



26 May 2025

Trade Remedies Authority

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Email: TQ0066@traderemedies.gov.uk

Subject: Tariff Rate Quota Review Case No. TQ0066 – Submission on behalf of Government of India.

Dear Sir,

1. Trade Remedies Services (“**TRA**”) issued a Notice of Initiation dated 28 February 2025 (“**Notice of Initiation**”), wherein it notified the parties that a of a Tariff Rate Quota Review under Case No. TQ0066 (“**TRQ Review**”) for the period of review from January 2024 to December 2024 (“**POI**”). Government of India (“**GOI**”) registered as an interested party in the TRQ Review.
2. While TRA’s Notice of Initiation did not detail the issues that were to be considered in the TRQ Review, it only provided that “*During the review, the TRA will consider data from the POI to assess whether there has been a change in circumstances since the application of the tariff rate quotas to which certain steel products are subject.*”
3. TRA’s Notice of Initiation further provided that TRA shall consider the following while conducting the TRQ Review:
 - a. *whether the amount or allocation of the TRQ is appropriate for domestic market conditions;*
 - b. *the desirability of maintaining, as far as possible, traditional trade flows; and*
 - c. *any other factors that the TRA considers relevant.*



4. The timelines published in Notice of Initiation provided that the date of publication for Statement of Intended Final Determination (“**SIFD**”) shall be 28 March 2025.

5. In terms of Paragraph 9 of the Schedule to The Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (“**Trade Remedies Regulations**”) provides that the following must be included in the Notice of Initiation:
 - a. details of the content of the relevant public notice made to which the review relates;
 - b. the type of review initiated;
 - c. the date of initiation of the review;
 - d. the description of the goods subject to review;
 - e. the period of investigation for the review;
 - f. **a summary of the reasons for initiating a review;**
 - g. **a summary of the issue involved in the review;**
 - h. a summary of the review process;
 - i. the address of the TRA to which comments by interested parties and persons with sufficient interest in the review is to be delivered, or the means by which such comments are to be delivered;
 - j. details of a registration period during which interested parties, or any other person, may make themselves known to the TRA; and
 - k. a statement that interested parties may request that the TRA conduct a hearing.

6. However, the Notice of Initiation, did not provide for any reasons for initiating the said review, as well as issues involved.

7. Later, TRA published an Amended Notice of Initiation on 16 March 2025 (“**Amended Notice of Initiation**”). In the said Amended Notice of Initiation, it has been disclosed that:



“This TRQ review will determine whether there has been a change of circumstances since the application of the relevant tariff rate quota with regard to:

- The fact that the tariff rate quota, or any part of the quota, has been exhausted*
- A change in demand for the relevant goods*
- the fact that imports from a developing country member of the WTO which have been excluded from the application of the tariff rate quota can no longer be excluded under regulation 43 (developing country exception)*
- the fact that imports from a developing country member of the WTO which have not been excluded from the application of the tariff rate quota should be excluded under regulation 43”*

8. On 14.05.2025, TRA published its SIFD, and stated that TRA intends that the final recommendation is to vary the tariff rate quotas (“**TRQs**”/ “**tariff rate quotas**”), as follows:

- a. Unused quotas should no longer be made available in the following quarter (removal of carry-over facility);*
- b. Countries with a country-specific quota should no longer have access to the residual quota in the final quarter;*
- c. Country-specific caps should be imposed on the residual quotas in the following categories from 1 October 2025:*
 - i. Category 4: 40%*
 - ii. Category 7: 40%*
 - iii. Category 13: 40%*

and

d. Update the developing country non-exceptions list in line with the conclusions set out in D2.3.

9. GOI submits that while safeguard measures must pursue the objective of preventing or remedying a serious injury to the domestic market, it must not address any regular increase in imports, which otherwise does not entitle an importing Member to impose a safeguard measure.¹ Under Article II of the General Agreement on Tariffs and Trade 1994 (“**GATT**”), TRQs must not exceed the levels of concessions provided for the relevant time under the Schedule of Concessions of the member concerned.
10. GOI submits that laws and regulations of trade must be predictable, transparent, and consistent, for economic actors and stakeholders to rely on stability of legal framework. By reassessing TRQs, TRA may introduce legal uncertainty, which may negatively impact businesses and stakeholders in domestic industry as well as the other market players.

I. Non-existence of causal link between increased imports of steel and serious injury/ threat to UK domestic market.

11. It may be noted that determination of serious injury/ threat to domestic market is a pre-requisite under Part 3 of the Trade Remedies Regulations as well as Article 4 of Agreement on Safeguards (“**WTO Agreement on Safeguards**”).
12. Regulation 8 of the Trade Remedies Regulation and Article 4 of the WTO Agreement on Safeguards provides for determination of serious injury. Article 4 of the WTO Agreement on Safeguards is reproduced below for ready reference:

¹ Appellate Body Report, Argentina – Footwear (EC), para. 131.

“Article 4 Determination of Serious Injury or Threat Thereof

1. For the purposes of this Agreement:

(a) **"serious injury" shall be understood to mean a significant overall impairment in the position of a domestic industry;**

(b) "threat of serious injury" shall be understood to mean serious injury that is clearly imminent, in accordance with the provisions of paragraph 2. A determination of the existence of a threat of serious injury shall be based on facts and not merely on allegation, conjecture or remote possibility; and

(c) in determining injury or threat thereof, a "domestic industry" shall be understood to mean the producers as a whole of the like or directly competitive products operating within the territory of a Member, or those whose collective output of the like or directly competitive products constitutes a major proportion of the total domestic production of those products.

2. ...

(b) The determination referred to in subparagraph (a) shall not be made unless this investigation demonstrates, **on the basis of objective evidence, the existence of the causal link between increased imports of the product concerned and serious injury or threat thereof. When factors other than increased imports are causing injury to the domestic industry at the same time, such injury shall not be attributed to increased imports.**

...” (emphasis supplied)

13. The Appellate Body of the World Trade Organisation (“WTO”), in the case of *US-Wheat Gluten*², has held that the word ‘causal’ means ‘relating to a cause or causes’, while the word ‘cause’, in turn, denotes a relationship between, at least, two elements, whereby the first element has, in some way, ‘brought about’,

² Appellate Body, US – Definitive Safeguard Measures on Imports of Wheat Gluten from the European Communities (WT/DS166/AB/R) dated 12 December 2000.

‘produced’ or ‘induced’ the existence of the second element. Further, the word ‘link’ indicates that increased imports have played a part in, or contributed to, bringing about serious injury so that there is a causal connection or nexus between these two elements.

14. Regulation 8(3) of the Trade Remedies Regulation also provides for a list of factors that TRA must take into account in order to determine serious injury, which are as follows:

*“(3) In order to determine whether UK producers have suffered or are suffering serious injury (see paragraph 2 of Schedule 5 to the Act), the **TRA must assess all relevant economic factors having a bearing on UK producers** including—*

(a) the rate and volume of increase of the importation of the goods concerned into the United Kingdom, in absolute or relative terms;

(b) the export capacity of the goods concerned in foreign countries or territories and the likelihood that the capacity will be exported to the United Kingdom;

(c) the share of the domestic market in the United Kingdom taken by the importation of the goods concerned in increased quantities;

(d) changes in the UK producers' level of—

(i) sales;

(ii) productivity;

(iii) production;

(iv) capacity utilisation;

(v) profits and losses; and

(vi) employment.” (emphasis supplied)

15. Moreover, the Appellate Body juxtaposed the concept of ‘serious injury’ in the Agreement on Safeguards and the concept of ‘material injury’ contained in the Anti-Dumping Agreement and Agreement on Subsidies and Countervailing Measures:

“We are fortified in our view that the standard of ‘serious injury’ in the Agreement on Safeguards is a very high one when we contrast this standard with the standard of ‘material injury’ envisaged under the Anti-Dumping Agreement, the Agreement on Subsidies and Countervailing Measures (the ‘SCM Agreement’) and the GATT 1994. We believe that the word ‘serious’ connotes a much higher standard of injury than the word ‘material’. Moreover, we submit that it accords with the object and purpose of the Agreement on Safeguards that the injury standard for the application of a safeguard measure should be higher than the injury standard for anti-dumping or countervailing measures, since, as we have observed previously:

‘[t]he application of a safeguard measure does not depend upon ‘unfair’ trade actions, as is the case with anti-dumping or countervailing measures. Thus, the import restrictions that are imposed on products of exporting Members when a safeguard action is taken must be seen, as we have said, as extraordinary. And, when construing the prerequisites for taking such actions, their extraordinary nature must be taken into account.’³

16. It may also be noted that under Article 4.1 of the WTO Agreement on Safeguards, ‘serious injury’ means a **significant** overall impairment to the domestic industry. Significance, here, entails a *de minimis* threshold in the sense that the effect must be ‘of sufficient magnitude or degree... to be able to meaningfully affect suppliers [for it to] be found to be “significant”.’⁴ It may be noted that the outlook of the

³ Appellate Body Report, US – Lamb, paras. 124 and 126.

⁴ Panel Report – Korea Vessels, para 7.571.

domestic steel market of UK is perceived by its own industry bodies, importers, manufacturers, stakeholders, etc.

17. Report of the UK Parliament states that the UK domestic steel industry is facing challenges prior to the recent increase in energy costs. A combination of fierce international competition and high domestic costs has made many UK steel plants struggle to be competitive in a global market. In fact, UK Steel, itself, has stated that “*long-standing uncompetitive electricity prices [have] constrained UK investment and steel production for some time*”.⁵
18. UK Metal Council (“**UKMC**”), which is recognised as the sector council, fulfilling a crucial role in supporting policy development through the coordination of responses from across the whole of the metals sector, has published its report for ‘**State of the Metals Industry in the UK – 2024/ 2025**’⁶ (“**UKMC report on Metal Industry**”) and reported the challenges faced by UK domestic industry. Relevant extract of the UKMC report on Metal Industry is as follows:

*“Last year’s survey clearly signalled a high level of concern over the effects of the UK leaving the European Union as well as the soaring cost of energy. This year these concerns have diminished although rising operating costs, significantly also including wages, ranks fifth amongst the challenges. **Top of the rankings is economic uncertainty and market volatility as it was in 2023**, with global concerns accentuated by the impending UK general election. **Concerns over regulatory burdens and compliance requirements have increased markedly to rank second, with indications these are now more strongly related to domestic policy.**” (emphasis supplied)*

⁵ UK Steel Industry: Statistics and policy by House of Commons Library

⁶ <https://ukmetalscouncil.org/wp-content/uploads/2024/09/UKMC-Report-Web-Version-.pdf>.

19. UK Steel, in its report '*Industrial Electricity Prices A Barrier To Growth, Competitiveness, And Profitability*' has stated that UK steel industry has been crippled by high industrial electricity prices, which places a heavy burden on the industry's competitiveness, profitability, and ability to invest in future growth. The previous government implemented the British Industrial Supercharger to bring prices closer to those faced by competitors in France and Germany.⁷

20. Therefore, UK's domestic steel industry is already concerned over regulatory burdens, unconstrained electricity prices and compliance requirements – which is related to its domestic industry. Under the WTO Agreements on Safeguards, 'significant' overall impairment cannot be simple situation of business stress.

21. It may be noted that UK domestic steel sector also is facing increasing pressure from decarbonisation, which will likely see costs of production rise further. UK steel industry's challenge is also because of uncompetitive environment due to 2015-16 steel industry crisis in the country which led to shutdown of numerous steel plants. The lack of favourable business condition and high electricity prices led to decline in the production of steel in comparison to international steel production.⁸

22. The British Constructional Steelwork Association ("**BCSA**") has been representing the UK structural steel industry. BCSA has also, in the UKMC report on Metal Industry, stated that "*Demand for steel in the UK is 15 million tonnes a year. The UK generates 13 million tonnes of scrap metal per year which is sold to companies abroad for reprocessing.*"

23. Further, BCSA states that it calls on the new Government, with their Manifesto which was launched last year, to make policy change in a number of areas to help them build a sustained world-class constructional steel-work industry. It also raised a contention that structural steelwork contracts (for HS2) were being awarded to

⁷ <https://www.uksteel.org/reports-and-publications>.

⁸ <https://www.uksteel.org/steel-news-2025/steel-council-announced>.

European and other International joint ventures. In 2022-2023, out of the 38,612 tons of steelwork, only 56% was awarded to UK-based companies. As these are public projects, BCSA reported that this percentage ratio should be much higher, if not all the contracts awarded to UK-based companies.

24. Several reports also state that UK is one of the largest steel exporter in several product category.⁹ According to Volza's UK export data, UK exported 126 shipments of Welded Pipe Tube from Aug 2023 to Jul 2024. These exports were made by 55 UK exporters to 54 buyers, marking a growth rate of 193 per cent compared to the preceding twelve months.¹⁰
25. GOI submits that in terms of WTO Agreement on Safeguards, the standard of establishing serious injury to domestic market and its causal link to imports is high because safeguard measures are imposed on imports against which there is accusation of any 'unfair or restrictive trade', as in cases of anti-dumping or countervailing investigations and reviews. The safeguard measures only respond to extraordinary events.¹¹
26. In the present case, there is nothing to show that imports of steel caused or threatens to cause a serious injury to UK steel market. A causal link between import of steel in UK domestic market, and serious injury/ threat to UK domestic market cannot be established. As can be seen above, the domestic steel industry of UK is already hampered by factors such as high industrial electricity prices, regulatory burden, policy issues, etc., none of which are linked to increased imports.

⁹ <https://ec.europa.eu/eurostat/web/products-eurostat-news/w/ddn-20250312-2>.

¹⁰ <https://www.volza.com/p/welded-pipe-tube/export/export-from-united-kingdom/>.

¹¹ Appellate Body Report, US – Lamb, para 124.



27. TRA must be careful while restricting the safeguard measures as failure to strictly liberalise the steel imports further may cause increased price of steel (increased domestic steel price due to increased cost of manufacturing, and increased imported steel price due to duty on steel/ limited quota of imports) – and as a result, end products of steel may also see rise in price in UK domestic price.

II. Quota exhaustion and change in demand

28. To begin with, a brief description of the issue highlighted by TRA pertaining to quota exhaustion and change in demand, in its SIFD, is provided below:

- a. TRA based the finding on the fact that the residual quota of certain categories were exhausted in at least one quarter of POI. Specifically, for category 4, 7 and 13, it has been said that each category was dominated by a single importing country. [Para of 40 SIFD]
- b. TRA observed that data during the POI suggests that utilisation rate of residual quota for different categories, including for categories 4, 7 and 13 is as follows:
 - i. For category 4, it was around 90%, but there was increased utilisation in the final three quarters. This high utilisation rate has continued in the first quarter of 2025, where the utilisation rate was 96%. For this category, imports of Vietnam accounted for 62% of imported goods and imports of Republic of Korea accounted for 37% of imported goods – under the residual quota. [Para of 33 SIFD]
 - ii. The utilization rate of category 7 was around 52% and the imports of Republic of Korea accounted for 80% of imported goods under the residual category. [Para of 34 SIFD]

- iii. The residual quota for category 13 was exhausted in each quarter and majority of imports in the residual quota were utilized by from Algeria (86%), with 14% coming from Egypt. [Para of 35 SIFD]

- c. In category 5, 62% of imports in the residual quota came from Vietnam. 90% imports in category 16, in the residual quota, were from Türkiye. In category 17, 55% of imports in residual quota came from Türkiye. In category 21, 92% of imports in the residual quota came from the United Arab Emirates' (UAE). [Para of 36-39 SIFD]

- d. TRA concluded that there are points to consider around the dominance of the residual quota by individual source countries. TRA also considered that there is a change in circumstances in light of the reduced demand of steel, in UK and globally. [Para of 40 SIFD]

- e. TRA noted that in vast majority of quota allocations, utilisation rates were considerably under 100%, quarter by quarter. In that context, TRA is of the view that unused quotas should no longer be available in the following quarter, and that countries with a country-specific quota should not have access to the residual quota in the final quarter. [Para of 65 SIFD]

- f. TRA also assessed if country caps are appropriate in the residual quotas for categories 5, 16 and 21 – where there is dominant share of residual quota by Vietnam, Türkiye and the UAE respectively. However, it was found that in each of these categories, absolute volume of quota in residual quota is significantly lower than those in categories 4, 7, and 13. Therefore, it was conclude that introducing country-specific caps on quota volumes that are so small is not practical. [Para of 78 SIFD]

A. *There is no immediate necessity to extend or further restrict the measures already into place - on the basis of an outlook of the UK domestic market.*

29. Without prejudice to the submission that any serious injury and causal link is not established by TRA, GOI submits that an extension of the safeguard measure can only be authorized if a determination is made on the necessity of that measure to continue to prevent or remedy serious injury and existence of evidence that the industry is adjusting. While reviewing a safeguard measure, it is assumed that the safeguard measure was imposed as necessary to achieve that goal. The question that is posed at this stage is whether the same reasons that justified the measures are still valid.
30. If the measures were imposed as a quota to limit volumes of imports that were causing serious injury to the industry, review of that measure must also be focused on a situation in which quota were lifted and imports were allowed to be imported without any quantitative restriction.
31. Steel Industry of UK has experienced as significant decrease in production of steel since past few years. As per the report of UK parliament, in the year 1969, total production of crude steel in UK was more than 20 MT. UK was one of the leading producer of the Steel in the Europe.¹² However, recently, the production of was only 6 MT, while annual requirement of crude steel in UK is 8.9 MT and domestic manufacturers of UK are able to fulfil around 70% of the UK's annual requirement but UK faces a shortfall of about 30% in domestic production capacity.¹³

¹² <https://researchbriefings.files.parliament.uk/documents/CBP-7317/CBP-7317.pdf>

¹³ <https://www.uksteel.org/steel-news-2024/uk-industry-could-supply-eight-million-tonnes-of-steel-for-public-projects-over-next-decade>

32. In recent years, domestic consumption of steel in UK has experienced a significant increase, specifically due to increased transportation projects like railway and highway contracts. It has also seen exponential demand of steel over the last few years. Current outlook of steel industry points towards rise in demand of steel in the construction sector. However, due to short of supply, price of steel has significantly raised.
33. TRA has not evaluated the demand in steel, and based its conclusion merely on the submissions. In the SIFD, TRA has referenced the dataset used in this TRQ Review, which is country of origin data for all imports. Apart from the said data, no other data, except submissions of UK Steel and other parties, seemed to be relied upon by TRA. It was relevant to consider and analyse the demand-supply matrix of UK domestic market to understand the actual dynamics of domestic market.
34. It may be noted that with a decline in domestic steel production, demand of steel in UK is expected to increase in the coming years. It has been reported that UK government plans to elevate the economy through substantial investments in housing, infrastructure, advanced manufacturing, clean energy, and defence sectors¹⁴, all of which are steel intensive.
35. GOI submits that TRA must consider that restrictive measures may lead to higher steel prices, as the domestic industry is already facing challenges, as detailed above and is also unable cater to entire demand of UK. Restrictive measures shall also adversely affect the affordability and execution of critical infrastructure projects – as steel is an essential raw material. The impact may also be seen on the price of products to the end users. Therefore, a balanced approach that ensures a steady supply of competitively priced steel is essential to support economic and industrial objectives.

¹⁴ <https://www.gov.uk/government/consultations/invest-2035-the-uks-modern-industrial-strategy/invest-2035-the-uks-modern-industrial-strategy>

36. Further, comparing UK market with European Union (“EU”) or the global market is also not entirely appropriate. A report published by European Steel Association (EUROFER) in 2024 suggested that the total production of Steel in EU is 140 MT per year.¹⁵ Whereas, total production of steel in UK is 6 MT per year which is insufficient to meet the demand of steel (which, as detailed above, is 8.9 MT per year).¹⁶ Demand of EU is fulfilled by its domestic production, while it may not be the same for UK. Therefore, without a detailed market analysis of UK, and merely relying on global trends of steel – without correlating the same with UK domestic steel production, will be damaging steps by TRA for UK.
37. GOI also submits that there is no product-category specific analysis, nor does SIFD reflect any reasoned and adequate examination of the import and injury trends for each of the product categories in UK. TRA has broadly stated that “*The TRA accepts that there has been a change in demand for steel, both within the UK and globally. This is creating significant pressures on the UK steel industry*”.
38. GOI submits that it is necessary that the assessment of the impact of imports on the situation of the industry, separation of these effects from those caused by other factors and establishment of a measure commensurate with the goals of preventing or remedying the serious injury and facilitating the adjustment. In order to maintain measures, it is also required to verify the counterfactual assessment of the situation of imports and industry, if the measure is terminated.
39. WTO Agreement on Safeguards provides, under Article 4.2(c), that:

*“The competent authorities shall publish promptly, in accordance with the provisions of Article 3, **a detailed analysis of the case under investigation**”*

¹⁵ <https://www.eurofer.eu/assets/publications/brochures-booklets-and-factsheets/european-steel-in-figures-2024/European-Steel-In-Figures-2024-v2.pdf>

¹⁶ <https://www.uksteel.org/steel-news-2024/uk-industry-could-supply-eight-million-tonnes-of-steel-for-public-projects-over-next-decade>

as well a demonstration of the relevance of the factors examined.” (emphasis supplied)

40. In the *US – Steel Safeguards*¹⁷, WTO Panel has stated that in certain cases, explanation of the unforeseen developments result in the increase in imports require much more detailed analysis in order to make clear the relationship that exists between the unforeseen developments and the increased imports that are causing or threatening to cause serious injury.
41. While determining the change in demand, TRA noted that the UK demand for steel contracted by 16% between 2018 and 2023. However, the said observation is only on the basis of UK Steel’s submission date 08 April 2025. Further, the data provided by UK Steel was also relied upon by TRA- without verifying the correct position. No analysis of its own is done by TRA in this respect.
42. TRA has also analysed global demand of steel and did not co-relate the same with UK market, and UK’s demand of steel. With a simple discussion of decrease in global demand, TRA reached to the conclusion that “*there are grounds to assess whether TRQ may be varied in a way that responds to these challenges faced by domestic industry.*”
43. It may be noted that WTO Appellate Body, in *US – Steel Safeguards*¹⁸ has stated that in order to provide a reasoned and adequate explanation, the competent authority must explain how it ensured that it did not attribute the injurious effects of factors other than included imports—which subsume "excluded imports"—to the imports included in the measure. However, such analysis is absent in SIFD of TRA.

¹⁷ Panel Report, United States - Definitive Safeguard Measures on Imports of Certain Steel Products (WT/DS 248/R) 11 July 2003.

¹⁸ United States - Definitive Safeguard Measures on Imports of Certain Steel Products (WT/DS 248/R) 11 July 2003.

III. Developing Country Exception

44. TRA, in its SIFD, has proposed that six developing countries across 14 categories of steel should not be excepted from the measure because their import shares into the UK exceeded the 3% threshold and collectively, the remaining low volume exporters did not breach the 9% threshold. The six countries are: Egypt, India, People's Republic of China, Türkiye, United Arab Emirates, and Vietnam.
45. TRA has based the conclusion on the import figures during the POI to determine the import shares of each developing country, which are not under the FTA exception. Further, **for those countries whose import shares for POI did not exceed 3% for a product category, TRA assessed whether the collective imports exceeded 9% for the product category. In light of the discussion, TRA has suggested that the developing country non-exceptions list may be developed.**
46. Article 9.1 of the WTO Agreement on Safeguards provide that “*safeguard measures shall not be applied against a product originating in a developing country Member **as long as its share of imports of the product concerned in the importing Member** does not exceed 3 per cent, provided that developing country Members with less than 3 per cent import share collectively account for not more than 9 per cent of total imports of the product concerned.*”
47. Article 9.1 imply that imports from developing countries accounting for no more than 3 per cent individually **and** 9 per cent collectively of total imports, must be excluded from the application of a safeguard. The imports of such countries would not represent a share that would likely to cause serious injury to the industry.
48. Submissions of GOI with respect to this issue is two-fold: (a) WTO Agreement on Safeguards mandates fulfilling both the conditions consecutively, rather than one condition being depended on the another, as the words used in Article 9.1 of WTO

Agreement on Safeguards is '**and**'; and (b) developing country exception cannot be determined on the basis that countries are not 'developing' in context of steel – but on the basis of total imports of that country in UK.

a. WTO Agreement on Safeguards mandates fulfilling both the conditions consecutively, rather than one condition being depended on the another, as the words used in Article 9.1 of WTO Agreement on Safeguards is 'and'.

49. Calculation of 3% and 9% of the imports for a product category must constitute calculation of import of steel as a whole, and for each 26 categories, individually. Article 9.1 of the WTO Agreement on Safeguards lays down two requirements in order to be able to exclude products originating from certain developing country Members from the coverage of a safeguard measure, namely: (i) the individual share of the developing country Member which it is sought to exclude from the application of the measure shall not exceed 3 per cent of the imports of the Member applying the measure; and (ii) the collective share of the developing countries that meet the first requirement shall not exceed 9 per cent of total imports of the product concerned.

50. The principle of parallelism emerges from the parallel language used in Article 2.1 and 2.2 of the WTO Agreement on Safeguards. This principle also covers the symmetry that must exist between Articles 2.1 and 4.2 of the WTO Agreement on Safeguards. It implies that the imports considered for the purposes of the safeguards investigation (in the terms of Articles 2.1 and 4.2 of the WTO Agreement on Safeguards) and the products to which the measure is applied (in the terms of Article 2.2 of the WTO Agreement on Safeguards) must be the same.



51. TRA must evaluate that the exclusion of sources of imports from countries that are 'developing countries' thereby determine if calculation of individual *de minimis* threshold for imports from developing countries is less than 3%, as well as calculation of collective *de minimis* threshold for imports from developing countries is less than 9%. Such analysis is not provided in the SIFD of TRA.
52. The analysis of the threshold that triggers exclusion of developing countries is not being carried out for each product category separately. Article 9.1 of the WTO Agreement on Safeguards and Regulation 43 of the Trade Remedies Regulations does not confer any discretion on TRA to pick and choose any dataset which best suits its interest.
53. In analyzing the requirement of Regulation 43 of the Trade Remedies Regulations, TRA ought to observe parallelism between the scope of the review and the scope of a measure being implemented. Since the review concerns 16 product category of steel, viz. category 1A, 1B, 4, 5, 7, 12A, 12B, 13, 16, 17, 19, 20, 21, 25A, 25B and 26 and the scope of a measure also cover the 16 product categories.
54. The non-application of a measure to a developing country is a constituent element of the scope of the review, and exclusion is also based on the scope of the review, namely all 16 products taken together. Therefore, the effect of the measure shall also be in the context of all 16 product categories.
55. If TRA fails to show that the threshold of import for each category for India is more than 3%, TRA shall not be able to impose similar restriction (of excluding India from the category of developing countries, which effectively shall be for all 16 products – even for those in which the threshold for India is less than 3%) – it will be in contravention to the principle of parallelism under the WTO Agreement on Safeguards.

b. *Developing country exception cannot be determined on the basis that countries are not ‘developing’ in context of steel – but on the basis of total imports of that country in UK.*

56. TRA has observed in its SIFD that UK Steel has proposed amending the TQR allocation by revoking developing country exception for countries that are not “Developing” in the context of steel.
57. Without prejudice to the above submissions, GOI submits that revoking ‘*developing country*’ exceptions on the basis of a product, rather than the quantity of that product being imported, is contrary to the provision of Regulation 43.1 the Trade Remedies Regulations, along with Article 9.1 of the WTO Agreement on Safeguards. The status of developing country is examined on the basis of per capita income country but not on production and export of particular product. Therefore, even suggesting that the assessment of a country's development status must be based on steel exports – is entirely baseless, unfounded and legally unsound.
58. The mere perception of a country that a specific product does not align with the criteria for developing country status does not invalidate that country’s overall ‘*developing country*’ designation. There is also no provision in the Trade Remedies Regulations or WTO Agreement of Safeguards which allow revocation of ‘*developing country*’ exception based on the manufacturing capacity (or manufacturing capability – which indicates that country’s developing status in context of that product) of a country for that particular product. Developing country status can only be challenged before the WTO along with the other member countries on the basis of adequate and reasoned explanation.

59. There is long standing practice under GATT that the ‘*developing country*’ status is self-elected status by a country and this practice had not changed since WTO came into force.¹⁹ Even WTO does not specify any criteria which denies country’s ‘*developing country*’ status based on its capability/ capacity to manufacture a particular product.

60. In several cases before different authorities, after examining of the imports from developing countries, all the countries which have total imports of less than 3% individually and 9% collectively, the authorities have exempted such countries under ‘*developing countries*’ exemption, irrespective of whether the excluded country is one of the top countries which produces that product. Therefore, the criteria to categorise a country under ‘*developing countries*’ exemption can never be to verify if that country is ‘*developing*’ in the context of the product in question; but only the quantity of the imports.

IV. TRA is obligated to liberalize the measure with each review, as required by Article 7.4 of the WTO Agreement on Safeguards

61. In its SIFD, TRA recommended [under Para of 106 SIFD] that:

- a. Unused quotas should no longer be made available in the following quarter (removal of carry-over facility);
- b. Countries with a country-specific quota should no longer have access to the residual quota in the final quarter;
- c. Country-specific caps should be imposed on the residual quotas in the categories 4, 7 and 13 to be 40% each, from 1 October 2025; and
- d. Update the developing country non-exceptions, excluding six countries, as detailed above.

¹⁹ https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm.



62. GOI submits that while the recommendation (c) may be a means to liberalize the measure – in a limited sense, in light of Article 7.4 of the WTO Agreement on Safeguards; recommendation (a) and (b) are in the nature of restrictive measure. A safeguard measure must be progressively liberalized at regular intervals throughout its application, including during the extension period.
63. Regulation 36A of the Trade Remedies Regulation provides that when TRA determines that a definitive safeguarding remedy is to be varied, such variation must include the variation of the level or pace of liberalisation.
64. GOI submits that in Argentina – Footwear (EC)²⁰, the Panel Report stated that:

“[T]he only modifications of safeguard measures that Article 7.4 contemplates are those that reduce its restrictiveness (i.e., to eliminate the measure or to increase their pace of its liberalisation pursuant to a mid-term review). The Agreement does not contemplate modifications that increase the restrictiveness of a measure, and thus contains no notification requirement for such restrictive modifications.”

65. The purpose of liberalization is that a system of gradual liberalization encourages adjustment as a domestic industry loses protection of safeguard measures in place. It becomes exposed to import competition and gradual liberalization aids the industry to become more competitive in the face of imports. Therefore, TRA must liberalise the measure rather than restricting the same.

²⁰ Panel Report, Argentina – Footwear (EC), paras. 8.303-8.304.



V. Conclusion

66. In light of the above discussion, GOI submits that the data does not appear to support a finding that the UK industry threatens to or suffers serious injury. GOI submits that it is sufficient to terminate, or even liberalise the safeguard measures further for the product categories.

67. For the reasons above, GOI humbly requests that all the above submission, without prejudice to the summary paragraph above, be considered favourably.

We will appreciate your kind consideration of this meaningful submission.

Respectfully submitted and requested,

Anu Monga

(Authorised Counsel for Government of India)