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Non-Confidential

The Comments on the Particular Market Situation in China's Steel Ropes and Cables Market regarding the Transition Review TD0034 Submission of the GOC

The Notification of PMS Enquiry dated on 10 May 2023 by Trade Remedies Authority (TRA) requested the government of the People's Republic of China (GOC) to comment or provide information on the allegations that whether a particular market situation (PMS) exists in the steel ropes and cables market in China. It is appreciated that TRA gave this opportunity. In order to promote the fair and just settlement of the transition review concerning certain steel ropes and cables originating in China (transition review TD0034). The GOC would like to submit the following comments.

1. The position on maintenance or application of the EU trade remedy measures (the EU measures) and transition reviews.

1.1 The maintenance or application of the EU trade remedy measures by the UK lacks legal and factual basis.

The maintenance or application of the EU measures by the UK lacks legal basis. The EU's Notice clearly states that "*all anti-dumping and anti-subsidy measures in force apply from 1 January 2021 only to imports into the twenty-seven Member States of the European Union*". There is no international law or WTO rules authorizing the UK to maintain or apply the EU measures. The maintenance or application of the EU measures by the UK also lacks factual basis. The continued application of the EU measures without WTO-compliant investigation is inconsistent with WTO rules.

1.2 The transition review are inconsistent with the WTO rules.

the UK is not entitled to maintain and continue to apply the EU measures after Brexit. The transition reviews are invalid from the beginning. The transition review is not an investigation procedure under the WTO rules.

2. Investigations on PMS should be in accordance with the WTO rules.

Without prejudice to the above, the GOC notes the investigations on PMS should be in accordance with the WTO rules.

2.1 Extensive interpretation of PMS does not comply with ADA.

In accordance with the Anti-Dumping Agreement (ADA), the scope of PMS investigation should be directed to its purpose, which PMS should have a direct impact on the domestic sales price of the relevant products, thus affecting the comparability of domestic sales prices with export prices. Different economies are at different development stages and have their own economic characteristics. If the anti-dumping measures are extended to the evaluation of national systems and policies, and attribute competitiveness arising from the macro-political conditions and development environment to enterprises, such an extended scope of investigation would neither directly support the finding of a PMS nor be consistent with ADA.

2.2 The allegation on PMS in China's steel ropes and cables market is general, not supported by any evidence.

Bridon International Limited, UK Steel (EEF Limited) claimed that there is a PMS in China's steel ropes and cables market. Bridon stated that *Producers in China are well documented to receive significant government subsidies, low/no interest state loans as well as incurring lower employment costs, making their cost base and prices artificially low; their exports to the UK having an unfair advantage*¹. UK Steel said *UK Steel has previously submitted evidence of market distortions in the steel wire rod industry in China to the TRA in relation to the wire rod anti-dumping case. Wire as well as wire ropes and cables sit further downstream and would be impacted by the same distortions.*² But they had not submitted any supporting evidences. What they claimed is only a few words and a general allegation which do not constitute "sufficient evidence" under ADA. According to Article 5 of ADA, *Simple assertion, unsubstantiated by relevant evidence, can not been considered sufficient to meet the requirement of the application.* If the UK interested parties claim that a PMS exists in the China's steel ropes and cables market, they should provide relevant sufficient evidences. Instead of TRA asking the GOC to provide contrary evidence or information to prove that there is no PMS in China's steel ropes and cables market against their simple assertion. This is a typical inversion of the burden of proof, which is inconsistent with the relevant provisions of ADA.

3. No PMS exists in the China's steel ropes and cables market.

Without prejudice to the above, the GOC notes the Article 7(4) of the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 stipulates that a "particular market situation" includes situations where—(1) prices are artificially low; (2) there is significant barter trade; (3) prices reflect non-commercial factors. The GOC has assessed that the above situations do not exist in the China's steel ropes and cables

¹ Pre-Sampling Questionnaire (Producer) _20230330105427_Non Confidential, Bridon International Limited.

² Non conf - Other Interested Party and Contributor Registration Form, UK Steel.

market.

3.1 All types of Chinese steel ropes and cables enterprises are equal competitors in the market.

Article 15 of the Constitution of The People's Republic of China stipulates that China shall practice a socialist market economy. After years of efforts, China has established a market economy in which the market plays a decisive role in the allocation of resources, which is recognized by most countries in the world. All kinds of steel ropes and cables manufacturers in China are established and operate in accordance with the relevant provisions of the Company Law of the Peoples Republic of China. They allocate resources fully accordance with price signals and participate fairly in market competition. The Company Law of the Peoples Republic of China does not interfere with the production, operation and pricing of these enterprises.

After years of reform, China's state-owned enterprises (SOEs) have become independent market participants, which allocates resources, sets sales prices and conducts business fully compliance with price signals. Article 16 of the Constitution of The People's Republic of China clearly stipulates that State-owned enterprises should, within the scope prescribed by law, have the right to operate autonomously. SOEs in China are market entities that operate independently, bear their own profits and losses, exercise self-restraint and self-developments. They participate in market competition equally with enterprises of other ownership, without special treatment. The total assets of listed companies controlled by SOEs account for 67% of that of central enterprises'. Listed companies have quarterly, half-yearly and annual reports, and their information are transparent. It can be seen that SOEs are independent market entities operating in accordance with the provisions of Chinese Constitution Law and do not enjoy special treatment. Like other types of enterprises, SOEs allocate resources, set prices for domestic sales and exports and conduct their business in full accordance with price signals.

3.2 Five-year plans are not equal to government intervention.

The primary purpose of China's five-year plan is to provide a framework guidance for economic and social development during the plan period. The plan is not self-executing and not binding. The GOC does not interfere with business operations and pricing practices accordingly, the plan should not be considered to be government intervention. Five-year plan may be used by commercial enterprises to anticipate the direction of the economy and economic development so as to make informed investments according to the anticipated direction.

The white paper "Industrial Strategy - Building a Britain fit for the future", released by the UK government in November 2017, generally has the same intention and scope as the 14th Five-Year Plan. The GOC request TRA to determinate whether the white paper demonstrates that the UK government intervenes or controls business and would cause a PMS in the UK economy. Therefor, GOC requests TRA give equal

treatment to China's five-year plans and this UK white paper rather than implement double standards.

3.3 The steel ropes and cables market in China is fully competitive and prices are determined by the market force.

According to the information provided by Wire Rod Product Branch Association of China Steel Construction Society (WRPBA), There are around 200 steel ropes and cables producers in China. The market concentration of the steel ropes and cables industry is very low. China's steel ropes and cables market is a fully competitive market. The domestic sale prices and export prices of China's steel ropes and cables are determined by market forces. The GOC does not intervene in or control the sale practices and sale prices of the steel ropes and cables. The production and sale decisions of various types of enterprises are entirely determined by market forces. There is no evidence that the prices of Chinese steel ropes and cables products are artificially low.

China's steel ropes and cables market is open and free, the production and sale are decided by domestic and international market forces. While selling steel ropes and cables in domestic market the, China's steel ropes and cables producers also export the products according to the situation of international market. While purchasing in domestic market, downstream users of China's steel ropes and cables also import large volumes of steel ropes and cables from the international market. In 2022, the steel ropes and cables imported by China accounted for 55.8 Kiloton³ from Korea, Germany, Japan, UK and other countries which is more than 3 times of the UK imports from international market. The imports by China from the UK is 3561 Ton⁴ which is almost same as the UK imports, 3625T⁵, from China. Chinese steel ropes and cables producers decide whether to sell domestically or export their products according to the domestic and international prices. Similarly domestic downstream users can determine the purchase sources according to the domestic and international prices. The domestic market price of China's steel ropes and cables is formed by the joint forces of domestic and international market.

3.4 No barter trade in China's steel ropes and cables market.

China's domestic steel ropes and cables market is not engaged in barter trade. Domestic steel ropes and cables products are traded all in the general trade. The producers decided the price of the steel ropes and cables according to the market factors. Domestic steel ropes and cables sales are normal sales behaviors in the trade process.

3.5 The wrong conclusions of the third party are neither facts nor evidence.

The GOC and relevant enterprises do not accept the European Commission's

³ General Administration of Customs of China

⁴ General Administration of Customs of China

⁵ UK Trade Info

Commission Staff Working Document and the findings conducted by investigation authorities of Canada, Australia and United States. The GOC and relevant enterprises had submitted their defense comments to the above-mentioned institutions. For example, regarding Commission Staff Working Document, the GOC stated that Article 2(6a) of the Basic Regulation is not consistent with Article 2.2 and 2.2.1.1 of the ADA and decisions of the Appellate Body and panel of the WTO dispute settlement mechanism on relevant issues. Commission Staff Working Document issued against China does not represent the EU's official position. The content of Commission Staff Working Document and the ways it is used have serious factual and legal flaws, the investigation based on this should be invalid from the beginning.

As set out in the WTO Appellate Body's ruling in *US – Definitive Anti-dumping and Countervailing Duties on Certain Products from China*⁶:

*“In our view, merely incorporating by reference findings from one determination into another determination will normally not suffice as a reasoned and adequate explanation”.*⁷

TRA should maintain its independence. The report from the third party or the wrong conclusion of other investigation authorities should not become the basic facts on which the TRA investigation conclusion is based. Under the Article 1 of ADA, *an anti-dumping measures shall be applied only pursuant to investigations initiated and conducted in accordance with the provisions of this agreement*. The conclusions or findings mentioned by the UK interested parties are the investigation conclusions or working document of other investigation authorities, they are not an objective facts, nor can they be used as the basic evidences for the findings made by the investigation authority of another sovereign country. As an independent investigation authority, TRA shall make a decision based on the objective facts obtained from its own investigation and take relevant measures accordingly.

4. It is not in the UK's interest to continue to apply the steel ropes and cables anti-dumping measures.

The price of steel ropes and cables in UK is significantly distorted by the anti-dumping measures for steel ropes and cables. The distorted high price will significantly increase the cost of downstream users, which will delay or retard the recovery ability and speed of downstream industries from the impact of the COVID-19. It will further cause the domestic demand for steel ropes and cables in the UK to shrink.

5. Conclusion.

The maintenance or application of the EU measures by the UK lacks legal and factual basis. The relevant transition reviews are invalid from the beginning. The UK shall

⁶ WTO Appellate Body, 11 March 2011, WT/DS379/AB/R.

⁷ *US – Anti-Dumping and Countervailing Duties (China)*, Appellate Body Report, para 354.

terminate the application of the EU measures and all the on-going transition reviews. The PMS investigation conducted by TRA shall comply with WTO rules. China has established a market economy in which the market force plays a decisive role in resource allocation. All kinds of enterprises are equal entities of market competition. There are no all the situations of PMS under the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 in China's steel ropes and cables market. All types of Chinese steel ropes and cables producers operate independently according to the price signal. The GOC has not intervened in the production, operation and pricing of these enterprises. The five-year plan does not belong to the government's intervention in enterprises. China's steel ropes and cables market is fully open and free, and the price is determined by the market forces. Continuing to apply the steel ropes and cables anti-dumping measures is not in the UK's interest. Therefore TRA shall terminate the current investigation and revoke the relevant measures accordingly.