from 42.5 million tons in 2013 to 25.3 million tons in 2020 (Ref. Table 1).

Table 1

Steel production in Ukraine, 2013-2021

Indicator	2013	2017	2018	2019	2020	2021 (11M)
Number of steel producers	17	11	11	10	10	10
Nominal steelmaking capacity, million tons per year	42.5	28.7	28.3	26.1	25.3	-
Crude steel production, thousand tons	32,684	21,334	21,100	20,845	20,616	19,62
Capacity utilization,%	76.9%	74.2%	74.6%	79.9%	81.5%	-
Finished products, thousand tons	29,038	18,441	18,361	18,202	18,425	17,55

Source: UKRMETALURGPROM

According to UKRMETALURGPROM data¹, in January-November 2021, steelmaking enterprises of Ukraine produced 19.62 Mt of steel which is 104.9% to the same period of 2020 and down by 40% as compared to 2013. Given the abovementioned facts, it becomes obvious that Ukraine does not have the possibility to increase its production or export capacity of steel products.

¹ <https://www.ukrmetprom.org/the-results-of-the-mining-metallurgical-complex-of-ukraine-activity-in-jan-nov-2021/>

Lifting safeguard measures or excluding Ukraine from such measures is essential for country's economic capability to withstand the continuing Russian armed aggression. At the same time, given the significant decrease in production caused by the Russian military aggression, exacerbated by the COVID-19 crisis, it is unlikely that Ukraine would increase its exports of steel products under such conditions as to cause or threaten to cause serious injury to the UK steel industry.

The Ukrainian side would also like to draw attention to Article 42.1 of the Political, Free Trade and Strategic Partnership Agreement between Ukraine and the United Kingdom of Great Britain and Northern Ireland, according to which when imposing safeguard measures, the Parties shall endeavour to impose them in a way that least affects their bilateral trade. Therefore The Ukrainian side believes that this provision will be taken into account by the UK when making the relevant decision.

Taking into consideration the above, we would like to ask the UK to consider all possible ways to ease the access for Ukrainian products on the UK market, particularly by excluding Ukraine from the safeguard measures or increasing quotas volumes for steel products from Ukraine with yearly allocation of individual quota.