



Safeguard questionnaire¹

Safeguard measure on certain steel products

Case: TF0006

Period of Investigation (POI):	01 January 2013 – 31 December 2017
Most Recent Period (MRP):	01 January 2018 – 30 June 2020
Deadline for response:	21 November 2020
Case Team Contact:	Imogen Yapp, Lead Investigator, TF0006@traderemedies.gov.uk
Completed on behalf of:	The Society of Motor Manufacturers and Traders Ltd
Party type (<u>select</u>):	<div><input type="checkbox"/> Contributor <input type="checkbox"/> Government of relevant foreign country or territory (<i>Interested Party</i>) <input checked="" type="checkbox"/> Trade or business association representing overseas exporters or UK importers of the good(s) subject to review (<i>Interested Party</i>) <input type="checkbox"/> Trade or business association representing UK producers of like goods or directly competitive goods (<i>Interested Party</i>)</div>

¹ Excluding the following interested parties: Overseas exporters or UK importers of the good(s) subject to review and UK producers of the like good(s) or directly competitive good(s). These interested parties will complete questionnaires tailored to their specific party status.



When you have completed this form, indicate the **confidentiality status** of this document by placing an X in the relevant box below:

☐ Confidential

X Non-Confidential – will be made publicly available

Please note that you will have to provide **two copies of your response** - a **Confidential** and a **Non-Confidential version**. Both copies should be returned to TRID using the Trade Remedies Service (www.trade-remedies.service.gov.uk).



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The scope of this review

Goods subject to review

The goods subject to review in this transition review are detailed in the following table²:

Product category number	Product category	Commodity codes
1	Non-Alloy and Other Alloy Hot Rolled Sheets and Strips	7208 10 00, 7208 25 00, 7208 26 00, 7208 27 00, 7208 36 00, 7208 37 00, 7208 38 00, 7208 39 00, 7208 40 00, 7208 52 10, 7208 52 99, 7208 53 10, 7208 53 90, 7208 54 00, 7211 13 00, 7211 14 00, 7211 19 00, 7212 60 00, 7225 19 10, 7225 30 10, 7225 30 30, 7225 30 90, 7225 40 15, 7225 40 90, 7226 19 10, 7226 91 20, 7226 91 91, 7226 91 99
2	Non-Alloy and Other Alloy Cold Rolled Sheets	7209 15 00, 7209 16 90, 7209 17 90, 7209 18 91, 7209 25 00, 7209 26 90, 7209 27 90, 7209 28 90, 7209 90 20, 7209 90 80, 7211 23 20, 7211 23 30, 7211 23 80, 7211 29 00, 7211 90 20, 7211 90 80, 7225 50 20, 7225 50 80, 7226 20 00, 7226 92 00
4A	Metallic Coated Sheets	TARIC Codes: 7210 41 00 20, 7210 49 00 20, 7210 61 00 20, 7210 69 00 20, 7212 30 00 20, 7212 50 61 20, 7212 50 69 20, 7225 92 00 20, 7225 99 00 11, 7225 99 00 22, 7225 99 00 45, 7225 99 00 91, 7225 99 00 92, 7226 99 30 10, 7226 99 70 11, 7226 99 70 91, 7226 99 70 94
4B	Metallic Coated Sheets	CN Codes: 7210 20 00, 7210 30 00, 7210 90 80, 7212 20 00, 7212 50 20, 7212 50 30, 7212 50 40, 7212 50 90, 7225 91 00, 7226 99 10 TARIC codes: 7210 41 00 30, 7210 41 00 80, 7210 49 00 30, 7210 49 00 80, 7210 61 00 30, 7210 61 00 80, 7210 69 00 30, 7210 69 00 80, 7212 30 00 80, 7212 50 61 30, 7212 50 61 80, 7212 50 69 30, 7212 50 69 80, 7225 92 00 80, 7225 99 00 23, 7225 99 00 41, 7225 99 00 93, 7225 99 00 95, 7226 99 30 90, 7226 99 70 19, 7226 99 70 96
5	Organic Coated Sheets	7210 70 80, 7212 40 80
6	Tin Mill products	7209 18 99, 7210 11 00, 7210 12 20, 7210 12 80, 7210 50 00, 7210 70 10, 7210 90 40, 7212 10 10, 7212 10 90, 7212 40 20
7	Non-Alloy and Other Alloy Quarto Plates	7208 51 20, 7208 51 91, 7208 51 98, 7208 52 91, 7208 90 20, 7208 90 80, 7210 90 30, 7225 40 12, 7225 40 40, 7225 40 60
12	Non-Alloy and Other Alloy Merchant Bars and Light Sections	7214 30 00, 7214 91 10, 7214 91 90, 7214 99 31, 7214 99 39, 7214 99 50, 7214 99 71, 7214 99 79, 7214 99 95, 7215 90 00, 7216 10 00, 7216 21 00, 7216 22 00, 7216 40 10, 7216 40 90, 7216 50 10, 7216 50 91, 7216 50 99, 7216 99 00, 7228 10 20, 7228 20 10, 7228 20 91, 7228 30 20, 7228 30 41, 7228 30 49, 7228 30 61, 7228 30 69, 7228 30 70, 7228 30 89, 7228 60 20, 7228 60 80, 7228 70 10, 7228 70 90, 7228 80 00
13	Rebars	7214 20 00, 7214 99 10

² Please note that the list uses the same category numbers and category names as EU Regulation 2019/159 for those goods subject to review within this Transition Review. Product categories 3, 8, 9, 10, 18, 22, and 24, will not be transitioned and are therefore excluded from the list.



14	Stainless Bars and Light Sections	7222 11 11, 7222 11 19, 7222 11 81, 7222 11 89, 7222 19 10, 7222 19 90, 7222 20 11, 7222 20 19, 7222 20 21, 7222 20 29, 7222 20 31, 7222 20 39, 7222 20 81, 7222 20 89, 7222 30 51, 7222 30 91, 7222 30 97, 7222 40 10, 7222 40 50, 7222 40 90
15	Stainless Wire Rod	7221 00 10, 7221 00 90
16	Non-Alloy and Other Alloy Wire Rod	7213 10 00, 7213 20 00, 7213 91 10, 7213 91 20, 7213 91 41, 7213 91 49, 7213 91 70, 7213 91 90, 7213 99 10, 7213 99 90, 7227 10 00, 7227 20 00, 7227 90 10, 7227 90 50, 7227 90 95
17	Angles, Shapes and Sections of Iron or Non-Alloy Steel	7216 31 10, 7216 31 90, 7216 32 11, 7216 32 19, 7216 32 91, 7216 32 99, 7216 33 10, 7216 33 90
19	Railway Material	7302 10 22, 7302 10 28, 7302 10 40, 7302 10 50, 7302 40 00
20	Gas pipes	7306 30 41, 7306 30 49, 7306 30 72, 7306 30 77
21	Hollow sections	7306 61 10, 7306 61 92, 7306 61 99
25.A	Large welded tubes	7305 11 00, 7305 12 00
25.B	Large welded tubes	7305 19 00, 7305 20 00, 7305 31 00, 7305 39 00, 7305 90 00
26	Other Welded Pipes	7306 11 10, 7306 11 90, 7306 19 10, 7306 19 90, 7306 21 00, 7306 29 00, 7306 30 11, 7306 30 19, 7306 30 80, 7306 40 20, 7306 40 80, 7306 50 20, 7306 50 80, 7306 69 10, 7306 69 90, 7306 90 00
27	Non-alloy and other alloy cold finished bars	7215 10 00, 7215 50 11, 7215 50 19, 7215 50 80, 7228 10 90, 7228 20 99, 7228 50 20, 7228 50 40, 7228 50 61, 7228 50 69, 7228 50 80
28	Non-Alloy Wire	7217 10 10, 7217 10 31, 7217 10 39, 7217 10 50, 7217 10 90, 7217 20 10, 7217 20 30, 7217 20 50, 7217 20 90, 7217 30 41, 7217 30 49, 7217 30 50, 7217 30 90, 7217 90 20, 7217 90 50, 7217 90 90

Any reference to the goods subject to review refers to the product categories and CN codes covered in the table above.

Please refer to the Notice of Initiation on the case file for the countries that are exempt from the existing safeguard measure.

Like goods

Any reference to 'like goods' in this questionnaire refers to goods produced in the UK which are like the goods subject to review in all respects, or with characteristics closely resembling them.

Directly competitive goods

'Directly competitive goods' are goods produced in the UK which are directly competitive with the goods subject to review.



This can include goods that are not only similar to the goods subject to review, such as a different type or variety, but also include goods that occupy a position of direct competition with the goods subject to review. A directly competitive good may be one that is substitutable with the goods subject to review.



Instructions

Introduction

The Trade Remedies Investigations Directorate (TRID) of the UK's Department for International Trade will be carrying out a transition review of each trade remedy measure active under the EU system that the UK has decided to maintain after EU exit. This transition review will consider whether the existing safeguard measure is necessary to address the increase in imports and whether there would be injury to the UK industry if the measure was removed. The transition review will also consider whether the existing safeguard measure should be extended.

We are seeking your cooperation as a contributor/an interested party to inform our review of whether the existing safeguard measure should be maintained, varied, discontinued and/or extended. The information your company provides will help us to determine a fair and appropriate response.

As specified on the front page of this questionnaire, the POI covers the same period as the EU steel safeguards case (January 2013 – December 2017). The data requested in this questionnaire for the POI will be used to make a recommendation on whether the existing safeguard measure should be transitioned. The MRP covers the period following the POI (January 2018 – June 2020). The data requested in this questionnaire for the MRP will be used to make a recommendation on whether the existing safeguard measure should be reduced or extended.

For further information please refer to our guidance on [How we carry out transition reviews into EU measures](#).

Please refer to our online guidance on the differences between interested parties and contributors: <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/an-introduction-to-our-investigations-process#interested-parties-and-contributors>.

Please provide all the information requested by **21 November 2020**. We may send a notice asking for clarification or supplementary information where necessary. Make sure you provide the sources for any information or data you don't own and clearly state any restrictions on sharing it.

Please note that if you do not provide a confidential version and a non-confidential summary (or a statement of reasons why you cannot provide this), TRID may disregard the information you give us. The following section provides further information on what you need to do.

If you are unable to complete the questionnaire within the required time, please contact the case team ahead of the deadline using the contact details on the cover of this questionnaire. You should outline the length of extension required and the reasons why. **Due to the restricted timeframe of this transition review, the case**



team's ability to grant extensions is very limited. We will notify you of our decision. If we are able to accommodate an extension, a note to explain this will be placed on the public file.

Please also contact the case team if you have any questions about your response or if you have any difficulties in completing the questionnaire. For general information about trade remedies processes, please visit the following website:

www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process.

TRID investigates cases under the specific provisions in Part 9 of *The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019* as amended by the *Trade Remedies (Amendment) (EU Exit) Regulations 2019* and under the *Taxation (Cross-border Trade) Act 2018*.

Preparing confidential and non-confidential copies

You will need to submit one confidential version and one non-confidential version of your questionnaire by the deadline. **Please ensure that each page of information you provide is clearly marked either “Confidential” or “Non-Confidential” in the header.** It is your responsibility to ensure that the non-confidential version does not contain any confidential information.

Further information on what can be considered confidential and how to prepare a non-confidential version of this questionnaire can be found in our guidance on [how we handle confidential information](#).

All information provided to TRID in confidence will be treated accordingly and only used for this investigation (except in limited circumstance as permitted by regulation 17 of the *Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019*) and kept in protected systems. The non-confidential version of your submission will be placed on our public file, which is available on www.trade-remedies.service.gov.uk/public/cases.

What happens next

Please upload your completed questionnaire responses and non-confidential versions of documents to our Trade Remedies Service at www.trade-remedies.service.gov.uk. You will receive an email confirming the documents have been uploaded successfully. Non-confidential responses will be placed on the public file and the case team will contact you if we need further information.

Once we have completed our investigation, we will publish our recommendation to the Secretary of State. Our final report will be published on our public file.

Further information on this process is available at:



Department for
International Trade

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www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/an-introduction-to-our-investigations-process#determinations-and-conclusion-of-investigations



How to complete this questionnaire

Please read and follow all the instructions carefully. You are required to substantiate all claims with relevant data and information. You may be asked to attach supporting documents in appendices to supplement your responses. Provide all formulas and steps used in your calculations and keep a record of these.

Please note the following points:

- Do not leave any questions blank. If the question is not relevant to your organisation, please explain why.
- If the answer to the question is “zero”, “no”, “none” or “not applicable”, please write this rather than leaving the answer blank.
- If there is insufficient space in any part of the questionnaire to provide the details requested, please attach appendices. Please ensure that any attachments are given a corresponding appendix reference in the title of the document and that these are referenced in the boxes provided.
- Any documents not in English should be accompanied by an English translation.
- Please provide all dates in the format DD/MM/YYYY (e.g. 23/05/2019).
- For all numerical figures, where appropriate please express every third digit with a comma (e.g. ‘1,300’ for one-thousand three hundred, ‘1,300,000’ for one million and three hundred thousand).
- Limit all sales/currency/income figures to two decimal places and use the appropriate currency symbol (e.g. £1,300.00).
- Provide all costing figures as actual amounts. Where actual amounts cannot be provided and you have reported standard costing instead, indicate this in the relevant answer and explain the variance from actual costs, if any.
- All financial figures should be reported net of tax unless otherwise stated.



SECTION A: About the case

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):	[CONFIDENTIAL]
Address:	[CONFIDENTIAL]
Telephone No:	[CONFIDENTIAL]
Email:	[CONFIDENTIAL]
Website:	

2. If you are representing an organisation, please also fill in the information below:

Company registration number:	00074359
Place of registration:	England and Wales
Legal name of organisation:	The Society of Motor Manufacturers and Traders LTD
Legal structure (e.g. limited company, sole trader, partnership etc):	Limited Company
Position in the organisation:	[CONFIDENTIAL]
Year of establishment:	1902
Other operating names:	SMMT

A2 Information about this review

This transition review will consider whether the existing safeguard measure is necessary or sufficient to address the increase in imports and whether there would be injury to the UK industry if the measure were removed and/or not extended. For each question, please provide any information you have which you feel is relevant to the case. If you have no information, please say so in your answer.

Please substantiate your answers with evidence. Any attachments should be given a corresponding appendix reference in the title of the document and referenced in the boxes provided.

1. Please provide any **information about the like or directly competitive goods and the goods subject to review** that you consider relevant.



Key points:

- **EU steel imports will be subject to the measure in spite of being of particular importance to the UK automotive sector** - The 'roll over' of the EU measure until 30/06/2021 means extending safeguard duties to EU steel products. Imported steel (from EU and non-EU countries) is important for UK automotive manufacturing.
- **Limited dataset** - UK automotive manufacturers have limited data on the volume of imports from the EU which makes it difficult to properly assess the appropriateness of the proposed tariff-rate quotas.
- **Maintaining the measure will increase prices for consumers** - since the UK automotive sector is not able to absorb any production cost increases caused by safeguard tariffs.
- **Maintaining the measure will not protect the UK steel industry** - UK automotive manufacturers are not able to re-source steel from the UK steel industry since steel is procured through long-term supply agreements that are expensive to terminate early. The UK steel industry does not produce steel competitively in sufficient quantity and of sufficient quality to meet the demands of the UK automotive sector, so a re-sourcing strategy is not a viable way to reduce potential exposure to safeguard tariffs.
- **Maintaining the measure will make UK exports of automobiles less competitive:** increasing manufacturing costs will increase the price of UK produced vehicles. The automotive sector is the UK's largest exporter of goods and 81% of cars produced in the UK made for export. It is therefore critical that UK automotive manufacturing remains competitive.
- **No basis under international law for 'rolling over' the EU measure** – as there is no evidence of a sharp, sudden increase in imports into the UK of the products subject to EU measure, the 'roll over' of this measure until 30/06/2021 risks infringing the World Trade Organization ("WTO") rules on safeguards
- **Introducing a new UK safeguard measure risks infringing the WTO rules** – similarly, absent any evidence of an increase in imports to the UK, the introduction of a UK safeguard measure from 01/07/2020 also risks infringing the WTO rules.
- **The risk of non-compliance with WTO rules will harm the UK's reputation** – a challenge by another WTO member will harm the UK's reputation at a time when the UK is seeking to develop its own independent international trade policy. If the UK is seen to be a 'rule breaker' at the outset, this may harm the UK's credibility when seeking to defuse international trade tensions in future.
- **Non-compliance with the WTO rules could also harm UK industry** - there is a risk that a successful challenge at the WTO could lead to retaliatory measures by other WTO members which would likely target UK exporters. As a key UK export industry, the UK automotive sector would be particularly exposed to any such measures.

SMMT and the UK automotive sector – overview

- 1.1 SMMT is the voice of the UK motor industry, supporting and promoting its members' interests at home and abroad, to government, stakeholders, and the media.
- 1.2 The UK automotive industry is a vital part of the UK economy worth more than £78.9 billion turnover, adding £15.3 billion value to the UK economy. With some 180,000 people employed directly in manufacturing and in excess of 864,000 across the wider automotive industry, the UK automotive sector is a major international trade hub generating more than £100 billion worth of trade in 2019. The sector is the UK's largest exporter of goods, worth £42.4 billion; it accounts for 13.0% of all manufactured goods exports and 6.0% of the UK's total exports, including services.



- 1.3 More than 30 manufacturers build in excess of 70 models of vehicle in the UK supported by 2,500 component providers and some of the world's most skilled engineers. Over 1.3 million cars, 78,270 commercial vehicles and 2.5 million engines were built in the UK in 2019. The UK automotive industry invests £3 billion each year in automotive R&D.
- 1.4 Steel is an important input to the UK automotive industry, with the World Steel Association estimating that, on average, 900kg of steel is used per vehicle.³ As downstream users of steel, the automotive sector may be exposed to additional costs in the event the steel safeguard measure is transitioned.
- 1.5 The UK steel industry is a key partner of the UK automotive sector, with car makers sourcing steel products from both the UK domestic market as well as the EU and non-EU markets. As one of the largest users of steel, a competitive UK steel sector is therefore vital for the UK automotive sector.
- 1.6 In general, most of the steel used in UK automotive production is imported,⁴ this is because the UK steel sector does not currently produce steel competitively in sufficient quantity or quality to meet the demands of the UK steel sector. Due to the importance of EU and non-EU steel imports to the UK automotive sector, it is essential that UK car makers can continue to source imported steel without incurring significant additional costs.

Limited visibility of EU imports into UK during the MRP and POI

- 1.7 SMMT's members' supply partnerships are individualised to each member's product specifications, manufacturing capacity / output, and supply chain risks. In this context, data for the MRP (01/01/2018 – 30/6/2020) has been heavily impacted by the sharp decline in manufacturing output caused by the nationwide Covid-19 lockdown.
- 1.8 UK motor manufacturers import steel products for their own production processes and also purchase from suppliers parts manufactured from steel. UK car manufacturers do not have complete visibility over the locations from which their suppliers source steel to manufacture car parts.
- 1.9 UK automotive is particularly reliant on steel 'imported' from the EU. During both the MRP and POI (01/01/2013 – 31/12/2017), the UK was (and until 31/12/2020, is) a member of the EU's Customs Union. This means that movements of steel products into the UK from the EU were not 'imports' and no duties – safeguard tariffs or otherwise - applied. In consequence, SMMT's members have experienced difficulty in collating data in respect of imports of steel products broken down by category as set out within the transitioned safeguard measure. During this period, customs declarations and other formalities were not required for EU-sourced steel, forcing respondents to rely on procurement records, which may not specify the origin of the steel - rather where it was procured from.

Like goods and directly competitive goods

³ See: <https://www.worldsteel.org/steel-by-topic/steel-markets/automotive.html>.

⁴ See: <https://www.grantthornton.co.uk/insights/is-the-key-to-transforming-uk-steel-the-auto-industry>.



- 1.10 Automotive quality steel is made to a specific product standard, and many UK automotive manufacturers purchase steel products from suppliers in the UK, EU and rest of the world. This is because UK producers currently do not produce steel competitively in sufficient quantity to meet the demands of automotive manufacturers (or their upstream suppliers). For example, the Department for Business, Energy and Industrial Strategy ("BEIS") estimated that in 2015 the steel demand of UK automotive was estimated at 2,015kt, but UK produced steel accounted for only 35% of the steel used in automotive production.⁵

Appendix reference:

2. Please comment on the **scope of the review**. If you consider that any product categories and/or custom codes should be added or removed, please explain the reasons why. Provide information about the UK production, UK demand and UK imports for these product categories and/or custom codes. Substantiate with evidence.

Key points:

- **EU steel imports will be subject to the measure in spite of being of particular importance to the UK automotive sector** - The 'roll over' of the EU measure until 30/06/2021 means extending safeguard duties to EU steel products. Imported steel (from EU and non-EU countries) is important for UK automotive manufacturing.
- **Limited dataset** - UK automotive manufacturers have limited data on the volume of imports from the EU which makes it difficult to properly assess the appropriateness of the proposed tariff-rate quotas.
- **Maintaining the measure will increase prices for consumers** - since the UK automotive sector is not able to absorb any production cost increases caused by safeguard tariffs.
- **Maintaining the measure will not protect the UK steel industry** - UK automotive manufacturers are not able to re-source steel from the UK steel industry since steel is procured through long-term supply agreements that are expensive to terminate early. The UK steel industry does not produce steel competitively in sufficient quantity and of sufficient quality to meet the demands of the UK automotive sector, so a re-sourcing strategy is not a viable way to reduce potential exposure to safeguard tariffs.
- **Maintaining the measure will make UK exports of automobiles less competitive:** increasing manufacturing costs will increase the price of UK produced vehicles. The automotive sector is the UK's largest exporter of goods and 81% of cars produced in the UK made for export. It is therefore critical that UK automotive manufacturing remains competitive.
- **No basis under international law for 'rolling over' the EU measure** – as there is no evidence of a sharp, sudden increase in imports into the UK of the products subject to EU measure, the 'roll over' of this measure until 30/06/2021 risks infringing the World Trade

- Organization ("WTO") rules on safeguards
- **Introducing a new UK safeguard measure risks infringing the WTO rules** – similarly, absent any evidence of an increase in imports to the UK, the introduction of a UK safeguard measure from 01/07/2020 also risks infringing the WTO rules.
- **The risk of non-compliance with WTO rules will harm the UK's reputation** – a challenge by another WTO member will harm the UK's reputation at a time when the UK is seeking to develop its own independent international trade policy. If the UK is seen to be a 'rule breaker' at the outset, this may harm the UK's credibility when seeking to defuse international trade tensions in future.
- **Non-compliance with the WTO rules could also harm UK industry** - there is a risk that a successful challenge at the WTO could lead to retaliatory measures by other WTO members which would likely target UK exporters. As a key UK export industry, the UK automotive sector would be particularly exposed to any such measures.



Background: legal basis for the transition review within UK law

- 2.1 This transition review relates to an EU safeguard measure on certain steel products. The EU imposed provisional safeguard measures on imports of steel in July 2018, in response to import duties imposed by the United States under Section 232 of the US Trade Expansion Act 1962. The EU safeguard measure is intended to address concerns in relation to the diversion of steel exports from the US to the EU.
- 2.2 On 30/09/2020, the Secretary of State for International Trade determined that the EU safeguard measure should be transitioned in relation to certain steel products. This means that the UK will continue to apply tariff-rate quotas ("TRQs") on the steel product categories set out within Annex 2 to the Department for International Trade's ("DIT") Notice of Determination 2020/06 (the "**Notice of Determination**") until the expiry of the EU measure on 30/06/2021.
- 2.3 The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (the "**UK Safeguard Regulations**") require that if the Secretary of State determines to retain an EU safeguard measure in the UK until the EU measure expires (as is the case now), the applicable TRQs must be recalculated to reflect the circumstances of the UK.⁶ In this respect, it is not clear on what basis the TRQs under the 'rolled over' measure to apply until 30/06/2021 were calculated. This makes it difficult for SMMT and its members to properly assess whether the scope of the TRQs are appropriate.
- 2.4 The purpose of the transition review is to determine whether the relevant categories of steel products were imported in increased quantities to the UK during the EU's own investigation period, and if so "*whether*:"
- (a) *the importation of those goods in increased quantities would be likely to recur if they were no longer subject to a tariff rate quota;*
 - (b) *there would be serious injury to UK producers of the like goods and directly competitive goods if goods belonging to that category were no longer subject to a tariff rate quota;*
 - (c) *the continuation of a tariff rate quota is necessary to facilitate the adjustment of the UK producers of the like goods and directly competitive goods to the importation of goods belonging to that category; and*

⁶ See Regulation 46(3) of the UK Safeguard Regulations.



- (d) *an alternative tariff rate quota or the application of a safeguarding amount to goods belonging to that category would better meet the aim of preventing the recurrence of serious injury to the UK producers of the like goods and directly competitive goods.*"⁷

2.5 The TRID should therefore assess whether it is appropriate to:

- (a) **'roll over' the EU safeguard measure until 30/06/2021 in light of the specific circumstances of the United Kingdom:** i.e. whether there has been an increase in imports that could lead to serious injury to UK producers of like or directly competitive goods during this time - including whether the discontinuation of a TRQ regime in the UK for steel products could lead to such an increase in imports; and
- (b) **maintain a UK-specific measure beyond the expiry of the EU measure (i.e. from 01/07/2021):** in view of the specific circumstances of the United Kingdom by reference to whether there has been an increase in imports that could lead to serious injury to UK producers of like or directly competitive goods (including whether the removal of TRQs on such steel products would cause serious injury to UK producers of like and directly competitive goods).

2.6 For the reasons set out below, SMMT does not consider that there is any basis for the TRID to find that there had been a recent, sudden, sharp and significant increase of imports into the UK of the product categories of particular importance to the UK automotive sector (see paragraphs 2.45 – 2.49).

2.7 As such, SMMT submits that there is no basis for the UK to impose a safeguard measure in relation to the products set out within the Notice of Determination or to extend it beyond 30/06/2021.

The UK must comply with its WTO obligations when imposing safeguard measures

2.8 In the context of transitioning the EU measure until 30/06/2021 and implementing a new safeguard measure from 01/07/2021, the UK Government is bound by its obligations under the WTO Agreement on Safeguards (the "**Safeguards Agreement**").

2.9 Under the Safeguards Agreement, WTO members may only apply safeguard measures where that member has determined that the product in question:

- (a) *"is being imported into its territory in **increased quantities**",* which
- (b) *"**cause[s] or threatens to cause serious injury** to the domestic industry that produces like or directly competitive products".*⁸ (Emphasis added.)

⁷ See Regulation 49(4) of the UK Safeguard Regulations.

⁸ See Article 2 of the Safeguards Agreement.



- 2.10 The increase in imports must be a result of "*unforeseen developments*" (see Article XIX of the General Agreement on Tariffs and Trade ("**GATT**") 1947. In this context, the WTO Appellate Body has stated that the increase in imports must be "**recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause 'serious injury'**"⁹ (emphasis added).
- 2.11 The Safeguards Agreement also requires that WTO members notify the WTO's Committee on Safeguards of initiations of safeguard investigations, as well as the findings of serious injury and/or threats caused by an increase in imports¹⁰. Further, a WTO member proposing to apply or extend a safeguard measure "*shall provide the Committee on Safeguards with all pertinent information, which shall include evidence of serious injury or threat thereof caused by increased imports*".¹¹
- 2.12 The Safeguards Agreement sets out the factors that WTO members must consider when investigating the risk of serious injury. This includes "*in particular, the rate and amount of the increase in imports of the product concerned in absolute and relative terms, the share of the domestic market taken by increased imports, changes in the level of sales, production, productivity, capacity utilisation, profits and losses, and employment*."¹² Where a WTO member undertakes a safeguard investigation, it must "*publish a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law*"¹³.
- 2.13 The requirements of the Safeguards Agreement are replicated in UK law via the UK Safeguard Regulations.

Risk of non-compliance with WTO obligations

Rolling over the EU measure until June 2021

- 2.14 There is a risk that 'rolling over' the analysis of the European Commission ("**Commission**") to justify the continued application of the measure until June 2021 may lead to challenge at the WTO – particularly in view of the obligations described above at paragraphs 2.8 – 2.13.
- 2.15 While the timeframe for such a challenge would be relatively short (assuming that the UK publishes an appropriate report of findings in June 2021), the application of a measure that has not been subject to proper analysis as required by the Safeguards Agreement will compromise UK credibility as it emerges as an 'independent' actor on the global trading scene. In the light of the UK's espoused commitment to rules based international trading system, it is important that the UK is seen to understand and to apply appropriately these multi-lateral rules. To adopt a legally dubious approach in its first foray of the adoption of trade defence measures would undermine the standing of the UK in this area.

⁹ *Argentina – Safeguard Measures on Footwear* (1999) WTO Docs WT/DS121/R and WT/DS121/AB/R.

¹⁰ See Article 12.2 of the Safeguards Agreement.

¹¹ *Ibid.*

¹² See Article 4(2)(a) of the Safeguards Agreement.

¹³ See Article 3(1) of the Safeguards Agreement.



- 2.16 In this, the UK should be mindful that safeguard measures are wholly exceptional and imposed in the rarest and most limited of circumstances. They are accordingly not apt to be adopted on the nod as a 'rollover' measure.

Maintaining a steel safeguard measure beyond June 2021

- 2.17 Similarly, and as explored below, it is not clear that the UK would be able to demonstrate compliance with the WTO Safeguards Agreement if it were to maintain a UK steel safeguard measure from 01/07/2021. This is as there is no evidence of a recent, sharp, sudden and significant increase in imports that could credibly be said to threaten to cause serious injury to the UK domestic steel industry.

A successful WTO challenge would further harm the UK automotive sector and the UK's reputation

- 2.18 Should the measure be extended beyond 30/06/2021 after three years of application, affected WTO members may suspend substantially equivalent concessions and other obligations. Further, a successful challenge at the WTO could lead to other WTO members imposing retaliatory tariffs on UK exports. This could make it more difficult for UK automotive manufacturers to export vehicles. As the UK's largest exporter of goods, exporting £42.4 billion of cars in 2019 alone, the UK automotive sector could be particularly exposed to retaliatory tariffs.

- 2.19 In addition, the UK Government's stated aim of "*championing the rules-based international order and demonstrating that the UK is open, outward-looking and confident on the world stage*"¹⁴ would be served very poorly if a WTO challenge is brought (and even more so if a challenge is successful). This risks a knock on effect for the attraction of foreign direct investment if the UK does not match its rhetoric with its actions.

- 2.20 SMMT calls on the TRID to consider carefully the potential impact on the UK's global trade policy and reputation when assessing the scope of the products subject to the proposed UK measure. Removing the measure presents an opportunity for the UK to take the lead in defusing global trade tensions.

- 2.21 For example, the UK's recent decision not to continue tariffs on US products in the context of the dispute regarding Boeing/Airbus was recently welcomed by the United States – with the US Trade Representative stating that it "*shares the UK's objective of reaching a negotiated resolution*".¹⁵ Ceasing to apply an EU-initiated safeguard measure on steel products within the UK from 01/01/2021 (or indeed 01/07/2021) represents a similar opportunity to demonstrate the UK's commitment to resolving WTO disputes amicably.

Categories of relevance to the UK automotive sector

¹⁴ See: <https://www.gov.uk/government/collections/global-britain-delivering-on-our-international-ambition>.

¹⁵ See: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/december/united-states-takes-action-american-dairy-farmers-filing-first-ever-usmca-enforcement-action/ustr-responds-uk-statement-wto-large-civil-aircraft-dispute>.



Category 4B is of particular importance to the UK automotive sector

- 2.22 A survey of SMMT members shows that the most important category for the UK automotive sector is Category 4B.

The EU recognised the importance of steel products for the automotive sector in the context of the EU's adoption of a safeguard measure

- 2.23 While the UK must undertake its own assessment, based on UK market conditions, as to whether a safeguard measure is necessary, it should be noted that the Commission assessment recognised the importance of Category 4B products for automotive manufacturing.
- 2.24 Indeed, in February 2019, the EU created subcategory 4B within its definitive safeguard measure to "*preserve, to the best extent possible, the traditional level of imports for the EU automotive sector*"¹⁶.
- 2.25 Similarly, in September 2019, the Commission adjusted the TRQs for category 4B in view of concerns expressed by the EU automotive industry. This was on the basis that the Commission's review into the original safeguard measure (including the TRQ for Category 4B) indicated that traditional trade flows for the EU automotive industry had been "*disturbed*" by the measure (e.g. the TRQ for China was exhausted in just one day).¹⁷
- 2.26 The Commission therefore amended the safeguard measure whereby, in order to benefit for the TRQ under Category 4B, products under this category imported for use in the "*manufacturing of automotive parts*" must be imported under an end-use customs procedure. This end-use procedure was in place across two quarters: October – December 2019 and (partially) January – March 2020.
- 2.27 The Commission's amendment to the safeguard measure in June 2020 revoked this end-use exemption because (inter alia) "*exporting countries encountered serious obstacles to export to the Union. Consequently, the level of imports was abnormally low*".¹⁸ As a result, the Commission considered it had only a limited dataset in relation to Category 4B imports.¹⁹

Data on the imports of Category 4B products into the UK are not readily available

¹⁶ See: Commission Implementing Regulation (EU) 2019/1590 of 26 September 2019 amending Implementing Regulation (EU) 2019/159 imposing definitive safeguard measures against imports of certain steel products (the "**September 2019 Amendment Regulation**"), recital (29). Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2019:248:FULL&from=EN#bookmark_nopage_005.

¹⁷ See above, recital (32).

¹⁸ See Commission Implementing Regulation (EU) 2020/894 of 29 June 2020 amending Implementing Regulation (EU) 2019/159 imposing definitive safeguard measures against imports of certain steel products (the "**June 2020 Amendment Regulation**").

¹⁹ Albeit it considered that it had sufficient data to demonstrate that exporters relying on country-specific TRQs were potentially 'crowding out' domestic industry by accessing residual quotas. See above, recital (88).



2.28 The lack of available import data caused by the end-use regime in respect of Category 4B is also experienced by SMMT and its members, limiting the UK automotive sector's visibility of its exposure to out-of-quota tariffs on such products. Moreover, because import data is unavailable at TARIC code level, SMMT's membership is not able to quantify its potential exposure to TRQs under the transitioned measure.

2.29 In this regard, SMMT requests that TRID clarifies the methodology adopted to assign the TRQs for Category 4B.

Category 4B products should be excluded from the scope of any UK safeguard measure in view of their importance to the UK automotive sector

2.30 The SMMT submits that the TRID should consider implementing a simple, specific mechanism to permit the import of Category 4B products into the UK where these products are used for automotive manufacturing. Such mechanism should allow all automotive businesses, including smaller suppliers operating for decades within the EU Single Market, to import Category 4B products without following burdensome administrative requirements.

2.31 Provided that the UK was able to implement a streamlined procedure for importing under its own post-transition import processes, this could significantly alleviate the potential cost implications for UK automotive manufactures if EU steel products were otherwise subject to safeguard tariffs (i.e. because the EU TRQ is exceeded).

2.32 However, in view of the limited timeframe until the expiry of the Brexit transition period, it is unclear whether any such streamlined process could be implemented prior to the application of TRQs to EU imports.²⁰ Combined with the opacity in respect of the re-calculation of TRQs, this adds significant uncertainty for the UK automotive sector and risks leading to unintended consequences if businesses are not provided sufficient certainty to adapt to the forthcoming changes.

Other categories of importance to the UK automotive sector

2.33 The survey further indicated that the following product categories are also important to the UK automotive industry:

- (a) Category 1 (Non-Alloy and Other Alloy Hot Rolled Sheets and Strips);
- (b) Category 2 (Non Alloy and Other Alloy Cold Rolled Sheets);
- (c) Category 4A (Metallic Coated Sheets);
- (d) Category 7 (Non-Alloy and Other Alloy Quarto Plates);
- (e) Category 19 (Railway Material);
- (f) Category 25B (Large welded tubes);
- (g) Category 26 (Other Welded Pipes); and
- (h) Category 27 (Non-Alloy and other alloy cold finished bars).

²⁰ See, for example, the findings of the National Audit Office in its report 'The UK border: preparedness for the end of the transition period', available at: <https://www.nao.org.uk/wp-content/uploads/2020/11/The-UK-border-preparedness-for-the-end-of-the-transition-period.pdf>.



- 2.34 Measures applicable on product Categories 12, 17, 20, 21, 26 and 28 could also have indirect impacts on the UK automotive industry (e.g. in the context of the supply of parts or components utilising these steel products). These categories have been included in **Appendix 1** but will not be addressed in the present questionnaire response.
- 2.35 As can be seen from the import data included at **Appendix 1**, and considered at paragraphs 2.45-2.49 below, there is no evidence of a recent, sudden, sharp and significant increase in imports to the UK in relation to any of these product categories during the POI or MRP.
- 2.36 Absent a recent, sudden, sharp and significant increase in imports, there is no basis on which the UK could implement safeguard measures in compliance the WTO Safeguards Agreement.
- It is not possible to assess properly the appropriateness of the proposed TRQs due to a lack of available data**
- 2.37 During both the MRP and POI, the UK was (and until 31/12/2020, is) a member of the EU's Customs Union. This means that movements of steel products into the UK from the EU were not 'imports' and no duties – safeguard tariffs or otherwise - applied.
- 2.38 During this period, customs declarations and other formalities were not required for EU-sourced steel, forcing respondents to rely on procurement records, which may not specify the origin of the steel and, in some circumstances, are based on procurement in the context of joint purchasing arrangements – such that company-level volume information is also unavailable.
- 2.39 In addition, the procurement data does not indicate the origin of the steel products, and instead only records from whom the steel was purchased. Thus, it is possible that steel procured from EU suppliers may not be of EU origin and would therefore not benefit from the specific EU TRQ. UK automotive manufacturers therefore have no ability to account for their potential exposure to out of quota tariffs arising from non-EU origin steel products procured from EU suppliers.
- 2.40 Similarly, because import data is not available at TARIC-code level, SMMT and its members only have visibility of Category 4 imports as a whole – with detailed import information unavailable by reference to the Category 4A and Category 4B subcategories.
- 2.41 In consequence, SMMT's members have experienced difficulty in collating data in respect of imports of steel products broken on a category-by-category basis and have not been able to properly assess whether the proposed TRQs are appropriate.
- 2.42 In this respect, it is regrettable that neither the TRID nor DIT has published any information setting out the basis on which the proposed TRQs were calculated.
- 2.43 It is a clear requirement of the UK Safeguard Regulations that the Secretary of State must in determining to maintain the EU safeguard measure beyond 31/12/2020 "*recalculate the*



volume of the EU tariff rate quota applicable to the same goods to reflect the circumstances of the United Kingdom".²¹

- 2.44 SMMT respectfully requests that TRID publishes details on how the TRQs were calculated to reflect the particular circumstances of the UK, so that SMMT's members may properly assess whether the TRQs (and TRID's methodology for calculating them) are appropriate.

No evidence of an increased quantity of imports within the meaning of the WTO Safeguards Agreement

- 2.45 It is not clear whether DIT undertook a similar analysis of import data to the EU to determine the appropriate TRQ levels for the transitioned measure (or indeed whether the measure was necessary in view of the Safeguards Agreement).

- 2.46 Absent this assessment, SMMT has considered the appropriateness of the scope of the transitioned measure as against data from UK Trade Info on the import of the steel products of relevance to the UK automotive sector.

- 2.47 As shown by **Appendix 1**, there is no evidence of an increased quantity of imports of any of the products subject to the transitioned safeguard measure in either the MRP (01/01/2018 – 30/6/2020) or the POI (01/01/2013 – 31/12/2017). In fact, this data shows:

(a) during the POI:

- (i) annual import volumes to the UK of each of the product categories of relevance to the automotive industry remained largely consistent between 2013 and 2017. Specifically, imports of Category 27 products declined by -43.84% during the entire POI; imports of products falling under Category 1 declined by -12.25% in the period 2015-2017 while imports of Category 19 declined by -13.18% during the same period; imports of commodities covered by Categories 4, 7, 25B and 26 declined in the year preceding the adoption of the EU measure and imports of Category 2 products broadly flat-lined during the POI;
- (ii) generally, any significant increase of 'imports' relate to one-off quarterly purchases whose effects are largely readjusted when considering year-on-year totals with no recent increase in imports. See, for example: Category 25B (Q3/2016);
- (iii) although data on UK domestic production by category is not available, the total increase in steel imports in relative terms to domestic production was marginal over the POI. The proportion of total imports over total home

²¹ See Regulation 46(3) of the UK Safeguard Regulations.



market between 2014 - 2017 increased only by 2.4%, from 60.0% in 2014 to 62.4% in 2017.²²

(b) during the MRP:

- (i) except for Categories 19, 25B and 27, annual import volumes decreased for all other categories of interest for the automotive sector already in the biennium 2018-2019, while all categories (except Category 19 – which is of limited importance to the UK automotive sector as a whole) experienced a marked decrease in imports during H1 2020 compared with H1 2019 due to the impact of Covid-19;
- (ii) in relative terms, the volume of imports is generally consistent across both steel products imported from the EU and from outside of the EU;
- (iii) in relation to specific EU-UK imports (as opposed to non-EU-UK imports that are the subject of the EU safeguards), the import volumes were generally consistent throughout the MRP (with the exception of Category 19 – which is of limited importance to the UK automotive sector as a whole). In some cases, imports from the EU declined during the MRP (e.g. Category 2), a further indication that trade diversion of EU steel did not occur following the imposition of US 232 measures. It would therefore be difficult for the UK to demonstrate an increase in imports from the EU in accordance with the requirements of the Safeguard Agreement;
- (iv) while the potential impact of the existing EU safeguard measure must be taken into account when assessing the volume of imports from non-EU countries, it should be noted that any increases/decreases in imports are broadly consistent with any increases/decrease of imports from the EU. It is therefore not clear how DIT proposes to demonstrate that there has been a recent, sudden, sharp and significant increase in imports to the UK from third countries (i.e. the EU and the rest of the world).

No evidence of increase in imports in relation to Category 4 products in general

2.48 As noted above, it has not been possible to obtain a breakdown of imports by reference to Categories 4A and 4B.

2.49 However, as can be seen within **Appendix 2**, in respect of Category 4 in general:

- (a) **there was a decrease in imports during the MRP:** total imports of Category 4 commodities declined by -10.24% between 2018 and 2019, while imports in the first half of 2020 declined by -34.83% compared with the first six months of 2019. With the exception of the decrease in imports caused by Covid-19, the respective proportion of imports to the UK were generally consistent from both EU and non-EU

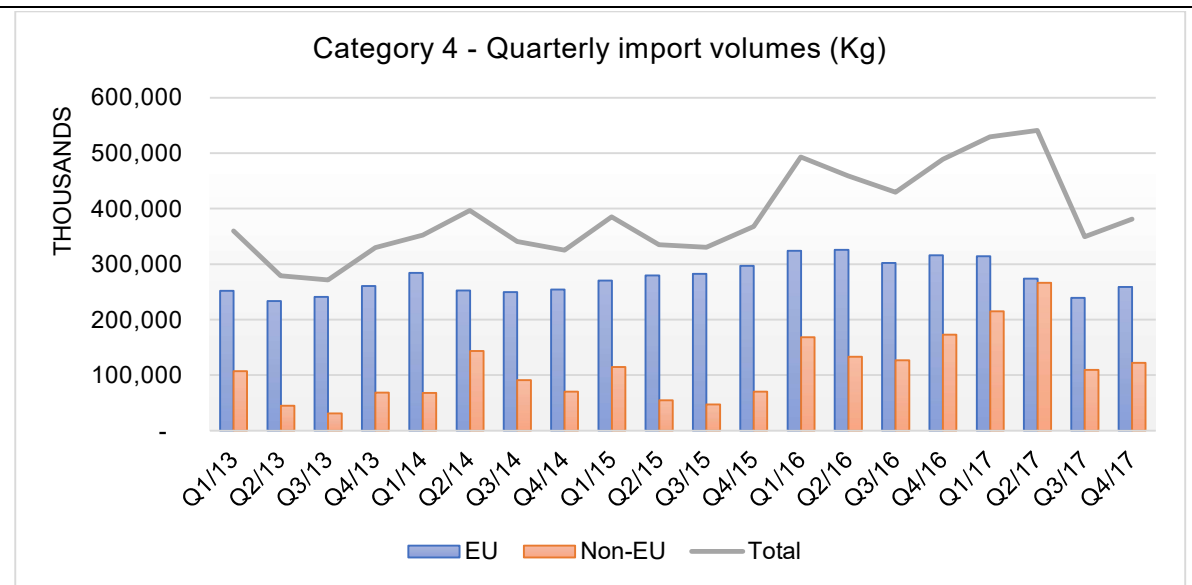
²² See: UK Steel, Key Statistics Guide July 2019, <https://www.makeuk.org/insights/publications/uk-steel-key-statistics-guide-2019>



countries. The decline in imports of Category 4 products during the MRP mirrors a sustained downward trend of the UK automotive industry, with car production output consistently declining between 2017-2019 and manufacturing activities grinding to a halt in the first half of 2020 due to lockdown measures;

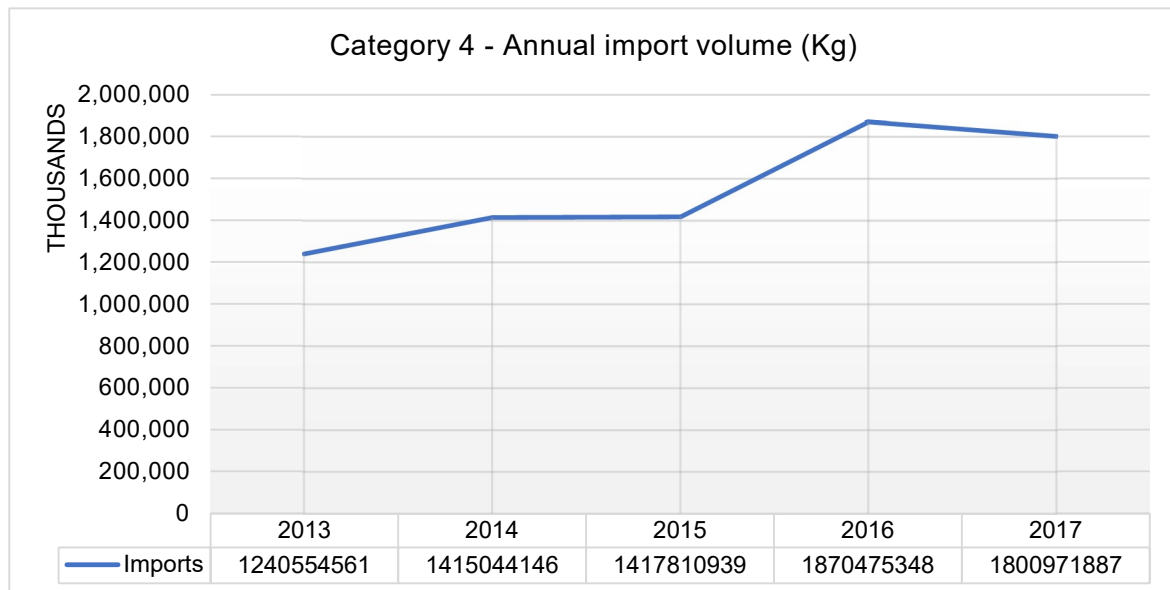
- (b) **imports from the EU (not subject to safeguard measures) were stable during the MRP:** indicating that there is no basis on which the UK could impose safeguard measures in response to a sudden increase in imports. Since imports from the EU would not have been subject to duties, one would expect any diversion in exports from EU producers in response to US Section 232 measures to have already taken place – since there would have been no restriction on EU exports from sending steel to the UK;
- (c) **imports increased in absolute terms during the POI but started declining one year before the adoption of the EU measure:** during the POI, imports of Category 4 products from the EU to the UK increased by 27.02% between 2015-2017 but significantly declined between 2016-2017 (see *Figures 1-2*). Higher import levels in 2016 matched an exceptional performance of the UK automotive industry in the same year, when UK car production achieved a 17-year high with 1,722,698 vehicles rolled off production lines, an 8.5% uplift on total production in 2015 – and the highest output since 1999. However, in 2017 the sector registered the first decline in automotive output in eight years, with imports of metallic coated sheets following the same trend. This indicates no recent, sudden increase in imports before the adoption of the measure, with annual imports decreasing by -3.72% in 2017 and significantly low volumes imported in the last two quarters of 2017; and
- (d) **no distinction in rate of imports from EU and non-EU countries:** the data indicates that where imports of Category 4 products increased, these increases related to both EU and non-EU products for both the POI (see *Figures 1-2*) and MRP (see *Figure 3*). With the exception of Q2 2017, the ratio of imports of EU and non-EU Category 4 products was generally consistent. Since the US Section 232 tariffs did not apply until 2018, it is not clear whether the increase in non-EU imports in Q2 2017 represents a diversion of trade or merely a reflection of an increase in demand within the UK. Since the volume of non-EU imports then decreased to around half the volume of EU imports during Q3 2017, it is possible that this increase could be indicative of an increase in demand during Q2 2017 before a significant slowdown in automotive output, which registered a first decline in car manufacturing after eight years of continued expansion. Given the volume of non-EU imports continued to decrease into the MRP, it is not clear that the requirement of an increase in imports is satisfied.

Figure 1 – Quarterly imports of Category 4 products into the UK during the POI



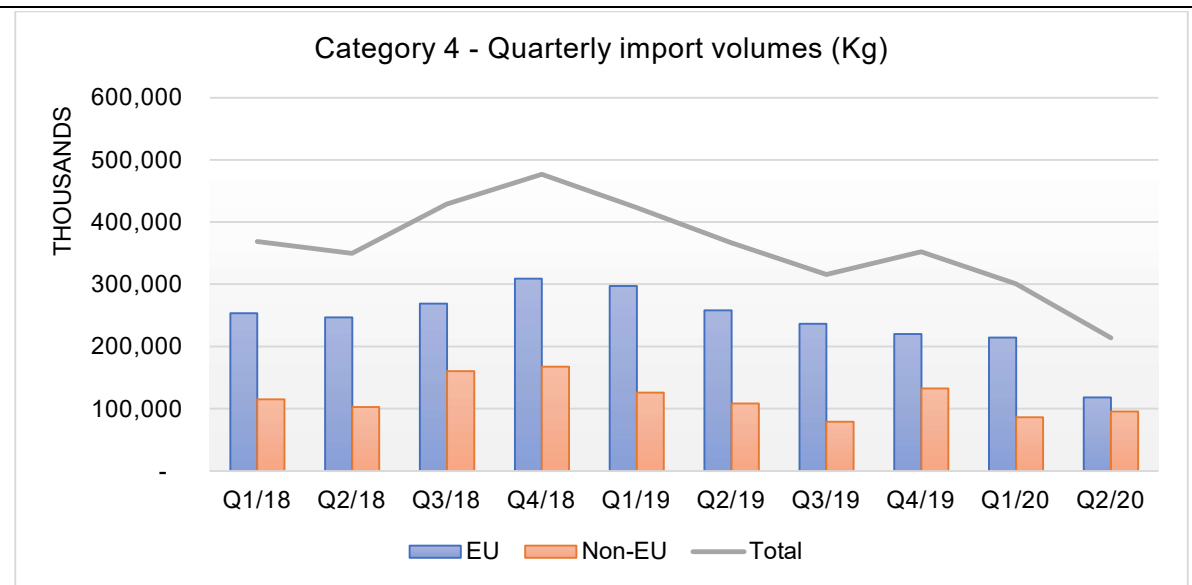
Source: UK Trade Info (see **Appendix 2**)

Figure 2 – Annual imports of Category 4 products into the UK during the POI



Source: UK Trade Info (see **Appendix 2**)

Figure 3 – Quarterly imports of Category 4 products into the UK during the MRP



Source: UK Trade Info (see **Appendix 2**)

It is not clear that a safeguard measure would comply with the requirements of the WTO Safeguards Agreement

- 2.50 Throughout the entire POI and MRP (including the period during which the EU safeguard measure was in place), the volume of EU imports to the UK exceeded the volume of non-EU imports. This includes the 'dampened' period of imports during Q1 and Q2 2020, where demand was limited due to Covid-19.
- 2.51 It is therefore not clear how the UK could credibly argue that there had been any sharp, sudden increase in imports within the meaning of the WTO Safeguards Agreement for either EU or non-EU imports.
- 2.52 In the absence of an increase in imports to the UK for the steel products used by the UK automotive sector, there is a risk that imposing or extending safeguard measures on these products would:
- (a) not comply with the UK's WTO obligations; and/or
 - (b) infringe the provisions of the UK Safeguard Regulations which (*inter alia*) require that the Trade Remedies Authority ("**TRA**")²³ "*must assess whether the goods concerned have been or are being imported into the United Kingdom in increased quantities by reference to a period of time for which it determines that there is sufficient data available in order for it to make that assessment*"²⁴.

²³ The TRA is due to be established under the Trade Bill (presently before the House of Lords). The TRID is presently fulfilling the functions of the TRA.

²⁴ See Regulation 4(1) of the UK Safeguard Regulations.



Consequences of non-compliance with the WTO rules

- 2.53 Non-compliance (or perceived non-compliance) with the WTO rules (e.g. the Safeguards Agreement) could lead to a complaint by another WTO member to the WTO dispute settlement body. In this regard, it should be noted that the EU safeguard measure is currently subject to a panel review by the WTO.²⁵ Such a challenge risks harming the UK's desire to "*champion the rules-based international order*"²⁶ in the context of its independent trade policy.
- 2.54 If a WTO panel were to be established in relation to the UK measure, and found against the UK, this could open the UK up to compensation payments to the complaining members, and the imposition of countervailing measures by other WTO members (e.g. tariffs on UK products) in the event that no compensation settlement could be agreed.²⁷ In addition, should the measure be extended beyond 30/06/2021 after three years of application, affected WTO members may suspend substantially equivalent concessions and other obligations. As noted above, the imposition of retaliatory tariffs or counterbalancing measures on UK exporters would risk significant harm to the UK automotive sector, with 81% of cars produced in the UK made for export.²⁸
- 2.55 Infringement of the UK Safeguard Regulations could also lead to challenge before the UK courts (e.g. judicial review). This occurred in Canada in relation to similar safeguard measures on steel, whereby the Canadian International Trade Tribunal found that certain products be excluded from a provisional safeguard measure imposed by the Government of Canada. This led to the Government of Canada automatically refunding duties paid by importers under the provisional measure.²⁹

Increased risk of challenge since safeguard measures are a 'last resort'

- 2.56 It should also be noted that safeguard measures are considered to be exceptional measures – with Article XIX of the GATT 1947, from which the Safeguards Agreement derives,³⁰ characterising safeguard measures as "*emergency action*".
- 2.57 The decision to implement a safeguard measure should therefore be based upon robust data and analysis. This is particularly important since such measures are likely to be subject

²⁵ See: *European Union — Safeguard Measures on Certain Steel Products* (2020) WTO Doc WT/DS595/4.

²⁶ See: <https://www.gov.uk/government/collections/global-britain-delivering-on-our-international-ambition>.

²⁷ See Article 22 of Annex 2 to the WTO Agreement (the Dispute Settlement Understanding).

²⁸ See: <https://www.smmmt.co.uk/wp-content/uploads/sites/2/SMMT-Automotive-Trade-Report-2020.pdf>.

²⁹ See: *Surtax on the Importation of Certain Steel Goods Refund Order* (SOR/2019-129). Available at: <http://gazette.gc.ca/rp-pr/p2/2019/2019-05-29/html/sor-dors129-eng.html>.

³⁰ See the preamble to the Safeguards Agreement, which states that the WTO members recognise "*the need to clarify and reinforce the disciplines of GATT 1994, and specifically those of its Article XIX (Emergency Action on Imports of Particular Products), to re-establish multilateral control over safeguards and eliminate measures that escape such control*".



to increased scrutiny (and therefore heightened likelihood of challenge) by other WTO members in view of the rarity of such measures.

Other trade measures may be more appropriate

2.58 If the UK has specific concerns in relation to the import of steel from non-EU countries and unfair trading practices resulting in overcapacity in these countries, then other measures would be more appropriate (e.g. anti-dumping / anti-subsidy measures), which could be targeted towards specific products based on their origin. The application of a TRQ on a product basis (as required by safeguard measures) unfairly exposes the entire UK automotive sector – since its supply chain is heavily integrated with the EU market.

2.59 Alternatively, TRID should consider excluding the product categories listed at paragraphs 2.45 – 2.49 (above) – for which there has been no significant increase in imports during the POI – from the scope of the safeguard measure and instead focus upon those steel products for which it has identified an increase in imports meeting the criteria set by the WTO Safeguards Agreement and by domestic UK regulations.

The proposed scope of the measure will disproportionately harm the UK automotive sector – even if the measure is only retained until June 2021

2.60 The transition of the measure would in its current form necessarily apply TRQs to all UK trading partners, including the EU.

2.61 The transition of the safeguard measure, and the application of the measure within the UK until the expiry of the EU measure on 30/06/2021, therefore amounts to an expansion of the TRQ regime for UK steel importers. This is as, until the expiry of the Brexit transition period, UK-based importers can purchase steel from the EU tariff-free.

2.62 The application of TRQs to the EU would have particularly adverse consequences for the UK automotive sector and their customers in view of their reliance upon imports from the EU of steel products (and parts and components manufactured from steel products).

2.63 At present, UK automotive manufacturers predominantly source steel from both inside and outside of the UK, since the UK domestic steel industry does not currently produce steel competitively in sufficient quantities to meet the demands of automotive manufacturers (or their suppliers).

2.64 The UK automotive industry generally purchases steel through long-term supply arrangements (typically three – six years). As such, it would not be economically viable for the UK to terminate purchasing agreements with EU suppliers and seek to source UK steel products instead in order to avoid safeguard measures. This is particularly the case in the context of the initial six month period for which the UK has determined to 'roll over' the EU steel safeguard measure until its expiry on 30/06/2020.

Any safeguard tariffs would be passed on to consumers – increasing prices



- 2.65 Continuity of supply is of paramount importance to the UK automotive sector in view of the expiry of the Brexit transition period on 31/12/2020 (in particular the prospect of a 'no deal' trading arrangement with the EU, which would lead to import tariffs on automotive parts and products from the EU). The complex just-in-time business model means that supply chains cannot be readily moved to source raw materials from another location.
- 2.66 UK automotive is therefore potentially exposed to a 'double-whammy' of increased costs if the safeguard measure is transitioned – safeguard tariffs and import duties.³¹ The SMMT estimates that in a 'no deal' scenario, the application of 10% import duties on finished vehicles would add at least £4.5 billion to the annual cost of cars traded between the UK and the EU – raising the price of EU-built vehicle imported into the UK by £1,900.³²
- 2.67 Since automotive manufacturers are not able to simply 're-source' steel products from UK producers, there is a risk that – absent sufficient domestic alternatives – UK automotive manufacturers will need to consider re-designing supply chains in order to mitigate the risk of paying out-of-quota safeguard duties (and import duties in a 'no deal' scenario) on steel imported from the EU.
- 2.68 UK automotive manufacturers operate on wafer-thin margins, meaning that they are unable to absorb potential costs increases caused by tariffs. In consequence, SMMT expects its members will have no option but to pass these increased costs on to consumers. Similarly, if automotive suppliers and their products are subject to import duties (including safeguard duties), this will make production more expensive.³³

Appendix reference: Appendix 1, Appendix 2

3. Please provide any information regarding the **surge in imports** of the goods subject to review **during the POI**.

- 3.1 As stated in response to question 2 (see paragraphs 2.45-2.49), there is no evidence of a recent, sudden, sharp and significant surge in imports during the POI of the product categories relied upon by the UK automotive sector.
- 3.2 Instead, as shown by the data in **Appendix 1**, imports of both EU and non-EU steel products within these categories remained largely stable throughout the course of the POI, and for most categories, the volume of imports actually declined in the period preceding the adoption of the EU safeguard measure.
- 3.3 In particular, it should be noted that there is no evidence of a sudden increase in EU imports. Since such EU imports would have been able to be exported to the UK without encountering

³¹ In the absence of a UK-EU Free Trade Agreement, import duties of 10% would be levied on imports of UK cars into the EU. (See: [TARIC database](#).)

³² See: <https://www.smmmt.co.uk/2020/10/no-deal-tariffs-would-undermine-britains-green-recovery-with-2800-drain-on-electric-car-affordability-warns-smmmt/>.

³³ See: <https://www.smmmt.co.uk/2020/09/only-weeks-left-to-save-eu-and-uk-auto-sectors-from-e110-billion-no-deal-brexit-disaster/>.



safeguard tariffs, EU producers would have been able to divert exports of steel products during both the POI and MRP to the UK in response to fear of limited export opportunities caused by other countries' trade defence measures (e.g. the US's Section 232 tariffs)

Appendix reference: Appendix 1

4. Please provide any information regarding **imports** of the goods subject to review **during the MRP**.

- 4.1 Please see **Appendix 1** – as noted in response to question 2 and question 3, there is no evidence of a recent, sudden, sharp and significant increase in imports to the UK during the MRP in relation to steel products used by the automotive industry.
- 4.2 While the data for 2020 is affected by the anomalously low import volumes caused by the Covid-19 pandemic, it is clear from the data that between Q1 2018 and Q4 2019 that import volumes for the product categories utilised by the UK automotive sector registered modest increases only for categories 25B and 27.
- 4.3 Indeed, across a number of product categories import volumes decreased even before the onset of the Covid-19 'lockdown' which halted manufacturing (and therefore demand) (i.e. Category 1, Category 2, Category 4, Category 7, and Category 26).
- 4.4 With the exception of Category 19 (which is of limited importance to the UK automotive sector as a whole), all categories experienced a marked decrease in imports during H1 2020 compared with H1 2019 due to the impact of Covid-19 and related lockdown measures.

Appendix reference: Appendix 1

5. Provide any information that could help us assess the **likelihood of an increase in imports** occurring if the existing safeguard measure for the goods subject to review were:

- i) continued; or
- ii) discontinued.

Provide evidence to support your conclusions.



Key points:

If the measure is continued:

- This will amount to an expansion in the scope of the measure, since it will necessarily apply to both EU imports and rest of world imports (currently, UK automotive suppliers are only affected by the EU safeguard measure on rest of world imports, since there is free movement of goods within the EU Customs Union and Single Market, of which the UK is a part until 31/12/2020). This will lead to an increase in costs for UK automotive manufacturers.
- There is a low likelihood of an increase in imports due to the extension of safeguard measures to EU imports and the increase in UK-EU trade barriers arising from the UK's departure from the EU's Customs Union and Single Market on 01/01/2021.
- UK automotive manufacturers may be required to re-design their supply chains in order to reduce exposure to increased costs arising as a result of safeguard tariffs.
- Safeguard tariffs would harm the UK automotive industry and consumers since the UK automotive sector would have no choice but to pass these tariff costs onto consumers in the form of higher prices. This affects both the UK domestic market, but also the UK export market – since UK produced vehicles will become less price competitive in other markets.
- SMMT does not expect any increase in imports in any scenario post-transition period compared with 2019 volumes, since the erection of new trade barriers means that import levels are likely to be lower than usual.

If the measure is discontinued:

- New trade barriers for UK-EU trade in any post-transition scenario mean no increase of imports compared with 2019 volumes is likely if the measure is discontinued.
- There is no likelihood of a diversion of trade in view of changes within the international trade landscape since the imposition of the EU safeguard measure and since there is no evidence of any prospect of a diversion of trade from the EU to the UK.
- Any increase in imports would likely be a result of an increase in demand from the UK automotive sector post-pandemic rather than as a result of the removal of safeguard measures.

Likelihood of an increase in imports – measure continued

- 5.1 Transitioning the safeguard measure involves more than a 'continuation'. In effect, it involves expanding the scope of the measure to cover products originating in an additional 27 countries (i.e. the EU Member States). Combined with the erection of new trade barriers with the sector's biggest trading partner as the result of the UK's departure from the EU's Customs Union and Single Market, SMMT does not anticipate any likelihood of an increase in imports.

Low likelihood of an increase in imports due to the extension of safeguard measures to EU imports and the UK's departure from the EU's Customs Union and Single Market

- 5.2 Continuing the measure, in either its original (i.e. to only non-EU imports) or in its expanded scope, is therefore unlikely to lead to an increase in imports. On the contrary, such continuation, or expansion could have a severe impact for the UK automotive sector. It is unclear that the TRQs for the import from the EU of the product categories on which the



sector relies (particularly Category 4B) will be sufficient, and imports of steel products from the EU could become significantly more expensive.

5.3 A survey of SMMT members indicated that:

- (a) EU steel products account for up to [CONFIDENTIAL] of steel products used in manufacturing for certain manufacturers; and
- (b) UK steel mills have insufficient capacity to meet the standards of certain UK automotive manufacturers, and so EU steel products are required.

5.4 In view of the high volume of EU steel imported by UK automotive manufacturers and its importance within the car manufacturing process in the UK, this could lead to a further deterioration of the UK business environment for automotive manufacturers.

5.5 The UK automotive industry generally purchases steel from EU and non-EU suppliers through long-term supply arrangements (typically three – six years). As such, it would not be economically viable for the UK to terminate purchasing agreements with EU suppliers and seek to source UK steel products instead in order to avoid safeguard measures.

Safeguard measures may require automotive manufacturers to redesign supply chains

5.6 For example, an automotive manufacture may need to redesign its supply chains in the medium term to ensure it is not exposed to potential out-of-quota tariffs under the transitioned measure. The same applies, to a lesser extent, also to automotive parts incorporating steel from the rest of the world, in particular for manufacturers based in countries that will maintain preferential trading terms with the UK at the end of the transition period.

5.7 This is as such manufacturers may be able to redesign their manufacturing processes so that the product exported from the EU to the UK does not fall within the ambit of the safeguard measure, and so would not risk being subject to out-of-quota tariffs.

5.8 This is equally relevant regardless of the successful conclusion of negotiations between the EU and the UK for a new free trade agreement ("FTA"). In the event the UK and EU do not conclude an FTA, the import duty for a finished vehicle and automotive parts will be lower than for a raw steel product subject to an out-of-quota tariff. In a "deal" scenario, imports of EU finished parts would be eligible for tariff free treatment, while costs on imports of EU steel products subject to TRQs would be unpredictable.

Safeguard tariffs would harm the UK automotive industry and consumers

5.9 Continuity of supply is of paramount importance to the UK automotive sector in view of the expiry of the Brexit transition period on 31/12/2020 (in particular the prospect of a 'no deal' scenario, which would lead to import tariffs on automotive products from the EU). The just-in-time business model means that supply chains cannot be readily moved to source raw materials from another location. UK automotive is therefore potentially exposed to a 'double-



whammy' of increased costs if the safeguard measure is transitioned – safeguard tariffs and import duties.³⁴

- 5.10 In the context of steel products, it is estimated that when tariffs were imposed in the US, 100% of tariff costs are passed onto consumers initially, with this rate then falling to around 50% within a year of the imposition of tariffs.³⁵ UK automotive manufacturers operate on wafer-thin margins, meaning that they are unable to absorb potential costs increases caused by tariffs. In consequence, SMMT expects its members will have no option but to pass these increased costs on to consumers. Similarly, if automotive suppliers and their products are subject to import duties (including safeguard duties), this will make production more expensive.³⁶
- 5.11 Since automotive manufacturers are not able to simply 're-source' steel products from UK producers, there is a risk that – absent sufficient domestic alternatives – UK automotive manufacturers will need to consider re-designing supply chains in order to mitigate the risk of paying out-of-quota safeguard duties (and import duties in a 'no deal' scenario) on steel imported from the EU.
- 5.12 UK manufacturers unable to source the steel products within the UK will either need to pay additional duties on out-of-quota imports (and pass on these costs elsewhere, e.g. to consumers) or redesign their supply chains to import finished parts from the EU or the rest of the world.

SMMT does not expect any increase in imports in any scenario post-transition period

- 5.13 The UK automotive industry does not expect to see any increase in imports of steel products in relative terms to previous years, since from 01/01/2021 new trade barriers will exist between the UK and the EU. Even in the event that the UK and EU conclude an FTA to apply from 01/01/2021, the UK automotive sector will face increased costs, e.g. the cost of completing customs declarations³⁷ and complying with rules of origin under any EU-UK FTA.
- 5.14 The SMMT estimates that in a 'no deal' scenario, the application of 10% import duties on finished vehicles would add at least £4.5 billion to the annual cost of cars traded between the UK and the EU – raising the price of vehicles by £1,900.³⁸ This will not only raise prices for UK consumers, but will make vehicles exported from the UK to other markets less

³⁴ In the absence of a UK-EU Free Trade Agreement, import duties of 10% would be levied on imports of UK cars into the EU. (See: [TARIC database](#).)

³⁵ See: National Bureau of Economic Research: 'Who's paying for the US tariffs? A longer-term perspective', Amiti M, Redding S J, Weinstein D E (January 2020). Available at: https://www.nber.org/system/files/working_papers/w26610/w26610.pdf.

³⁶ See: <https://www.smmmt.co.uk/2020/09/only-weeks-left-to-save-eu-and-uk-auto-sectors-from-e110-billion-no-deal-brex-disaster/>.

³⁷ The House of Lords EU Select Committee has estimated that the costs of customs declarations post-Brexit will be between £35 and £70 per declaration (see: 'Brexit: the customs challenge', available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/187/18706.htm>).

³⁸ See: <https://www.smmmt.co.uk/2020/10/no-deal-tariffs-would-undermine-britains-green-recovery-with-2800-drain-on-electric-car-affordability-warns-smmmt/>.



competitive – since these products will be more expensive than vehicles produced in other markets.

5.15 SMMT expects that maintaining the measure in respect of non-EU imports will also likely maintain 'normal' (i.e. pre-Covid-19) volumes of imports.

5.16 While there may be an increase in imports relative to H1 2020, this would be statistically insignificant due to the abnormally low import volumes caused by the coronavirus pandemic.

Likelihood of an increase in imports – measure discontinued

5.17 As noted in response to questions 2, 3 and 4, there has been a consistent demand for both EU and non-EU steel products during both the MRP and POI.

5.18 Since imports from the EU are not currently subject to any safeguard measure, there is at present nothing preventing diversion of steel products into the UK exported from the EU. It is therefore unlikely that there would be any increase in imports of the safeguard measure is discontinued as it would effectively be the maintenance of the status quo.

New trade barriers for UK-EU trade mean no increase of imports is likely if the measure is discontinued

5.19 In the context of the UK's withdrawal from the EU's Customs Union and Single Market at the end of the Brexit transition period, it should also be noted that while steel products are generally subject to zero or low import duties under the UK's Global Tariff (which will apply in the event that no UK-EU FTA is concluded), the UK automotive sector will face increased costs in both a deal or no deal outcome, e.g. the cost of completing customs declarations.³⁹

5.20 If the measure is discontinued, and the UK does not impose tariffs on imports of steel products (in line with the UK Global Tariff), the UK automotive sector would not face an increase in duty costs. However, SMMT does not expect any increase in imports from the EU in the short-term, due to the impact of the erection of trade barriers for EU trade as a result of the UK's departure from the EU's Customs Union and Single Market.

No likelihood of a diversion of trade if the measure is discontinued

5.21 Based upon the data provided to SMMT by its members, the majority of steel products used within UK manufacturing are at present sourced within the UK or EU. This was the case before the EU imposed the safeguard measures subject to the transition review. As noted above, this is because UK automotive manufacturers make purchasing decisions based upon quality and availability of supply (e.g. how quickly products can be delivered) as well as price.

³⁹ The House of Lords EU Select Committee has estimated that the costs of customs declarations post-Brexit will be between £35 and £70 per declaration (see: 'Brexit: the customs challenge', available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/187/18706.htm>).



- 5.22 As noted above, and shown in **Appendix 1**, the volume of imports from non-EU countries was largely stable over both the MRP and POI. It is therefore unlikely that any increase in imports would take place if the measure was not maintained. However, if the UK was to experience the import of unfairly priced or unfairly subsidised steel products, the Government would be able to take other measures (e.g. anti-subsidy or anti-dumping) to counteract any potential distortive effects.
- 5.23 Any increase in imports would likely be a result of an increase in demand from the UK automotive sector post-pandemic.
- 5.24 In view of the anomalous import data for 2020, there will inevitably be an increase in imports as the UK recovers from the Covid-19 pandemic (and demand increases), irrespective of whether or not the measure is rolled over. This would be statistically insignificant due to the abnormally low import volumes caused by the coronavirus pandemic.
- 5.25 Any increase in imports of relevant product categories is therefore likely to be driven by demand within the UK automotive sector, rather than any diversion effects caused by removing the safeguard measure. The sector's production outlook and, potentially, the sector's steel demand from the UK, the EU and the rest of the world will largely depend on the successful conclusion of an ambitious UK-EU trade deal to come into effect on 01/01/2021.
- The outcome of UK-EU negotiations may impact demand and import volumes in the medium-long term*
- 5.26 In this regard, according to SMMT/AutoAnalysis estimates, with a trade deal agreed with the EU, UK production of cars and light commercial vehicles could run at around 1.23-1.26 million units by 2024-25. An ambitious deal creating a more favourable investment environment could see UK production climbing to c1.4 million units by 2025. However, without a trade deal being agreed by 01/01/2021, SMMT/AutoAlysis estimates production falling below one million units on a sustained basis, even if a deal is subsequently agreed by the end of 2021. If the bilateral UK-EU trade switched to WTO terms in the long run, then production could fall below 780,000 units by 2025. It is likely that steel imports of relevant categories will follow similar trends.
- 5.27 Under any scenario where a UK-EU deal is agreed, UK cars and light commercial vehicles' output would increase in 2021 compared with 2020, increasing the chances to register an increase in imports of steel on an annual basis. Such increase would only be the result of a modest sectoral recovery in a deal scenario after experiencing exceptionally low levels of production in 2020 and not from the potential removal of existing safeguard measures

Appendix reference: Appendix 1

6. Please provide any information regarding the **serious injury** to UK producers of the like or directly competitive goods **caused by the surge in imports** of the goods subject to review **during the POI**. You can refer to our [guidance on how we assess injury](#) for a definition of serious injury.



Key points:

- SMMT's members do not produce like or directly competitive goods. They are downstream steel users.
- There is no evidence of serious injury to UK producers of like or directly competitive goods caused by a surge in imports since there is no evidence of a sudden, sharp increase in imports.

6.1 As shown by **Appendix 1**, there is no evidence of an increased quantity of imports of any of the products subject to the transitioned safeguard measure during the POI (01/01/2013 – 31/12/2017). In fact, this data shows:

- annual import volumes to the UK of each of the product categories of relevance to the automotive industry remained largely consistent between 2013 and 2017. Specifically, imports of Category 27 products declined by -43.84% during the entire POI; imports of products falling under Category 1 declined by -12.25% in the period 2015-2017 while imports of Category 19 declined by -13.18% during the same period; imports of commodities covered by Categories 4, 7, 25B and 26 declined in the year preceding the adoption of the EU measure and imports of Category 2 products broadly flat-lined during the POI;
- generally, any significant increase of 'imports' relate to one-off quarterly purchases whose effects are largely readjusted when considering year-on-year totals with no recent increase in imports. See, for example: Category 25B (Q3/2016);
- although data on UK domestic production by category is not available, the total increase in steel imports in relative terms to domestic production was marginal over the POI. The proportion of total imports over total home market between 2014 - 2017 increased only by 2.4%, from 60.0% in 2014 to 62.4% in 2017.⁴⁰

6.2 Any issues of injury to UK producers of like or directly competitive goods cannot therefore be caused by a surge in imports from EU or non-EU countries.

Appendix reference: Appendix 1

7. Please provide any information regarding the **serious injury** to UK producers of the like or directly competitive goods **during the MRP**.

⁴⁰ See: UK Steel, Key Statistics Guide July 2019, <https://www.makeuk.org/insights/publications/uk-steel-key-statistics-guide-2019>



Key points:

- SMMT's members do not produce like or directly competitive goods. They are downstream steel users.
- There is no risk of serious injury to UK producers of like or directly competitive goods since there is no evidence of a sudden, sharp increase in imports.
- There is a low risk of serious injury to UK producers of like or directly competitive goods caused by diversion of trade.
- Imposing the measure without evidence of a surge in imports within the meaning of the WTO Safeguards Agreement risks opening the UK up to challenge before the WTO – causing harm to the UK's reputation, and potentially to UK exporters if WTO members take redressive measures in addition to potential rebalancing measures after three years of application (e.g. tariffs on UK exports).

No risk of serious injury to UK producers of like or directly competitive goods since there is no evidence of a recent, sudden, sharp and significant increase in imports

- 7.1 As shown by **Appendix 1**, there is no evidence of an increased quantity of imports of any of the products subject to the transitioned safeguard measure during the MRP. Data from UK Trade Info shows:
- (d) annual import volumes decreased for most categories of interest for the automotive sector in the biennium 2018-2019, while all categories (except for category 19 – which is of limited importance to the UK automotive sector as a whole) experienced a marked decrease in imports during H1 2020 due to the impact of Covid-19;
 - (e) the volume of imports is generally consistent across both steel products imported from the EU and from outside of the EU;
 - (f) in relation to specific EU-UK imports (as opposed to non-EU-UK imports that are the subject of the EU safeguards), the import volumes were broadly consistent throughout the MRP with Category 19 being the only exception. It would therefore be difficult for the UK to demonstrate an increase in imports from the EU in accordance with the requirements of the Safeguard Agreement;
 - (g) while the potential impact of the existing EU safeguard measure must be taken into account when assessing the volume of imports from non-EU countries, it should be noted that any increases/decreases in imports are consistent with any increases/decrease of imports from the EU. It is therefore not clear how DIT proposes to demonstrate that there has been a recent, sudden, sharp and significant increase in imports to the UK from third countries (i.e. the EU and the rest of the world).



7.2 Any issues of injury to UK producers of like or directly competitive goods cannot therefore be caused by imports from EU or non-EU countries.

Low risk of serious injury to UK producers of like or directly competitive goods caused by diversion of trade

7.3 In any event, any risk of diversion of trade to the UK as a result of the US Section 232 measures is likely to be substantially reduced since (see **Appendix 3** “ACEA comments on the review of the EU safeguard measures applicable to imports of certain steel products - June 2019”):

- (a) automobile production is expected to grow in emerging markets in 2019-2021, with this production likely to rely upon locally produced automotive steel products to meet local demand;
- (b) in May 2019, Canada and Mexico reached an agreement with the USA which excluded imports from these countries from the US measure – thus the risk of diversion from these countries is also likely to be minimal; and
- (c) the US granted exemptions from the Section 232 measures to steel imports from Australia, and included country specific quotas for Brazil, Argentina and South Korea (in total accounting for approximately 48% of US steel imports).

Imposing the measure would therefore risk infringing the WTO Safeguards Agreement

7.4 Absent any increase in imports, the UK cannot impose a safeguard measure in compliance with the WTO Safeguards Agreement. Under the Safeguards Agreement, WTO members may only apply safeguard measures where that member has determined that the product in question:

- (a) “*is being imported into its territory in **increased quantities**”, which*
- (b) “***cause[s] or threatens to cause serious injury** to the domestic industry that produces like or directly competitive products*”.⁴¹ (Emphasis added.)

7.5 It follows that if there is no import in increased quantities, it is not possible for any serious injury to be caused or threatened.

Appendix reference: Appendix 1, Appendix 3

8. Please provide any information regarding the **likelihood of serious injury** to UK producers of the like or directly competitive goods if the existing safeguard measure for the goods subject to review were:
- i) continued; or

⁴¹ See Article 2 of the Safeguards Agreement.



ii) discontinued.

Provide evidence to support your conclusions including what the cause of this injury would be.

Key points:

Absent any evidence of a surge in imports (or any trend suggesting the same) to the UK, there is no basis to assert that an increase in imports is likely to lead to serious injury within the meaning of the WTO Safeguards Agreement.

The imposition of a UK safeguard measure therefore risks infringing the WTO rules.

If the measure is continued:

- New EU-UK trade barriers means there is a low risk of an increase in imports and thus a low risk of serious injury
- This will not alleviate the structural issues faced by the UK steel industry
- There is a risk that the UK would not be complying with its obligations under the WTO rules, potentially opening the UK up to challenge at the WTO
- UK automotive manufacturers would remain dependent on EU imports due to lack of competitiveness in the UK steel industry, and would be no more likely to purchase UK steel than at present. This would lead to increased costs for UK automotive manufacturers, with these costs likely to be passed on to consumers in the form of increased prices

If the measure is discontinued:

- There is a very low likelihood that there would be a surge in imports leading to a risk of serious injury
- There is a low risk of trade diversion that could give rise to an increase in imports leading to a risk of serious injury
- The UK steel industry would still be subject to the same structural issues that exist currently, and discontinuing the measure is unlikely to alleviate these problems since these are not caused by imports (save for previous dumping of steel from China – which is now subject to a specific anti-dumping measure)
- There is a risk of infringement of the WTO rules even in respect of the 'roll over' of the EU measure until 30/06/2020

Likelihood of serious injury – measure continued

- 8.1 Transitioning the safeguard measure involves more than a 'continuation'. In effect, it involves expanding the scope of the measure to cover products originating in an additional 27 countries (i.e. the EU Member States). Combined with the erection of trade barriers (e.g. the need to complete customs declarations and comply with other customs formalities) as the result of the UK's departure from the EU's Customs Union and Single Market, SMMT does not anticipate any likelihood of an increase in imports.

New EU-UK trade barriers means there is a low risk of an increase in imports and thus a low risk of serious injury

- 8.2 Continuing the measure is therefore unlikely to lead to an increase in imports. On the contrary, such continuation, or expansion would have a severe impact for the UK automotive



sector. It is unclear that the TRQs for the import from the EU of the product categories on which the sector relies (particularly Category 4B) will be sufficient, and imports of steel products from the EU could become significantly more expensive.

8.3 Absent any increase in imports, the UK cannot impose a safeguard measure in compliance with the WTO Safeguards Agreement. Under the Safeguards Agreement, WTO members may only apply safeguard measures where that member has determined that the product in question:

- (a) “is being imported into its territory in **increased quantities**”, which
- (b) “**cause[s] or threatens to cause serious injury to the domestic industry that produces like or directly competitive products**”.⁴² (Emphasis added.)

8.4 It follows that if there is no import in increased quantities, it is not possible for any serious injury to be caused or threatened.

The domestic steel industry is affected by a number of issues – these will not be addressed by a safeguard measure

8.5 In the short-term any injury suffered by the UK steel industry is likely to be as a result of the impact of the Covid-19 pandemic (and associated halting in manufacturing). Before the outbreak, the proportion of total imports over total home market between 2014 and 2017 increased only by 2.4%, from 60.0% in 2014 to 62.4% in 2017. A more marked decline was registered in a longer timeframe. As noted by BEIS in its report into the steel sector, the market share of UK producers of finished steel products has declined from 70% to 47% over the past twenty years.⁴³ While similar trends have been experienced by some European steel producers, the UK steel industry has been subject to specific pressures. According to BEIS this includes:

- (a) changes in material;
- (b) requirements;
- (c) loss of competitiveness;
- (d) deterioration of capabilities from UK producers; and
- (e) a lack of capacity.⁴⁴

⁴² See Article 2 of the Safeguards Agreement.

⁴³ See: 'Future Capacities and Capabilities of the UK Steel Industry', BEIS Research Paper 26, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668088/UK_Steel_Capabilities_-_Executive_Summary_-_FINAL_141217.pdf.

⁴⁴ See above.



8.6 BEIS also note that over the past 20 years, there has been “*unique and unparalleled level of ownership change and a shift to private ownership from large conglomerates*”⁴⁵ BEIS note that the UK’s export of steels has been lower than other European economies, and “*although there is likely to be a geographic component to this, there are also disadvantages from lack of cost competitiveness and gaps in capabilities in the industry in the UK.*”⁴⁶

8.7 Similarly, a briefing paper by the House of Commons produced in 2018⁴⁷ (the “**Briefing Paper**”) found that the UK steel industry “*is small compared to other manufacturing industries [...] economic output totals 0.1% of the UK economy*”. The Briefing Paper also notes that despite the UK economy increasing output by 68% between 1990 and 2015, the UK steel industry saw a *decrease* in output by roughly the same amount.⁴⁸

Ability to compete with EU exporters – not a surge in imports - is of most importance to the UK steel industry

8.8 It is not clear that maintaining the safeguard measure on steel products would alleviate the problems faced by the UK steel industry. Indeed, the non-confidential versions of registration forms submitted to the TRID by the UK steel industry all indicate concerns around the competitiveness of the UK steel industry. For example the application forms of each of CELSA Steel, Liberty Steel UK, British Steel Limited and EEF Limited⁴⁹ state: “*steel producers in the UK should not be put at a competitive disadvantage to those in the EU. [The relevant steel UK steel company] therefore welcomes the UK putting in place its own safeguard measures*”.

8.9 It is clear therefore that the primary concern of the UK steel industry is to ensure it remains competitive as against the EU steel industry rather than any increase in imports. Maintaining the steel safeguard measure will necessarily mean EU steel exports would be subject to TRQs and out-of-quota tariffs, potentially reducing the volume of imports from the EU and requiring the UK automotive sector to redesign its supply chains to avoid cost increases. While this may therefore insulate UK steel producers from more competitive EU steel producers, maintaining the safeguard measure for this reason would not be compliant with the WTO rules.

It is not clear that a UK safeguard measure would comply with the WTO rules

8.10 As stated above, the Safeguards Agreement states that safeguard measures may only be applied where a WTO member has determined that the product in question:

(a) “*is being imported into its territory in **increased quantities***”, which

⁴⁵ See: 'Future Capacities and Capabilities of the UK Steel Industry', BEIS Research Paper 26, page 4.

⁴⁶ See above, page 8.

⁴⁷ House of Commons, Briefing Paper, Number 07317, 2 January 2018. Available at: <https://researchbriefings.files.parliament.uk/documents/CBP-7317/CBP-7317.pdf>.

⁴⁸ See above, page 5.

⁴⁹ See: <https://www.trade-remedies.service.gov.uk/public/case/TF0006/submission/07093568-5ba8-4a5c-b10c-6a4e8fae3126/>.



(b) “**cause[s] or threatens to cause serious injury** to the domestic industry that produces like or directly competitive products”.⁵⁰ (Emphasis added.)

8.11 The increase in imports must be a result of “*unforeseen developments*” (see Article XIX of the GATT 1947). In this context, the WTO Appellate Body has stated that the increase in imports must be “*recent enough, sudden enough, sharp enough, and significant enough, both quantitatively and qualitatively, to cause or threaten to cause ‘serious injury’*”⁵¹.

8.12 As there is no basis to conclude that there has been an increase in imports from the EU (see **Appendix 1**), applying the safeguard measure to EU exporters risks a challenge before the WTO.

8.13 If a WTO panel were to be established in relation to the UK measure, and found against the UK, this could open the UK up to compensation payments to the complaining members, and the imposition of countervailing measures by other WTO members (e.g. tariffs on UK products) in the event that no compensation settlement could be agreed.⁵² In addition, should the measure be extended beyond 30/06/2021 after three years of application, affected WTO members may suspend substantially equivalent concessions and other obligations. As noted above, the imposition of retaliatory tariffs or counterbalancing measures on UK exporters would risk significant harm to the UK automotive sector, with 81% of cars produced in the UK made for export.⁵³

UK automotive producers are unlikely to purchase more UK steel if the measure is continued

8.14 Further, there is no evidence that it would help the UK steel industry by facilitating the creation of an autarkical automotive supply chain, since the UK steel industry does not have sufficient capacity to meet the demand of the UK automotive industry. Even if the measure is maintained, UK car makers will require imported steel from the EU (and elsewhere). This is shown by BEIS’s estimate that in 2015 UK produced steel accounted for only 35% of the steel used in automotive production⁵⁴ and the reduction in capacity noted in the Briefing Paper.

8.15 Separately, as noted above the UK automotive industry generally purchases steel through long-term supply arrangements (typically three – six years) and in accordance with manufacturing cycles for new model cars. As such, it would not be practicable or economically viable for UK automotive manufacturers to incur the cost of terminating agreements with EU suppliers in favour of UK suppliers unless UK suppliers could meet

⁵⁰ See Article 2 of the Safeguards Agreement.

⁵¹ *Argentina – Safeguard Measures on Footwear* (1999) WTO Docs WT/DS121/R and WT/DS121/AB/R.

⁵² See Article 22 of Annex 2 to the WTO Agreement (the Dispute Settlement Understanding).

⁵³ See: <https://www.smmmt.co.uk/wp-content/uploads/sites/2/SMMT-Automotive-Trade-Report-2020.pdf>.

⁵⁴ See: ‘Future Capacities and Capabilities of the UK Steel Industry’, BEIS Research Paper 26, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668088/UK_Steel_Capabilities_-_Executive_Summary_-_FINAL_141217.pdf.



demand in a competitive manner for the duration of the automotive manufacturer's manufacturing cycle.

- 8.16 The implementation of a UK safeguard measure therefore not only risks infringing the WTO rules, it may also do little to assist the UK steel industry.

Other trade defence measures may be more appropriate

- 8.17 If there are specific concerns about non-EU imports, these should be addressed by other trade defence measures (e.g. anti-subsidy or anti-dumping). The roll-over of the EU measure to address these concerns risks non-compliance with the WTO rules. There is a risk that other WTO members could view a decision to maintain the measure as an artifice, intended to allow the UK to remain "in step" with the EU rather than to protect against a genuine risk of injury caused by an increase in imports.

- 8.18 In addition, should the EU decide not to extend the measure beyond 30/06/2021, the UK automotive sector would face an additional competitive disadvantage compared to EU-based competitors, whereas these would be free to source imported steel tariff free while imports into the UK would still be subject to TRQs.

Likelihood of serious injury – measure discontinued

- 8.19 If the measure is discontinued, there does not appear to be a high risk of diversion of imports that "*cause or threatens to cause serious injury to the domestic industry that produces like or directly competitive products*" as required by the WTO Safeguards Agreement.⁵⁵ The likelihood of serious injury is therefore very low.

Very low likelihood of serious caused by a surge in imports if the measure is discontinued

- 8.20 As shown in **Appendix 1**, the volume of imports from non-EU countries was stable over both the MRP and POI. It is therefore unlikely that any increase in imports would take place if the measure was not maintained. However, if the UK was to experience the import of unfairly priced or unfairly subsidised steel products, the Government would be able to take other measures (e.g. anti-subsidy or anti-dumping) to address any potential distortive effects.

- 8.21 Any issues of injury to UK producers of like or directly competitive goods cannot therefore be caused by imports from EU or non-EU countries and thus the discontinuation of the measure is unlikely to determine a risk of serious injury to UK steel producers.

Low risk of trade diversion if the measure is discontinued

- 8.22 As noted in response to question 7, any risk of diversion of trade to the UK as a result of the US Section 232 measures is likely to be substantially reduced since (see **Appendix 3**

⁵⁵ See Article 2 of the Safeguards Agreement.



“ACEA comments on the review of the EU safeguard measures applicable to imports of certain steel products, June 2019”):

- (a) automobile production is expected to grow in emerging markets in 2019-2021, with this production likely to rely upon locally produced automotive steel products to meet local demand;
- (b) in May 2019, Canada and Mexico reached an agreement with the USA which excluded imports from these countries from the US measure – thus the risk of diversion from these countries is also likely to be minimal; and
- (c) the US granted exemptions from the Section 232 measures to steel imports from Australia, and included country specific quotas for Brazil, Argentina and South Korea (in total accounting for approximately 48% of US steel imports).

8.23 The measure is, therefore, in excess of what is required given that there is minimal likelihood of an increase in imports, least of all a risk of serious injury to UK producers.

Any serious injury faced by the UK steel industry is likely to derive from factors other than an increase in imports

8.24 Further, as noted above, the primary concern of the UK steel industry as regards safeguarding is simply to maintain insofar as possible a level playing field with the EU. A safeguard measure is not an appropriate mechanism for maintaining any such level playing field.

8.25 This would only be a potentially appropriate measure if the UK could satisfy the criteria within the WTO Safeguards Agreement, and – for the reasons outlined above – these criteria do not appear satisfied. In addition, should the EU decide to discontinue the application of the existing safeguard, a level playing field in trade with the sector’s biggest trading partner can only be maintained if the UK also decides to do the same.

8.26 It is a necessary consequence of the UK’s departure from the EU’s Customs Union and Common Commercial Policy that UK industry will not benefit from the trade defence measures in place in relation to UK industry’s EU counterparts. The UK steel industry therefore cannot reasonably expect to benefit from trade defence measures simply because the EU has adopted a particular measure. The UK Government must undertake its own assessment as to whether a safeguard measure is necessary within the framework of the WTO Safeguards Agreement, rather than adopt such a measure to remain ‘in step’ with the EU post-transition period.

There is a risk of infringement of the WTO rules even in respect of the ‘roll over’ of the EU measure until 30/06/2020

8.27 There is a risk that in ‘rolling over’ the EU’s trade defence instruments, the UK Government could be open to challenge for not complying with the requirements of the WTO rules (e.g. the Safeguards Agreement), since the transitioned measures would be based upon an



analysis carried out by the EU and not the UK. It would also be an indication that the UK has yet to adopt an independent trade policy.

Appendix reference: Appendix 1, Appendix 3

9. Provide any information you have on **other cause(s) of serious injury for the POI and MRP** to UK producers of the like or directly competitive goods. Clearly distinguish between the POI and MRP in your answer.

Key points:

Absent any evidence of a surge in imports (or any trend suggesting the same) to the UK, there is no basis to assert that an increase in imports is likely to lead to serious injury within the meaning of the WTO Safeguards Agreement.

The imposition of a UK safeguard measure therefore risks infringing the WTO rules.

In relation to other causes of serious injury for the POI, other likely causes of serious injury to producers of like or directly competitive goods are:

- ongoing structural issues within the UK steel sector leading to a lack of competitiveness;
- the dumping of steel products in the UK from countries such as China (which have since been addressed via anti-dumping measures);
- the impact of uncertainty caused by the UK's departure from the EU.

In relation to other causes of serious injury for the MRP, the impact of the Covid-19 pandemic is likely to be the key cause of any serious injury to UK producers of like or directly competitive goods.

No basis of serious injury arising from imports

- 9.1 There is no evidence of a surge or sudden increase in imports of the product categories relied upon by the UK automotive sector during either the POI or MRP. In the absence of an increase in imports, there is no basis to assert that serious injury has been caused (or is likely to be caused) to domestic industry in a manner that complies with the conditions for imposing safeguards under the WTO Safeguards Agreement.
- 9.2 There appears to have been a consistent demand for both EU and non-EU steel products, which suggests that the level of demand is dictated by other factors than imports.

Other potential causes of serious injury – during the POI

Ongoing structural issues within the UK steel sector

- 9.3 It is clear that there have been a number of structural issues within the UK steel industry for a number of years.



9.4 For example, in its report into the steel sector in 2015 BEIS found that the market share of UK producers for finished steel products declined from 70% to 47% over a twenty-year span.⁵⁶ While similar trends have been experienced by some European steel producers, the UK steel industry has been subject to specific pressures. According to BEIS, this includes:

- (a) changes in material;
- (b) requirements;
- (c) loss of competitiveness;
- (d) deterioration of capabilities from UK producers; and
- (e) a lack of capacity.⁵⁷

9.5 BEIS also note that over the past 20 years, there has been “*unique and unparalleled level of ownership change and a shift to private ownership from large conglomerates*”⁵⁸ BEIS note that the UK’s export of steel has been lower than other European economies, and “*although there is likely to be a geographic component to this, there are also disadvantages from lack of cost competitiveness and gaps in capabilities in the industry in the UK.*”⁵⁹

9.6 Similarly, the Briefing Paper also notes that despite the UK economy increasing output by 68% between 1990 and 2015, the UK steel industry saw a *decrease* in output by roughly the same amount.⁶⁰

9.7 While the Briefing Paper noted that a growth in international supply chains and imported steel compounded the UK steel industry’s issues, there is no suggestion that the UK steel industry suffered injury as a result of a sudden increase in imports. The Briefing note also notes that “*the cost of overheads in the UK is high by international standards. Industrial electricity prices in the UK are more than 50% above other major EU economies*”.

Dumping of steel products in the UK

9.8 The steel industry has also seen an increase in dumped or unfairly subsidised steel from economies such as China, which has also depressed prices.⁶¹ The UK Government has in

⁵⁶ See: 'Future Capacities and Capabilities of the UK Steel Industry', BEIS Research Paper 26, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/668088/UK_Steel_Capabilities_-_Executive_Summary_-_FINAL_141217.pdf.

⁵⁷ See above.

⁵⁸ See: 'Future Capacities and Capabilities of the UK Steel Industry', BEIS Research Paper 26, page 4.

⁵⁹ See above, page 8.

⁶⁰ See above, page 5.

⁶¹ See for example the findings of the EU Commission in its Notice of initiation of an expiry review of the anti-dumping measures applicable to imports of stainless steel cold-rolled flat products originating in the People’s Republic of China and Taiwan C 208/C (2020).



the past voiced concern on these practices and the EU has imposed several anti-dumping duties to address distortions caused by dumped or unfairly subsidised steel.⁶²

Impact of the UK's departure from the EU

- 9.9 The All Party Parliamentary Group on Steel and Metal Related Industries produced a report in January 2017 (the “**APPG Report**”), which found that the steel industry had suffered due to the uncertainty caused by the Brexit vote.⁶³
- 9.10 The APPG Report stated that the risk of leaving the EU without a deal had “*increased the sense of uncertainty for the steel industry [...] [specifically] the impact of tariffs on the customer base, in particular the automotive industry.*”⁶⁴
- 9.11 The APPG Report also highlighted the structural issues within the UK steel industry, and warned that if urgent action was not taken “[the UK steel] *industry will continue to decline and will not survive [...] the next decade*”⁶⁵. The APPG Report considered that there remain “underlying weaknesses” caused by historic levels of underinvestment. Structural vulnerabilities included, among others, uncompetitive energy prices, dumping of Chinese steel, public procurement policies, business rates, skills and research & development. None of the issues highlighted by the APPG Report point to problems caused by a sudden increase of fairly-traded imports of a certain product.

Other potential causes of serious injury – MRP

- 9.12 As noted above, no sudden increase in imports took place during the MRP, and the data at **Appendix 1** shows:
- (a) annual import volumes decreased for most categories of interest for the automotive sector already in the biennium 2018-2019, while all categories (except for Category 19 – which is of limited importance to the UK automotive sector as a whole) experienced a marked decrease in imports during H1 2020 due to the impact of Covid-19;
 - (b) the volume of imports is generally consistent across both steel products imported from the EU and from outside of the EU;

⁶² See above, and the response of Sajid Javid (the then Business Secretary) to Q143 raised at the Business, Innovation and Skills Committee, ' Oral evidence: Spending Review the Work of the Department, HC 500 , Wednesday 10 February 2016. Available at: <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/business-innovation-and-skills-committee/spending-review-and-the-work-of-the-department-for-business-innovation-and-skills/oral/28851.pdf#page=28>.

⁶³ The All Party Parliamentary Group on Steel and Metal Related Industries Forging a Future for the British Steel Industry, January 2017 https://d3n8a8pro7vhmx.cloudfront.net/stephenkinnock4aberavon/pages/481/attachments/original/1484924141/Steel_2020_Forging_a_future_for_the_British_steel_industry.pdf?1484924141.

⁶⁴ See above.

⁶⁵ See page 10 of the APPG Report.



- (c) in relation to specific EU-UK imports (as opposed to non-EU-UK imports that are the subject of the EU safeguards), the import volumes were consistent throughout the MRP, with Category 19 being the only exception. It would therefore be difficult for the UK to demonstrate an increase in imports from the EU in accordance with the requirements of the Safeguard Agreement;
- (d) while the potential impact of the existing EU safeguard measure must be taken into account when assessing the volume of imports from non-EU countries, it should be noted that any increases/decreases in imports are consistent with any increases/decrease of imports from the EU. It is therefore not clear how DIT proposes to demonstrate that there has been a recent, sudden, sharp and significant increase in imports to the UK from third countries (i.e. the EU and the rest of the world).

Short to medium term injury is likely to be caused by the impact of the Covid-19 pandemic

- 9.13 In the short-term any injury suffered by the UK steel industry is likely to be as a result of the impact of the Covid-19 pandemic (and associated halting in manufacturing). And, in the medium-to-long term, the UK steel industry's issues do not appear to relate to imports, but rather issues in terms of domestic capacity and competitiveness.
- 9.14 The impact of Covid-19 has led to drastic drops in demand for steel and manufacturing outputs in H1 2020. Eurofer estimates that total steel consumption fell by 12% year-on-year in Q1 2020, this coincided with a drop in imports of steel. In Q4 2019, imports fell by 24%, and Q1 2020 saw a year-on-year fall of 20%. These abnormally low volumes should not be considered representative of the steel industry during the entirety of the MRP, but clearly demonstrate that the most recent injury suffered would be caused by Covid-19, not imports.
- 9.15 However statistics for annual crude steel production in the MRP indicate that UK steel production had been at its lowest levels since before 1993.⁶⁶ These indicate that the issues present during the POI do not appear to have dissipated during the MRP.
- 9.16 There is also no evidence of a sudden change in fortunes of the UK steel industry during the MRP, and data from the World Steel Association estimates that the UK's steel production decreased by 0.6% year-on-year in the biennium of 2018-2019.⁶⁷

Appendix reference: Appendix 1

10. Please provide any information about the possible **economic effects** on the UK if the existing safeguard measure on the goods subject to review were:

- i) continued; or
- ii) discontinued.

⁶⁶ See: https://www.makeuk.org/-/media/uk-steel-key-stats-guide-2019_23072019_spreads1.pdf.

⁶⁷ See: <https://www.worldsteel.org/en/dam/jcr:391fbc61-488d-46d1-b611-c9a43224f9b8/2019%2520global%2520crude%2520steel%2520production.pdf>.



This information will be used to assess whether the existing safeguard measure is in the economic interest of the UK as part of the economic interest test. Provide evidence to support your conclusions.

Key points:

Absent any evidence of a surge in imports (or any trend suggesting the same) to the UK, there is no basis to assert that an increase in imports is likely to lead to serious injury within the meaning of the WTO Safeguards Agreement. The imposition of a UK safeguard measure therefore risks infringing the WTO rules.

Possible economic effects if the measure is continued include:

- harm to the competitiveness of the UK automotive sector - continuing the safeguard measure in the UK will mean that imports from the EU are also subject to safeguard tariffs. UK automotive manufacturers rely upon EU imports and so the measure risks disrupting continuity of supply, who already face disruption from new barriers arising as a result of the UK's departure from the EU's Customs Union and Single Market;
- limiting the UK automotive sector's recovery from the Covid-19 pandemic - by making it more expensive to manufacture vehicles;
- potential disruption to UK automotive manufacturing – UK automotive manufacturers may need to re-design supply chains in order to be able to avoid increased costs and continue to price competitively;
- increased costs for consumers – any increased costs faced by UK car makers will be passed onto consumers, since the sector operates on small margins that would not enable UK manufacturers to absorb the costs;
- harm to the UK steel sector – evidence from the US shows that US steel tariffs did not improve the position of the US steel industry, since Chinese and Korean steel manufacturers were able to absorb the increased costs and price below US steel;
- automotive manufacturers would not purchase more UK steel – due to the structure of supply contracts and lack of competitiveness in the UK steel industry this would not be economically viable; and
- escalation of international trade tensions with the UK - in view of the legal uncertainty there is a risk that other WTO members may seek to challenge the UK, which could harm the UK's reputation as it develops its independent trade policy post-transition period.

Possible economic effects if the measure is discontinued:

- supply chains could continue with less disruption – since UK businesses would only need to adapt to new UK-EU trade barriers, rather than additional tariff and compliance costs arising from the imposition of safeguard measures on EU steel;
- Global Britain's ambition would be fulfilled – in discontinuing the measure, the UK could defuse international trade tensions (as it has done recently in relation to the Airbus/Boeing dispute)
- The UK would still be able to adopt other, more conventional trade defence measures to address specific concerns – e.g. anti-dumping measures in relation to dumped steel products from China.

Possible economic effects if the measure is continued

Limiting the UK automotive sector's recovery from the Covid-19 pandemic

- 10.1 The number one priority for companies of all size in the UK automotive industry for 2020 has been surviving the negative economic consequences of the global lockdown. UK car



production so far this year is down -33.8% with a loss of 379,308 units. As for UK car registrations more than 663,761 units have been lost this year, a decline of -30.7% year to date. In April car production fell 99.7% to just 197 units (compared with c71,000 the year before) and car registrations in the same month were down 97.3% to just 4,321 units (compared with c161,000 the year before). At present, production and registration losses amount to £27.5 billion in lost revenue for the industry – £18bn lost value of new car registrations plus £9.5 billion value of lost car production

10.2 Over 14,000 job losses across auto manufacturing and retail were publicly announced up until early October. Throughout 2020, tens of thousands of employees in the industry have been furloughed with 49% of our members stating time and resource has been diverted to address COVID-19, which has hampered their ability to prepare for the end of the transition period. COVID-19 has resulted in many companies exhausting their lines of credit and having to take on additional debt to survive the short term.

10.3 With demand expected to rise as the UK comes out of lockdown and manufacturing activity resumes, it can be reasonably assumed that the volume of both EU and non-EU steel is likely to increase compared with 2020 levels. In this respect, as noted above, UK automotive manufacturers make purchasing decisions based upon:

- (a) manufacturing output and capacity (i.e. if production increases, more steel is needed);
- (b) availability of steel (such that manufacturers will routinely purchase steel from outside of the UK (primarily the EU) to meet demand); and
- (c) their individual supply chain risks (which, in view of the expiry of the transition period, is likely to include Brexit preparedness in the short-medium term).

10.4 Disrupting supply of steel imports to the UK from the EU and beyond via TRQs therefore risks harming the UK automotive sector's supply chain, increasing prices, and limiting manufacturing activity (e.g. if the cost of steel inputs becomes prohibitively expensive).

10.5 It is of critical importance that the UK automotive sector – along with other sectors of the economy – is supported by the Government in returning to pre-pandemic production levels. The imposition of TRQs risks undermining the UK's recovery by adding additional costs to sectors that have faced serious financial consequences as a result of the Covid-19 pandemic. A weaker recovery of the UK automotive sector, the second biggest customer of domestic steel producers, can only determine further harm to UK steel.

Harm to the competitiveness of the UK automotive sector

10.6 The UK automotive industry is a vital part of the UK economy worth more than £78.9 billion turnover, adding £15.3 billion value to the UK economy. With some 180,000 people employed directly in manufacturing and in excess of 864,000 across the wider automotive industry, the UK automotive sector is a major international trade hub generating more than £100 billion worth of trade in 2019. The sector is the UK's largest exporter of goods, worth



£42.4 billion; it accounts for 13.0% of all UK's manufactured goods exports and 6.0% of the UK's total exports, including services.

- 10.7 More than 30 manufacturers build in excess of 70 models of vehicle in the UK supported by 2,500 component providers and some of the world's most skilled engineers. Over 1.3 million cars, 78,270 commercial vehicles and 2.5 million engines were built in the UK in 2019. The UK automotive industry invests £3 billion each year in automotive R&D
- 10.8 Continuity of supply is of paramount importance to the UK automotive sector in view of the end of the Brexit transition period (in particular the prospect of a 'no deal' scenario, which would lead to import tariffs on automotive parts and products from the EU and estimated production losses over the next five years in excess of £47 billion). The just-in-time business model means that supply chains cannot be readily moved to source raw materials from another location.
- 10.9 In a no deal scenario, the application of 10% import duties on finished vehicles would add at least £4.5 billion to the annual cost of cars traded between the UK and the EU – raising the price of vehicles by £1,900.⁶⁸ UK automotive is therefore potentially exposed to a 'double-whammy' of increased costs if the safeguard measure is transitioned – unpredictable safeguard tariffs and fixed import duties.⁶⁹
- 10.10 Out-of-quota tariffs on steel would also add to increased costs resulting from disruptions to the just-in-time, just-in-sequence business model adopted by the sector. Delays to shipments of parts to production plants are measured in minutes, with every 60 seconds costing £50,000 in gross value added – amounting to some £70 million a day in a worst-case scenario. New administrative burdens on imports of key raw materials and uncertainty linked to the filling of quarterly quotas on a first-come, first-served basis are only likely to create additional delays at the end of the transition period.
- 10.11 The determination to maintain existing TRQs and expand their scope to imports from the EU only few weeks before the end of the Brexit transition period will also impact automotive businesses' preparedness. In particular, the sector had no sufficient time to factor-in potential additional costs from out-of-quota tariffs on steel in their preparedness plans, nor costs associated to the need to submit full customs declarations on EU imports of steel products that will not benefit from the UK's gradual phase-in of customs requirements. The industry has already spent at least £735 million preparing for the UK's exit from the EU's Customs Union. £235 million has been spent in 2020 alone
- 10.12 Since automotive manufacturers are not able to simply 're-source' steel products from UK producers, there is a risk that automotive manufacturers may opt not to manufacture vehicles/parts in the UK using imported steel.

Potential disruption to UK automotive manufacturing

⁶⁸ See: <https://www.smmmt.co.uk/2020/10/no-deal-tariffs-would-undermine-britains-green-recovery-with-2800-drain-on-electric-car-affordability-warns-smmmt/>.

⁶⁹ In the absence of a UK-EU Free Trade Agreement, import duties of 10% would be levied on imports of UK cars into the EU. (See: [TARIC database](#).)



10.13 In this context, since the UK steel industry would not be able to meet the demand of the UK automotive sector, manufacturers might be required to redesign their supply chains to avoid safeguard measures (e.g. manufacturing products from EU steel within the EU, and then exporting the finished product to the UK). Since duties on finished products would likely be lower than safeguard tariffs, this diversion of manufacturing could be a viable strategy in the medium-to-long term.⁷⁰

10.14 In the short-term, the transition of the safeguard measure would impose additional tariff costs and compliance costs to the UK automotive sector. Given the long-term nature of supply contracts, automotive manufacturers are unlikely to change sourcing of steel in the short-term, but rather just face additional deadweight costs if tariffs were imposed. In this context, the implementation of a TRQ could not protect the UK steel industry to any greater extent, just lump more cost onto an automotive sector that is already facing existential threats ranging from the impact of Covid-19 to the uncertainty resulting from the end of the Brexit transition period.

10.15 Not only would UK automotive manufacturers need to absorb the additional duties on out-of-quota imports, they would also need to absorb the cost of ensuring compliance with the applicable TRQs. These additional costs risk reducing the competitiveness of the UK automotive sector, who are already incurring costs to ensure compliance with post-Brexit customs formalities and regulatory requirements.

Increased costs for consumers

10.16 Increased costs to automotive manufacturers would ultimately lead to higher prices for consumers, since manufacturers would not be able to absorb the entirety of the cost without risking profitability (and thereby undermining the business case for retaining a UK manufacturing base, in particular for parts and components).

10.17 Studies in relation to the impact of tariffs imposed on steel products imported into the US estimated that around 100% of tariff costs are passed onto consumers initially, with this rate then falling to around 50% within a year of the imposition of tariffs.⁷¹ (See **Appendix 4**.)

10.18 Increased costs of UK produced cars also mean consumers may turn to imported vehicles (which would not be subject to safeguard tariffs) and this would further reduce the competitiveness of the UK automotive sector.

Harm to the UK steel sector

10.19 The imposition of tariffs on steel products would not necessarily protect UK steel producers. A study on the impact of steel tariffs on the US market (see **Appendix 4**) found that "US

⁷⁰ For example, the duty rate for finished vehicles under the UK Global Tariff is 10% (see: <https://www.check-future-uk-trade-tariffs.service.gov.uk/tariff?q=870323&n=25&p=1>). By contrast, the additional out-of-quota duty rate for Category 4B products under the safeguard measure is 25%.

⁷¹ See: National Bureau of Economic Research: 'Who's paying for the US tariffs? A longer-term perspective', Amiti M, Redding S J, Weinstein D E (January 2020). Available at: https://www.nber.org/system/files/working_papers/w26610/w26610.pdf.



tariffs have caused foreign exporters of steel to substantially lower their prices into the US market. Thus, foreign countries are bearing close to half the cost of the steel tariffs. Since China is only the tenth largest steel supplier to the US market, these costs have largely been borne by regions like the EU, South Korea and Japan."

- 10.20 There is a risk, therefore, that the imposition of safeguard measures for the UK market could lead to exporters of steel products lowering their prices to compete with UK suppliers. In this context, UK steel producers may need to limit production in order to retain profit margins and stay competitive with cheaper imports. In the US example mentioned above, US steel production only rose by 2% per year between 2017 and 2019 despite the 25% steel tariffs.

Automotive manufacturers would not purchase more UK steel

- 10.21 Notwithstanding the above, UK automotive manufacturers would still require imported steel since UK steel mills do not currently produce steel competitively in sufficient quantity (or quality) to meet the demands of the entire UK automotive industry.
- 10.22 The UK automotive industry generally purchases steel through long-term supply arrangements (typically three – six years) in accordance with their manufacturing cycles for new vehicle models. It would not be economically viable for UK automotive manufacturers to incur the significant cost of terminating such supply agreements with EU steel producers. Even if the safeguard measure were to be maintained in the long-term (e.g. eight years, the maximum allowed under the WTO Safeguards Agreement⁷²), UK automotive manufacturers would need to factor the cost of safeguard tariffs into their purchasing plans. Absent a competitive UK steel supply, this may make it prohibitively expensive for manufacturers to procure steel in sufficient quantities unless supply chains are re-designed.
- 10.23 Lower prices for foreign steel products would benefit the UK automotive sector by reducing input costs (assuming these lower prices went beyond the increase in price that would otherwise occur as a result of a 25% tariff). However, if this were to happen, automotive manufacturers would have less of an incentive to buy UK steel (in particular if UK steel production is not able to increase production to meet automotive demand).

Escalation of international trade tensions with the UK

- 10.24 Should the measure be extended beyond 30/06/2021 after three years of application, affected WTO members may suspend substantially equivalent concessions and other obligations.⁷³ As noted above, the imposition of counterbalancing measures on UK exporters would risks significant harm to the UK automotive sector, with 81% of cars produced in the UK made for export.⁷⁴
- 10.25 Non-compliance (or perceived non-compliance) with the WTO rules (e.g. the Safeguards Agreement) could lead to a complaint by another WTO member to the WTO dispute

⁷² See Article 7(3) of the WTO Safeguards Agreement.

⁷³ See Article 22 of Annex 2 to the WTO Agreement (the Dispute Settlement Understanding).

⁷⁴ See: <https://www.smmmt.co.uk/wp-content/uploads/sites/2/SMMT-Automotive-Trade-Report-2020.pdf>.



settlement body. The imposition of a UK safeguard measure in the absence of evidence showing a sudden, sharp increase in imports to the UK risks infringing the WTO Safeguards Agreement.

10.26 The UK is likely to be subject to increased scrutiny if it imposes a safeguard measure since:

- (a) safeguard measures are intended only to be implemented as an “*emergency action*” (see Article XIX, GATT 1947) and so a challenge is more likely unless there is robust data and analysis underling the decision (with this data provided to WTO members in accordance with the Safeguards Agreement). In this respect, it should be noted that Turkey is currently challenging the EU measure at the WTO⁷⁵ and it may be likely to challenge any UK measure on similar grounds; and
- (b) it would be the UK’s first safeguard measure at the WTO since its departure from the EU, and so other WTO members will likely have a heightened interest in the UK’s new trade policy.

10.27 If the UK is subject to dispute settlement proceedings at the WTO, this would risk undermining the UK’s desire to “*champion the rules-based international order*”⁷⁶ in the context of its independent trade policy.

10.28 Further, if a WTO panel were to be established in relation to the UK measure, and found against the UK, this could open the UK up to compensation payments to the complaining members, and the imposition of countervailing measures by other WTO members (e.g. tariffs on UK products) in the event that no compensation settlement could be agreed.⁷⁷ As noted above, the imposition of retaliatory tariffs on UK exporters would risks significant harm to the UK automotive sector, with 81% of cars produced in the UK made for export.⁷⁸

Possible economic effects if the measure is discontinued

Supply chains could continue with less disruption

10.29 Without the need to comply with TRQs, or pay additional safeguard duties, UK businesses— in particular the automotive sector – would be able to continue to source steel at a similar cost base to their current production costs. (Albeit, with the additional costs arising as a result of Brexit – e.g. the need to comply with customs formalities in respect of steel imports from the EU.)

10.30 The automotive sector would also benefit from greater certainty over its future input costs, since it would not need to factor in concerns in relation to whether the TRQ for certain

⁷⁵ See: *European Union — Safeguard Measures on Certain Steel Products* (2020) WTO Doc WT/DS595/4.

⁷⁶ See: <https://www.gov.uk/government/collections/global-britain-delivering-on-our-international-ambition>.

⁷⁷ See Article 22 of Annex 2 to the WTO Agreement (the Dispute Settlement Understanding).

⁷⁸ See: <https://www.smmmt.co.uk/wp-content/uploads/sites/2/SMMT-Automotive-Trade-Report-2020.pdf>.



categories of steel products are sufficient. Instead, manufacturers would be able to purchase steel products at market prices.

Global Britain's ambition would be fulfilled

10.31 A stated aim of the UK Government's 'international ambition' involves "*championing the rules-based international order and demonstrating that the UK is open, outward-looking and confident on the world stage.*"⁷⁹

10.32 To fulfil this ambition, it is important that the UK not only abides by the WTO rules but is seen to be doing so. Starting afresh with UK-specific trade defence instruments based upon proper and transparent assessment of potential impacts of trade flows to and from the UK market would demonstrate that the UK is a credible and predictable nation, respecting the rule of law in applying its independent trade policy.

10.33 There is a risk that in 'rolling over' the EU's trade defence instruments, the UK Government could be open to challenge for not complying with the requirements of the WTO rules (e.g. the Safeguards Agreement), since the transitioned measures would be based upon an analysis carried out by the EU and not the UK. It would also be an indication that the UK has yet to adopt an independent trade policy.

10.34 Discontinuing the measure (subject to TRID confirming – as SMMT submits – that there has been no significant increase in imports) would demonstrate that the UK is taking its WTO obligations and the rule of law seriously.

Discontinuing the measure may be an opportunity for the UK to defuse trade tensions

10.35 The UK's recent decision not to continue tariffs on US products in the context of the dispute regarding Boeing/Airbus was recently welcomed by the United States – with the US Trade Representative stating that it "*shares the UK's objective of reaching a negotiated resolution.*"⁸⁰

10.36 Ceasing to apply an EU-initiated safeguard measure on steel products within the UK from 01/01/2021 (or indeed 01/07/2021) represents a similar opportunity to demonstrate the UK's commitment to resolving trade disputes amicably.

Any potential diversion of exports from non-EU countries could be addressed by use of other, more conventional trade defence instruments

10.37 If the safeguard measure is removed, then non-EU steel exporters may be inclined to divert steel exports to the UK instead of the EU. This could increase supply within the UK, which – if it exceeded demand – could lead to a decrease in UK steel prices.

⁷⁹ See: <https://www.gov.uk/government/collections/global-britain-delivering-on-our-international-ambition>.

⁸⁰ See: <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2020/december/united-states-takes-action-american-dairy-farmers-filing-first-ever-usmca-enforcement-action/ustr-responds-uk-statement-wto-large-civil-aircraft-dispute>.



10.38 However, the UK Government would be able to impose trade defence measures if it is concerned about steel being dumped onto the UK market, or in relation to exports of unfairly subsidised steel (e.g. anti-dumping duties or anti-subsidy measures). The measures would allow the UK to target specific issues in relation to the import of steel products, and – unlike a safeguard measure – would not need to apply irrespective of origin. This would enable the UK Government to protect UK businesses (both steel producers and downstream steel customers) without 'closing off' access to fairly traded steel from other markets on which UK producers rely (e.g. the EU).

Appendix reference: Appendix 4

11. If you have **any other information** which may help us with this review, please provide it below.

11.1 The UK's departure from the EU's Customs Union and Common Commercial Policy represents an opportunity for the UK to act as a global champion for the international rules-based trading system. The UK should use this opportunity to defuse international trade tensions that have arisen over the past five years, and seek to develop links with key trading partners from the EU and beyond.

11.2 TRID should also note as part of this transition review that safeguard measures are very rarely imposed, and historically have been challenged at the WTO by other WTO members. Indeed, the EU measure itself is currently subject to a panel review by the WTO in response to a complaint from Turkey.⁸¹ In the event that the UK does transition the measure, it is therefore foreseeable that Turkey and indeed other WTO members may seek to pursue a similar challenge in respect of the UK.

11.3 If a WTO panel were to be established in relation to the UK measure, and found against the UK, this could open the UK up to compensation payments to the complaining members, and the imposition of countervailing measures by other WTO members (e.g. tariffs on UK products) in the event that no compensation settlement could be agreed.⁸² In addition, should the measure be extended beyond 30/06/2021 after three years of application, affected WTO members may suspend substantially equivalent concessions and other obligations. As noted above, the imposition of retaliatory tariffs or counterbalancing measures on UK exporters would risks significant harm to the UK automotive sector, with 81% of cars produced in the UK made for export.⁸³

Appendix reference:

⁸¹ See: *European Union — Safeguard Measures on Certain Steel Products* (2020) WTO Doc WT/DS595/4.

⁸² See Article 22 of Annex 2 to the WTO Agreement (the Dispute Settlement Understanding).

⁸³ See: <https://www.smmmt.co.uk/wp-content/uploads/sites/2/SMMT-Automotive-Trade-Report-2020.pdf>.



SECTION B: Next steps and declaration

Next steps

Once you have completed all parts of the questionnaire, the declaration below should be signed by an authorised signatory.

The questionnaire should be submitted through the Trade Remedies Service (www.trade-remedies.service.gov.uk) by **21 November 2020**.

A confidential and non-confidential version of the questionnaire must be submitted. You can find guidance on how to complete confidential and non-confidential versions at <https://www.gov.uk/government/publications/the-uk-trade-remedies-investigations-process/an-introduction-to-our-investigations-process#how-we-handle-confidential-information>.

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.

Company name (if applicable): The Society of Motor Manufacturers and Traders LTD
Company registration number (if applicable): 00074359

[CONFIDENTIAL]

11/12/2020

Date

Signature of authorised signatory

THE SOCIETY OF
MOTOR MANUFACTURERS
AND TRADERS LIMITED 

Company stamp (if applicable)

[CONFIDENTIAL]

Name and title of authorised signatory