BRITISH STEEL

9th July 2021

British Steel Application for Reconsideration TF006 – Steel Safeguards

Introduction

This application by British Steel is made under regulation 10 of the Trade Remedies (Reconsideration and Appeals) (EU Exit) Regulations 2019 for reconsideration of certain parts of the Recommendation to the Secretary of State regarding "Transition review TF0006 – Safeguard measure on certain steel products" published by the Trade Remedies Authority on 11 June 2021.

The TRA's recommendation was for the continuation of safeguard measures on 10 of the 19 product categories, with a revocation of the other nine. This application for reconsideration concerns the TRA's recommendation to revoke measures of the following categories which directly affect British Steel

1. 12 (Non Alloy and Other Alloy Merchant Bars and Light Sections)
2. 16 (Non Alloy and Other Alloy Rod)
3. 17 (Angles, Shapes and Sections of Iron and Non Alloy Steel)

British Steel believe that the TRA's recommendation to discontinue the measures on the above product categories did not take in to account all of the evidence and injuries relating to these categories and as a consequence, the decision was incorrect, as it suffered from errors of a factual and legal nature.

Furthermore, as the TRA's recommendation was published before the EU's decision to maintain its own steel safeguards in their entirety for three years, the TRA was unable to fully take into account the severe additional impact the EU's decision would have on trade diversion to the UK and the additional injury to UK steel industry. Importantly, the Secretary of State's statement announcing a one-year extension of measures to five product categories explicitly advises that this EU decision should now be considered.

For product category 19 (Railway Material), we agree with the TRA's recommendation to extend the measures for three years but disagree with the new quota size set. It is evident this has been calculated based on an incorrect dataset as a result of a seemingly misplaced decimal point in the HMRC data. We therefore ask the TRA to recognise this as an obvious error and recalculate the quota size accordingly. A separate submission for reconsideration by the TRA has been made by British Steel as it is hoped this issue can be resolved quickly.

British Steel understands from the TRA that three conditions should be met to submit this reconsideration application and confirm that these conditions listed in regulation 10(5) of the Reconsideration Regulation, are met:

(i) the applicant is eligible to apply, under regulation 9 of the Reconsideration Regulation.
(ii) the applicant has given the grounds for the application.
(iii) the applicant has described the outcome sought.

Furthermore, the application is made within a month of the publication of the Recommendation and so is served in good time in accordance with regulation 10(2) of the Reconsideration Regulation.

Criteria for the appeal

I. ELIGIBILITY TO APPLY FOR RECONSIDERATION

Under regulation 9(6) an 'interested party' is eligible to apply for reconsideration of a decision listed in paragraph (1), this includes the Recommendation as it was a recommendation to the Secretary of State made under Regulation 51(1) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019.

An "interested party" is defined under regulation 2 of both the Reconsideration Regulation and the Safeguard Regulation as encompassing "a trade or business association of UK producers of the like goods or directly competitive goods" which includes British Steel. Hence, British Steel is eligible to apply to have certain parts of the Recommendation reconsidered by the TRA.

II. GROUNDS FOR RECONSIDERATION

British Steel submits that the TRA has erroneously recommended the revocation of three categories of interest based on no increase in UK imports:

- 12 (Non Alloy and Other Alloy Merchant Bars and Light Sections),
- 16 (Non Alloy and Other Alloy Wire Rod),
- 17 (Angles, Shapes and Sections of Iron and Non Alloy Steel)

This application for reconsideration is made on the grounds that:

1. The TRA failed to take into account factual evidence that was provided, with inadequate justification for doing so
2. The TRA erred in its interpretation of the Safeguards regulation
3. Consideration must be given to the interconnectivity of products and production processes
4. The TRA didn't take into account significant changes to market structure and trading dynamics
5. New facts that are material to the decision are now available for the TRA to consider, including the extension of the EU safeguards and the increased imports into the UK now increasingly likely as a result of trade diversion
6. TRA should consider factual evidence of injury to the steel sector which was submitted and has been widely publicised
7. Post Covid-19 and post Brexit macro-economic impacts to the sector

Separately, British Steel requests that the TRA reconsider the quota size for category 19 (Railway Material) on grounds that the calculation was incorrect due to an error in the data set from HMRC

III. OUTCOME SOUGHT

British Steel submits that for categories 12, 16 and 17, the TRA should recommend that the safeguard measures are extended for a period of three years.

For category 19, we request that amendments are made to the tariff rate quota as soon as possible to rectify a clerical error in the HMRC dataset.

Summary detail of the grounds for reconsideration

1. Data reference to review import levels

The increase in import levels as reported by TRA is based on incomplete HMRC data. More accurate and comprehensive data is available from ISSB (International Steel Statistics Bureau) and this is the data used by all UK steel producers to assess market demand and import levels.

ISSB data shows a higher increase in import volumes during the relevant period when compared to the HMRC data, this is significant to TRA and to the initial recommendation. These higher levels of imports are coming into the UK, the market is accustomed to these levels and therefore this should be the overriding factor to amend the initial recommendation.

Summary of why HMRC data differs to ISSB import data

The difference between HMRC data and ISSB data is limited to imports from the EU27 into the UK. All VAT registered businesses are required to declare the value of their intra-EU trade in goods on their VAT returns. Additionally, until 31 December 2020 businesses were also required to provide more detailed statistical returns in their Intrastat declaration, which includes information on volume of trade. However, companies importing into the UK from the EU whose annual value of imports was below a certain threshold, did not have to submit an Intrastat declaration. This was a measure which aimed to reduce the administrative burden from the collection of trade statistics on smaller businesses.

HMRC has raised the Intrastat exemption thresholds over the years, most notably in 2010 and even more sharply in 2014 and 2015. The changes to the UK's thresholds were based on a formula set by the European Commission, which was amended in 2013 to only require Member States to capture 93% of their estimated trade with other EU states. It had previously been 95%. This means that an increasing volume of imports was not being captured by HMRC statistics, therefore under-reporting the increase in steel imports between 2013 and 2017.

The ISSB data includes HMRC estimates of trade by companies that fall below the threshold. The methodology for the Below-Threshold Trade Allocation (BTTA) is based on the assumption that the allocation of below-threshold trade is equivalent to the allocation of the just-above threshold trade (JATT). The methodology then seeks to infer volume from value.

The steps can be summarized as follows:

1. Obtain the value of below-threshold trade (BTT) from VAT returns
2. Aggregate value of above-threshold trade for each trader and sort in ascending order
3. Select the portion of above-threshold trade that equals or just exceeds the total value of BTT – this represents JATT
4. The trade in the JATT for each country and 8-digit commodity code is then mirrored as the annual BTTA

The following page sets out the two different data sets and highlights the increase in imports for 3 product groups relevant to British Steel when using ISSB data vs the HMRC data which has been used initially by TRA.

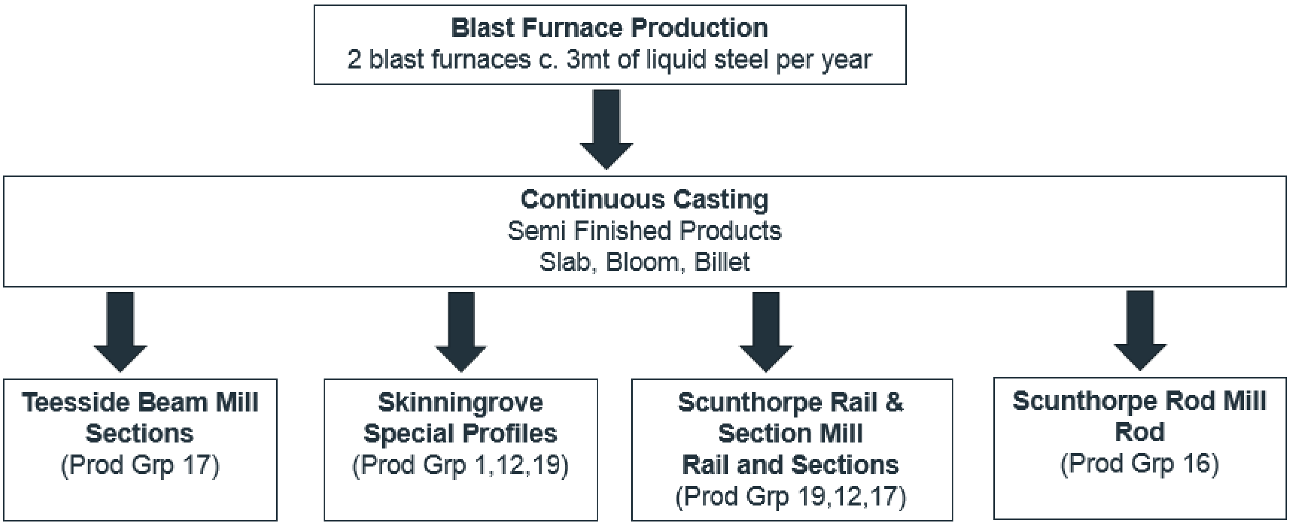
	Product Category	TRID Recommendation	TRID Reas Revocatio
1	Non Alloy and Other Alloy Hot Rolled Sheets and Strips	Retained	
2	Non Alloy and Other Alloy Cold Rolled Sheets	Retained	
4	Metallic Coated Sheets	Retained	
5	Organic Coated Sheets	Retained	
6	Tin Mill products	Revoked	No Increas
7	Non Alloy and Other Alloy Quarto Plates	Revoked	No likelih injury
12	Non Alloy and Other Alloy Merchant Bars and Light Sections	Revoked	No Increas
13	Rebars	Retained	
14	Stainless Bars and Light Sections	Revoked	No Increas
15	Stainless Wire Rod	Retained	
16	Non Alloy and Other Alloy Wire Rod	Revoked	No Increas
17	Angles, Shapes and Sections of Iron or Non Alloy Steel	Revoked	No Increas
19	Railway Material	Retained	
20	Gas Pipes	Retained	
21	Hollow sections	Retained	
25A	Large welded tubes	Revoked	No likelih reoccurre
25B	Large welded tubes	Revoked	Goods not economic
26	Other Welded Pipes	Retained	
27	Non-alloy and other alloy cold finished bars	Revoked	No Increas
28	Non Alloy Wire	Revoked	No UK Pro

Product Groups 12, 16 & 17, all show an increase in import levels over the 2013 to 2017 period when the full dataset is used. Considering the levels of these increases, they are comparable to the levels of other product groups where TRA has recommended an extension, therefore by way of this data British Steel would ask TRA to reconsider their recommendation.

2. Interconnectivity of steel products

The interconnectivity and production processes must be taken into consideration, British Steel is an integrated system and decisions for one product line can have severe consequences for other product lines and for the production economies of scale of the entire business.

British Steel manufactures 4 finished product groups, (1) Sections, (2) Special Profiles, (3) Rail, (4) Rod, the integrated system relies on each line to be operating at a specified capacity to ensure coverage of group costs as much as possible. Below is a simple diagram of the operations and product groups manufactured by British Steel.



As an example, for British Steel, only keeping the safeguards in place for 12 months on product group 17 Sections, will likely lead to an increase in imports of this product following the end of the measure. This will reduce the domestic sales British Steel is able make as the market size is defined at typical levels of 1.2mt, but this year is only 920kt, a 23% decline due to COVID. Even in typical market conditions, if there are no measures British Steel will not be able to sustain the current 2020/21 levels of sales to the UK, even if there were no increase in imports, however the data set shows that imports have been increasing, and will accelerate due to the continued extension of EU Safeguards recently announced.. This would mean British Steel has to consider alternative less profitable sales (of which we are restricted due to EU and US measures – see point 4) because the two blast furnaces we use are essentially either on or off – so the site can currently operate at either 3mt or 1.5mt output. . Previous analysis has shown that if we reduce iron and steel make to one furnace, or 1.5mt, then the losses would be so great that the site would have to close. Therefore, a reduction in sections sales (or rods) could have the potential to have a domino effect on the business that could close the whole of British Steel.

Removing the measures after 12 months will also impact other product lines, and to note the shared asset of the Scunthorpe Rail & Section Mill as a major concern, because if there is not enough sections demand for a viable operating model, it will increase the costs of rail produced on the shared asset and as a result rail product costs will increase, making our rail product sales increasingly uncompetitive, which ultimately could lead to the closure of this mill and then the collapse of the British Steel business.

Based on the interconnectivity and impact to the entire integrated operating system the TRA need to understand the implications of any decision at a business level. The TRA should also seek to understand the implications of Blast Furnace production, this method of production cannot be switched on and off like an electric arc furnace. If operating levels are impacted this has the potential to affect 4,000 jobs at British Steel and 20,000 jobs in the wider supply chain. The TRA should take this interconnectivity and production processes into consideration when assessing the impact of imports on the UK Steel industry.

3. Significant changes in market structure and dynamics

Product Group 16 includes a number of product groups including Rebar in Coil, Bright Bar and Wire Rod. British Steel only manufactures wire rod and therefore an assessment should be made at a more granular level of detail to understand the impact of these particular products in relation to the UK producer.

British Steel has reviewed the relevant wire rod of drawing quality which is part of product group 16. It is recommended that the TRA consider the case of rebar in coil and bright bar separately.

Confidential version includes a summary of UK market size and share for British Steel in wire rod, this information is commercially sensitive and not for public consumption.
The UK market for drawing quality wire rod has dramatically declined since the early 2000's, this dramatic reduction leaves British Steel with a very small domestic demand.

Chart redacted from non-confidential version which shows British Steel assessment of UK demand for WR Drawing Quality, this is internal and commercially sensitive, so not available for public consumption.

The UK wire rod market has experienced the loss of a number of local supply chains for fencing wire, welding wire, stranded wire and cables, fasteners & fixings and consumer products (staples, nails, needles, pins). In the last two decades the UK demand decline has been due to a number of company closures (customer and company names redacted as this is British Steels interpretation of market events and not substantiated by the mentioned companies). The loss of such companies and diminishing supply chains in the UK is evidence of the injury caused by imports and lack of support as activities relocated.

Given the notable change in the market dynamic of this product, it is recommended the TRA consider the level of imports in the context of the falling domestic demand as well as the UK capabilities and capacities.

Import levels as a percentage of the market had been showing a steady decline when considering the period of investigation since 2013, however 2019 experienced a peak. Percentages and values removed from non-confidential version as this information is commercially sensitive and is British Steels assumption of the market dynamics.

Given the increase of 2019, it is evident that an increase in imports is real and in a small market this has significant opportunity for injury to British Steel. Whilst it is accepted that the levels are not as high as experienced in 2013 and 2014, the significant increase experienced in 2019 vs 2017 and 2018 should be taken into consideration, particularly as the market recovers post Brexit and post COVID. Increase in import levels generally lowers market prices, this also should be considered when assessing potential future injury to the sector.

Chart redacted from non-confidential version illustrating imports as a % of UK demand – this information is commercially sensitive and not for public consumption.

4. Injury to UK Steel Producers, given EU and US measures remain in place

The overarching reason for the EU safeguards that were introduced in 2018 was to protect the market from diverted trade flows following the introduction of US Section 232 that same year. Following Brexit, the UK adopted the safeguard measures to protect the UK market, and as all these factors remain in place today, we are asking TRA to take into consideration the environment which we are operating within.

Revoking the measures after 12 months in the UK market whilst the EU maintain measures for 3 years will lead to higher import levels in the UK, and the consequence of this is inevitably lower domestic sales for British Steel.

With lower domestic sales, injury will be caused to British Steel in several ways

1. UK sales are [value redacted as this is commercially sensitive] better financially than export sales, principally due to much lower logistics costs for delivery to domestic customers, and if we replace domestic sales with additional exports,

then lower returns will not cover the business fixed costs.

2. Limited options of alternative sales to other markets due to EU and US measures
    a. **Sections** – limited EU quota of only 23kt per quarter, currently this is being utilised to service British Steel's own service centre in Northern Ireland. Therefore, British Steel cannot export any sections to the EU. For context removing the measures in the UK allows EU producers access to a recovering market of c. 0.9mt – 1.2mt per year, yet British Steel are now effectively excluded from selling into mainland EU where market size is c 6-8 mt per year. A long-term solution for trade from Great Britain to Northern Ireland needs to be sought to remove this barrier. Even with a solution, the quota levels of 23kt per quarter are small in the context of market size and our available capacity.
    b. **Sections** – [opportunity of potential sales volume redacted as this is commercially sensitive and is British Steel's best estimate] we are not able to sell in the US due to S232
    c. **Rail** – EU quotas allow only approximately 16kt per year of UK sales in a market of more than 1.6mt. This is unmanageable with quarterly quotas and project phasing and the reality is that 16kt per year is insufficient to service any major EU network providers. Assessment of British Steel potential sales volume redacted as this is commercially sensitive and not for public consumption. Due to the length of the product (108m or 120m), rail typically does not travel economically beyond mainland EU therefore other markets are difficult to service and returns are not viable. As set out in section 2 of this paper, the producing mill for rail also produces sections, if there are no alternative sales opportunities for rail (in a large part due to the extension of EU safeguards), British Steel will have to increase our section sales to consume the mill capacity not used for rails. If sections demand is reduced due to increase in imports in to the UK then this means the mill and the business will need to be configured differently impacting job levels, local communities and UK manufactured product availability and will lead to increased production costs and loss of competitiveness.

It is clear that the dynamics of the steel market are complex and if these measures for product categories 12, 16 and 17 are not extended for three years, then this will have major implications to other product lines and to the overall business which is currently trying to recover from COVID and the impact of Brexit. The examples set out above attempt to highlight the significant economic impact British Steel faces and the impact to the viability of the business if TRA do not extend the safeguard measures for three years in line with the announced extension of the EU.

5. Factual injury evidence of the steel sector

It is well publicised that the UK steel sector faces many challenges, there have been some significant examples over time including the demise of steel making on Teesside, the closure of Scunthorpe and Dalzell plate mills, and more recently the liquidation of British Steel.

The financial evidence submitted to the TRA in the early part of this investigation demonstrates the ongoing difficulties for the UK steel sector. To make a decision not to extend the measures and open up the UK market to allow unlimited import levels will only add further pressure to the industry. The TRA should bear these catastrophic events in mind when reconsidering this case.

6. Post Covid-19 and post Brexit

The UK steel sector is still recovering from the impacts of Covid and Brexit. The UK economy shrunk by 1.6% in the first quarter of 2021, compared with the previous three months. UK GDP is currently 8.8% below its position before the pandemic hit as measured by the last quarter of 2019.

The additional costs of paperwork and material movements are also a key financial aspect for the steel sector, it is estimated that an additional £[value redacted as this is confidential business information]/t has been added to costs to continue trading to mainland EU. This cost excludes the estimated +[value redacted as this is confidential business information]% being charged by hauliers due to shortages in the transport and logistics sector.

At a time when the sector is still fragile and trying to rebuild, it would have detrimental effects if the safeguard measures were to be removed in 12 months.

Conclusions

British Steel has set out several key points in the hope that this provides TRA with greater clarity and insight as to why the measures should be extended for 3 years for the product categories addressed. An extension for 3 years in line with the initial safeguard recommendation will allow a level of protection as the markets recover and give some stability to allow business owners to prepare strategic plans for investment and decarbonisation. Without this level playing field, the UK Steel sector is at serious risk to injury and the wider implications are unthinkable.

Key British Steel Metrics

- 3,900 direct employees, c 20,000 in entire supply chain
- £1.6bn turnover
- 2.8mt finished product sales, of which 50% to UK markets
- Only UK producer of Rail, Structural Heavy Sections and Special Profiles

British Steel is more than happy to review or discuss any points raised in this paper.