

UK Steel Response to TRID Statement of Intended Preliminary Decision TF0006 – Steel Safeguards

Introduction:

This submission provides UK Steel's formal response to TRID's Statement of Intended Preliminary Decision for the transition review of the UK Steel Safeguard Measures (TF0006) published on 19 May.

UK Steel welcomes TRID's preliminary recommendation to extend the Steel Safeguards for a further three years recognising as this determination does the continued risk of an increase in steel imports into the UK and the subsequent injury this would cause to industry. However, UK Steel has major concerns with the proposed recommendation to only continue the measures on 10 out of the 19 product categories and believes it has erred in number of important ways in reaching this conclusion. In summary these are as follows:

- TRID has erred in its decision to assess an increase in imports into the UK only on the basis of 2013-2017 import data. TRID is required to consider whether steel products, during the same investigation period considered by the EU Commission, were imported into the UK in increased quantities. It is evident from the relevant EU regulations¹ that it was not simply this period that formed the basis of the determination to introduce safeguard measures, but also an examination of the likely future trend in imports. Like the Commission, TRID must consider this likely future trend as well as the historical trend in determining whether to maintain measures.
- Revoking measures on individual product categories disregards the interconnectivity of steel products and the production economics of steel plants, ultimately undermining the effectiveness of the measures where retained. UK Steel again submits that the increase in imports should be assessed at the global and product family level.
- In the alternative, TRID's assessment of a 2013-2017 increase in imports in specific product categories has been done based on incomplete HMRC import data that excludes sizable quantities of imports into the UK in all product categories. If TRID does consider the additional imports of steel reflected in more comprehensive HMRC data (sourced by UK Steel from the International Steel Statistics Bureau), its analysis is fundamentally flawed, and it will not meet its legal requirement to consider whether steel products were imported into the UK in increased quantities.
- On the basis of the complete data set from HMRC for 2013-2017 imports into the UK, numerous additional categories deemed by TRID to have not experienced an absolute increase in imports, are instead shown to have experienced an absolute increase in imports and therefore to meet the criteria for a continuation of measures.
- Factors demonstrating likely recurrence of imports and injury are sector wide, not product specific. TRID has therefore erred in recommendation revocation of measures on individual product categories on the basis of no likelihood of injury.

¹ European Commission Implementing Regulation (EU) 2019/159

- TRID appears to have excluded product categories 7 and 28 due a lack of provision of suitable production data from UK producers. UK Steel has provided additional data in this regard and would highlight the unprecedented levels of difficulties the industry was under during the period of investigation (Brexit and COVID) which limited company's ability to participate fully in the investigation. On the basis that both of these categories demonstrate significant increases in imports and there is confirmed UK production of the products – the measures should be continued.
- The breakdown of Category 25 (Large Welded Tubes) into A and B for the purpose of analysis is unnecessarily granular and they should be assessed as one product category as was done in the Commission's own investigation. On this basis a sizeable increase in imports is shown to have occurred.
- Individual commodity codes have been dropped without consideration of like goods.

The Period of Investigation:

TRID's consideration of the issue of increase in imports failed to consider the effect on imports into the United Kingdom of the European Union's decision to limit – indeed, to reverse – the increase of imports into the EU that the European Commission found to have occurred during the period of its investigation. In so doing, TRID failed to account for the likely increase of imports into the UK that would be produced by diversion to the UK of a substantial portion of the increase in EU imports that the Commission determined would have occurred had the European Union not imposed import-restricting measures.

TRID has excluded from its proposed preliminary determination imports of several categories of steel products on the ground that those categories showed no increase in imports into the United Kingdom during the period 2013-2017. Placing to one side UK Steel's major concerns with the incomplete data set that TRID has used to perform its analysis in this respect (see section 'Assessing an Increase in Imports' below), TRID's evaluation of the import increase issue suffered from an additional fundamental flaw. Specifically, it considered that the Commission's investigation and findings related exclusively to the historical period preceding its safeguard determination, when in fact the Commission based its determination on examination of the likelihood of the future "trend in imports continued with the ensuing price depression and profitability drop below sustainable levels (Se Recital 90 Commission Implementing Regulation (EU) 2019/159, 31 January 2019).

Without including these import increases found to be likely in future years – thus extending its period of investigation to those years – the Commission could not have found "a situation of threat of serious injury for the product concerned" (see Recital 110; emphasis added). This is important, because the Commission's determination, the determination, which is now considered for transition and extension, was explicitly a determination that there was a threat of future serious injury that would be caused by increases in imports likely to occur in future years. It was not exclusively a determination that serious injury had already been caused by imports that entered in the period prior to the Commission's determination.

TRID's determinations of increase in imports, therefore, did not comport with the requirement of UK law as to the "investigation period" upon which such determinations are to be made in a transition review of an EU safeguard measure. Regulation 49(4) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers (EU exit) Regulations 2019) provides that:

The transition review is a review to consider whether goods belonging to each specified category of steel products were, during the same investigation period considered by the

European Commission in connection with the EU tariff rate quotas, imported into the United Kingdom in increased quantities.

Here the TRID erred in its determination that “the same investigation period considered by the European Commission” was limited to the period preceding the Commission’s safeguard determination. In the steel investigation, the Commission did not limit itself, as TRID has erroneously done, to the trend of imports prior to its safeguard determination. Had it done so, it could not have concluded, as it explicitly did, that

“... the Union Industry... recovered partially in 2017. However, the Commission considered that the Union industry despite the temporary improvement, was still in a fragile situation and under the threat of serious injury if the increasing trend in imports continued with the ensuing price depression and profitability drop below sustainable levels”.²

In summary, TRID is here considering whether to transition to a UK safeguard measure an EU safeguard measure predicated on a determination that there was a threat of future serious injury likely to be caused by increases in imports likely to occur in a period after the Commission’s safeguard determination. It was thus error for TRID in assessing the issue of increase on imports, to interpret an application to this proceeding of Regulation 49(4) – “during the same investigation considered by the European Commission” – to require limitation of TRID’s inquiry to the period prior to the transition determination. Rather, Regulation 49(4) requires TRID to apply the term “Period Considered by the European Commission” in the same way the Commission defined its period for assessing increase in imports. Specifically TRID must determine whether in the period after TRID’s determination, there is a likelihood that steel imports into the UK will increase, such that the increase is likely to cause serious injury to the UK industry.

It is further respectfully submitted that TRID must find that there is indeed such a likelihood that steel imports (in all product categories) will increase in the period following a TRID final determination if the EU’s import restrictions, in their entirety, are not transitioned and extended in the UK. The reason for that likelihood is a factor that has justified steel import restrictions throughout this period of global steel excess capacity – namely, diversion to this market of steel excluded from other major markets by those countries import restrictions. The extent to which such diversion from other markets will cause increases in imports into the United Kingdom is in fact greater than the likelihood of increases that have justified other countries in imposing safeguard measures. As data previously provided by UK Steel has shown, the UK steel market is less than 11MT, and would therefore be far more disrupted by trade diversion and import surges than the EU market of 160 MT or the US market of 98 MT.

In the foregoing discussion, we have demonstrated that the EU safeguard measure was based on a determination that steel imports were likely to increase in the years after its decision if safeguard measures were not imposed. That conclusion was in turn explicitly based on the likelihood that imports would be diverted to the EU by the import restrictions imposed by the United States, purportedly under Section 232 of U.S. law. As the accompanying European Union press release explained:

A Commission investigation was launched in March 2018 as part of the European Union’s response to the decision by the United States to impose tariffs on steel products.... The restrictions on the U.S. market caused by the Section 232 tariffs on steel are causing a diversion of trade flows into the EU. (emphasis added)³

Countries around the world followed suit in applying steel import restrictions, including China, Turkey and Russia. Small wonder, then, that the EU found a likelihood of diversion to the EU (then including the UK), and that import restrictions were necessary to prevent increases in imports that, absent import restrictions, would be likely to cause serious injury to domestic EU producers.

² (Section 5.4, Recital 90, Commission implementing regulation (EU) 2019/159, 31 January 2019).

³ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=1977&title=Commission-imposes-definitive-safeguard-measures-on-imports-of-steel-products>

We respectfully submit that the issue of diversion must be central to TRID's determination of likelihood of increased imports, which in turn must be central to TRID's determination of whether import restrictions are necessary to protect against the likelihood of serious injury to UK steel producers. The EU has already determined that the U.S. Section 232 measures pose a threat of diversion of steel imports to the EU if import restrictions are not imposed. The U.S. Administration has stated that it has no intention of terminating its Section 232 measures in the near future. The EU, in turn, is shortly to publish the determination of its extension review on its safeguard measures and we have been reliably informed that the measures will be extended.

And of course, the EU's 2019 determination was that the diversion prevention measures (safeguards) would apply to the entire EU, including the United Kingdom. We submit, therefore, that the evidence overwhelmingly supports the conclusion that, if the EU steel safeguard measure is not transitioned to a UK measure as to all product categories at risk for significant import increases resulting from diversion of imports from the EU (and other safeguard-protected markets) imports will increase significantly and cause serious injury to UK producers.

Correct Level of Analysis:

As detailed in its principal submission to this transition review (dated 11.12.2020) and in its follow up submission (dated 13.04.2021), UK Steel strongly believes that TRID should assess all categories as a single group, supplemented by an analysis at the level of the three product families (flat, long and tubes). There are both economic and conceptual reasons for why the analysis is best performed at this level. Indeed, TRID has chosen to conduct its analysis at a 'combined level' for the purposes of a likelihood of an increase in imports and for injury, but has erred in its decision to conduct its analysis of an increase in imports at just at the 19-product category level.

Conceptual Issues:

In a safeguard proceeding, there are two purposes for determining whether there has been or is likely to be an increase in the imports subject to the investigation. One purpose is administrative: where a quota or tariff-rate quota is to be imposed as the remedy, the administering authority must examine the extent to which imports have increased or are likely to increase in order to set the quota at an appropriate level. That analysis, done for administrative reasons, relates to specific product categories, usually defined by Customs classifications. That administrative examination, and the product category definitions by which it is done, is not the analysis that is relevant for determinations of whether a safeguard order is justified for a product category by serious injury caused or threatened by increased imports.

The analysis of increased imports relevant to issuance or transition of a safeguard order must necessarily be an analysis of whether imports have increased or are likely to increase in those categories as to which the administering authority (in this case, the European Commission in the original safeguard measure and TRID in this transition/extension proceeding) has found serious injury caused or threatened to domestic producers by increased (or likely to increase) imports. In this case, the EU at the definitive stage has made no analysis at the individual product category level of whether domestic producers have suffered or are threatened with serious injury. Nor has there been any analysis at the individual product category level of a causal relationship between imports and serious injury or threat thereof. All such analyses have been done at the "global" (all steel imports) level or at the level of three steel "product families" (flat-rolled products, long products and tubes/pipes).

In Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 (the **Definitive Regulation**), the Commission states that analysis on injury (or threat thereof) was done at the global and family level: "*the injury assessment at the definitive stage has been conducted on a **global basis**, namely for the product concerned under assessment, thereby including the 26 product categories where the Commission found an increase in imports. However, as in the evolutions of imports, the Commission **supplemented its analysis with an assessment for each of the three product families***" (recital 91 of the Definitive Regulation)). For causation, the Commission conducted its analysis at the global level: "*The acknowledgement that a **global analysis is warranted** given the strong interrelations between all*

product categories subject to the investigation also entails that the most appropriate way to perform the causation analysis is by aggregating the three product families that were distinguished in certain parts of the overall analysis” (recital 126 of the Definitive Regulation).

Accordingly, analysis done of increased imports at the 19-product category level (including subdivided categories, such as 4 and 25) has nothing to do with the determination whether a safeguard measure is justified for one of those 19 categories. A determination now by TRID that imports during the period of investigation did not increase for one of those 19 categories does not provide the correct basis for failing to transition or to extend the safeguard measure as to that category, for the simple reason that it was not a basis on which safeguard release was found to be appropriate. The analysis of increased imports for these purposes should be done at the levels for which serious injury (or threat thereof) was determined and for which causation by imports was analyzed – namely, at the levels of global imports or at the level of imports of one of the 3 “steel families”.

For this reason, TRID acted impermissibly in its proposed determination not to transition or extend the safeguard measure for several of the 19 product categories. Each of those product categories falls within both the “global” category of imports or one of the “three families” (flat, long, tubes). Therefore, the determinations made as to increased global UK steel imports, and as to increased imports of the appropriate one of the “three families” are what provide the basis for the increased imports determination as to that specific product category and for the analysis of causal link between the trend of imports of that category and serious injury suffered by or threatened to the UK steel industry as a whole and the appropriate one of the “three families”.

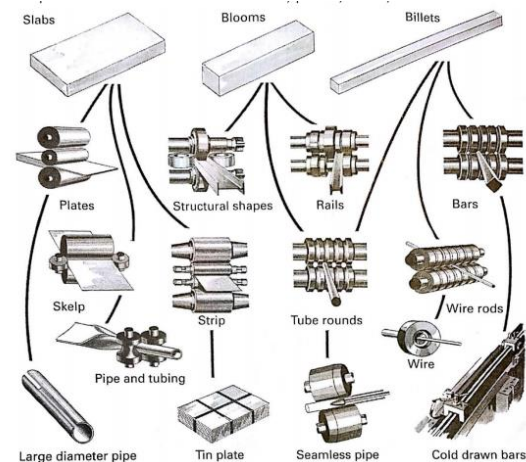
Regulation 49(6) contained in Part 9 (Transitional Provisions) of the Trade Remedies (Increase in Imports Causing Serious Injury to UK Producers) (EU Exit) Regulations 2019 (the **UK Safeguard Regulation**) allows the TRID to “*apply Parts 2 to 5 to the transition review to the extent the TRA consider relevant*”. Regulation 12 of the UK Safeguard Regulation (contained in ‘Part 5: Initiation and conduct of an investigation’) states that: “*Subject to any contrary provision in this Part [5], the TRA may do anything it considers appropriate in connection with the exercise of any of its functions in accordance with these Regulations*”).

It is incumbent upon the TRID to use its powers in Regulation 12 in order to interpret the test contained in Regulation 49(4) in the ‘appropriate’ way. That is to say, Regulation 49(4) must be read and understood so as to require an analysis of increased importation, recurrence of increased importation, serious injury (or threat thereof), causation and so on at a global and/or family level, not an individual product category level for the reasons described above and immediately below (economic issues/interconnectivity of products).

Economic Issues/interconnectivity of products:

Looking beyond these conceptual issues, the high interconnectivity of steel products means that TRID’s assessment of an increase in imports at a product category level (independent of one another) does not provide a fully accurate or complete picture of the threat of an increase in imports and the injury that would be caused to the UK sector. Steel companies do not make products in one individual product category but several. They start with the production of crude steel, in a highly energy and capital-intensive process, which is transformed into ‘semi-finished products’ (slab, bloom, billet), and then ultimately into a wide array of ‘finished products’ which are the subject of these safeguard measures. As shown below, slabs are rolled into a variety of flat products, blooms into sections and rails, billet into various long products, while tubes can come via either the long products or the flat products route.

The products are in this sense highly interrelated, with the dynamics of the market for one product (i.e. one of the 19 categories detailed in the UK measures) having a notable impact on others. The production economics of the steel making process means that economies of scale are key. Companies produce multiple products and rely on multiple product lines running at certain rates to ensure high-capacity utilisation of the crude steel production facilities. An integrated steel plant will typically need to run at around a 70-75% capacity utilisation rate before it will break even and begin to operate profitably.



As an example, removing the measures on steel sections is likely to lead to an increase in imports of that product. This reduces sales of the domestic producer of sections which in turn reduces the volumes of crude steel required from the blast furnaces, increasing the cost of each bloom/billet the company makes. This ultimately makes the furnace operation unprofitable, which feeds through into the other product lines such as wire rod, merchant bar or rail.

Moreover, there is a degree of substitutability between the product categories which further increases the likelihood of an increase in imports if measures are removed on some products. For example, TRID's proposal to remove measures on wire rod, is highly likely to increase the imports of 'rebar-in-coils' (CN code 7213 1000) which is classified under the wire rod category but is used for the same purpose as those products in the rebar category (7214 2000). The market will become distorted as those producers who have the capability of producing rebar both in straight lengths and in coil form (most producers), will import much higher tonnages of the wire rod which is no longer covered by safeguards. The product still covered nominally by safeguards (rebar) will be automatically damaged by this distortion in trade.

There is also an interconnectivity between products made by different producers. For example, TRID's recommendation to remove the measures on wire (in spite of a major increase in imports) will undermine the production of steel wire in the UK. This in turn will reduce the requirement for wire rod in the UK as it is used as feedstock for the production of wire. It should therefore be clear that measuring imports and assessing injury indicators on a global level or a product family level (flat, long, tube) will best capture the realities of steel production and it is this approach that TRID should have taken. Assessed on this basis, it is clear that an increase in imports is seen across the board.

Table 1: Index of UK imports of steel 2013 to 2017

Category	2013	2014	2015	2016	2017
Total	100	120	117	126	125
Flat	100	119	116	133	131
Long	100	121	115	107	110
Tube	100	130	134	155	146

Assessing an increase in imports:

Even placing aside the major concerns, detailed above, that UK Steel has with the manner in which TRID has conducted its increase in imports analysis; there are number of additional issues that need to be addressed in relation to the analysis TRID has carried out for the review. TRID has recommended ending measures on many product categories since it concludes there was no increase in imports for those particular products. However, there are several issues that should be highlighted to the approach taken and the data used:

Use of Incomplete Import Data:

UK Steel presented TRID with data from two different sources: that of HMRC (standard trade info data) as well as data sources from the International Steel Statistics Bureau (ISSB), which ultimately also comes from HMRC.

Critically, whilst the trends are very similar, the ISSB data shows significantly higher levels of import increases during the relevant period than the HMRC data. The difference arises from how intra-EU trade data was recorded and reported (via <https://www.uktradeinfo.com>.) by HMRC prior to leaving the EU. Volumes of imports into the UK from the EU-27 below a certain value threshold did not have to be declared in the same manner as imports above the threshold. This was done as a way of reducing the administrative burden from the collection of trade statistics on smaller businesses. However, it does mean that using the standard data set from HMRC, as TRID has done, provides an inaccurate picture of the imports into the UK during this period, specifically because it is missing sizeable volumes of steel imports from the EU. This is particularly relevant to the safeguards case given that imports from the EU account for approximately 70% of total steel imports into the UK and therefore account for the vast majority of the data set that must be analysed.

As previously pointed out to TRID, the missing import volumes from the standard HMRC data is not uniform through the years but increases significantly between 2013 and 2017. This is because HMRC raised the exemption thresholds over the years, most notably in 2014 and 2015. The changes to the UK's thresholds were based on a formula set by the European Commission, which was amended in 2013 to only require Member States to capture 93% of their estimated trade with other EU states. It had previously been 95%. This means that an increasing volume of imports was not being captured by the standard HMRC statistics, therefore under-reporting the increase in steel imports between 2013 and 2017.

It is precisely this below threshold trade, that the ISSB data captures and therefore represents a much more accurate picture of steel imports into the UK. The below threshold imports are estimated based on VAT returns, which show the value of these below threshold imports and then apply a methodology to convert these to volumes. It is important to note that all the below threshold estimates are calculated from HMRC directly and not by ISSB. The results, reported at the 8 digit commodity code level, are made available on the Customs bulk download facility. The methodology HMRC uses to translate below threshold values into estimated trade volumes can be found in Annex 1 (Section 2.1.4., page 7). **Once again, this below threshold trade is not included in the standard HMRC trade data that TRID has used.**

Using the HMRC estimates, the ISSB data shows that 156,860 tonnes of steel across the 19 product categories was imported into the UK in 2013 that was not accounted for by the standard HMRC trade data. By 2017 this unaccounted-for data had increased to 542,548 tonnes as the value threshold was lifted considerably, especially in 2014 and 2015 which is central to the period we are investigating. This is not an issue the EU has had to deal with in its own safeguards investigation as it was only examining imports from outside the EU-28.

Table 2: Comparison of HMRC and ISSB Data for UK imports of steel 2013 to 2017

	2013	2014	2015	2016	2017
ISSB Data - Imports for all categories (Tonnes)	Circa 5MT	Circa 6MT	Circa 6MT	Circa 6.5MT	Circa 6.4MT
HMRC Data - Imports for all categories (Tonnes)	4,947,945	5,875,304	5,681,760	5,967,872	5,855,151
Difference (Tonnes)	156,860	272,932	314,096	488,771	542,548
Difference (%)	3%	5%	6%	8%	9%

See Annex 2

TRID has recommended revocation based on a lack of an increase in imports (either absolute or relative) on categories 6, 12, 14, 16, 17, and 27. However for four of these, the inclusion of the 'below threshold' trade data from HMRC clearly demonstrates an increase in imports. It should also be noted that whilst category 6 below shows no increase in imports using a simple comparison of 2013 to 2017, looking at the trend in the intervening years shows a significant increase in imports from 2013 to 2016. See table 6.

Table 3: HMRC below threshold estimates for UK imports (tonnes)

Product category	2013	2014	2015	2016	2017	2018
6. Tin Mill Products	1,657	4,062	4,206	6,358	4,698	6,589
12. Non Alloy and Other Alloy Merchant Bars and Light Sections	27,436	44,461	39,221	64,424	77,211	57,110
16. Non Alloy and Other Alloy Wire Rod	12,563	12,816	18,908	47,725	32,254	21,911
17. Angles, Shapes and Sections of Iron or Non Alloy Steel	9,611	16,135	20,498	26,054	38,411	37,146

See Annex 2 for full data set.

Table 4: Increased imports 2013-17: By product category

Category	HMRC	ISSB
1	5%	9%
2	21%	25%
4	45%	49%
5	106%	116%
6	-2%	0%
7	11%	14%
12	-6%	11%
13	22%	24%
14	-17%	-11%
15	45%	27%

16	-4%	4%
17	0%	5%
19	11%	2%
20	7%	12%
21	14%	18%
25A	-72%	-63%
25B	109%	369%
26	40%	44%
27	-44%	-36%
28	26%	47%

See Annex 2 for full data set

In the immediately preceding table, there are notably three individual product categories (14, 25A and 27) where the ISSB data does not demonstrate an increase in imports. As shown in the table below, when comparing the import trends to relative production (where production data is available) both the HMRC and the ISSB data demonstrate an increase in imports for category 25A.

Table 5: Increased imports 2013-17: By product category relative to production

Category	HMRC	ISSB
6	2%	
12	6%	
14	-18%	-22%
16	-1%	
17	-35%	
20		
25A	409%	580%
27	No Data	Available

Note – This table displays just those categories where absolute increases in imports were not demonstrated in table 4. Those cells shaded grey denote that for this category and particular data set, an absolute increase in imports is demonstrated in the table above.

There was no reason provided by TRID as to why the ISSB data was not considered. Given the significant impact it has on the conclusion of whether there was an increase in imports, it is vital that TRID take this data into account. Indeed, it has a legal responsibility to. Regulation 49 states:

The transition review is a review to consider whether goods belonging to each specified category of steel products were, during the same investigation period considered by the European Commission in connection with the EU tariff rate quotas, imported into the United Kingdom in increased quantities... (Emphasis added)

UK Steel submits that it is impossible to reasonably ‘consider whether goods...were imported into the United Kingdom in increased quantities’ whilst using an import data set that is missing an estimated 3% of imports from the 2013 data and 9% of imports from the 2017 data.

Crucially, TRID should have no reasonable concerns about setting a precedent through the use of this more complex, but more accurate data set for the following reasons:

- There are no other transition reviews required that place the use of intra-EU data at the centre of analysis making the difference between a positive and negative determination

- Whilst historical intra-EU data may be used in some transition reviews in relation to things like UK market share of exports from different origins, it will not make a fundamental difference to the outcome of reviews
- As of 2021 HMRC is collecting and reporting imports from the EU in precisely the same manner as imports from elsewhere. This will provide an accurate data set for use in any possible trade remedies investigations against the EU in the future.
- It is unlikely that there will be any trade remedies cases against the EU in the short term. In all likelihood by the time a case did arise, there would be sufficient HMRC data from the EU collected on a standard basis (i.e. with the inclusion of below threshold trade)

Table 6: Comparison of HMRC and ISSB Data for UK imports for specified product categories

Category	Data source	2013	2014	2015	2016	2017	2013-17	2013-16
6. Tin Mill products	HMRC	134,863	132,801	152,787	156,808	132,223	-2%	16%
	ISSB	Data removed from non-confidential version					0%	20%
12. Non Alloy and Other Alloy Merchant Bars and Light Sections	HMRC	270,388	297,733	246,623	241,819	254,439	-6%	-11%
	ISSB	Data removed from non-confidential version					11%	3%
16. Non Alloy and Other Alloy Wire Rod	HMRC	266,646	280,919	232,297	253,364	256,876	-4%	-5%
	ISSB	Data removed from non-confidential version					4%	8%
17. Angles, Shapes and Sections of Iron or Non Alloy Steel	HMRC	583,508	634,254	609,174	597,596	581,558	0%	2%
	ISSB	Data removed from non-confidential version					5%	5%

As table six shows, of the six categories that TRID has recommended to revoke on the basis of no increase in imports – the use of comprehensive data from HMRC (supply by ISSB) means four product categories definitively show an increase in imports and must be included within the extended measures.

Relative Increase in Imports:

Both the UK legislation and the WTO rules allow for the assessment of an increase in imports to be made in either absolute terms, or in terms relative to production. It is important to consider relative import increases as well because it allows for situations in which there may have not been an absolute increase in imports due to a reduction in the demand for the product. Imports could still be gaining an increasing market share and causing injury to domestic producers, but an absolute imports analysis would not reflect this.

TRID has done analysis on relative increases in imports for those categories where an absolute increase in imports was not shown. It has concluded that there is still no demonstration of an increase in imports for these categories. However:

- As demonstrated above, the use of more accurate data evidently shows that categories six and twelve should be included on the basis of absolute imports
- Even ignoring this, TRID's own analysis shows that an increase in imports was seen on relative terms between 2013 and 2017 for both product categories 6 and 12. In the case of category 6 the increase was even more marked between 2013 and 2016. (See points on 'Wider Import Trends' below)
- This relative increase is even more marked when we bring the ISSB data to bear, whilst also demonstrating an increase in imports for the wire rod and angles & sections categories.

Table 7: Imports as a percentage of UK production to assess relative increase in imports (%)

Product Category	2013	2014	2015	2016	2017
6.Tin Mill Products	34	32	38	41	35
12. Non Alloy and Other Alloy Merchant Bars and Light Sections	69	80	70	73	74

Source: TRID Statement of Intended Final Determination – Steel Safeguards

TRID concludes that categories 6 and 12 demonstrate an increase in imports relative to production, yet recommend a revocation of the measures on these categories on the grounds that the development in imports across the POI have remained stable throughout the period. TRID has erred in this conclusion as well, Regulation 49(4) simply requires a consideration of whether there has been an increase in imports, it does not stipulate the pace or trend that must be demonstrated. Regulation 50(4) provides considerable flexibility in this regard, simply stating that where the TRA concludes that goods were considered to have been imported into the UK at increased quantities, then measures are able to continue.

Sudden and Sharp Increase in Imports:

For category 28, TRID determines there is an absolute increase in imports, but due to lack of production data, it cannot determine the relative increase in imports and therefore it is not possible to ascertain whether the increase was sharp, sudden and significant. UK Steel submits that:

- Neither Regulation 49(4) and 50(4) require imports to have been sudden or sharp. These requirements relate to the conduction of a new safeguards investigation, but the Safeguards Regulations have not made them a requirement of the transition review
- The absolute increase of 26% between 2013-2017 must surely be deemed significant (32% between 2013-2016), even in the absence of a relative measure.

Wider Import Trends:

TRID has performed its import increase analysis on a simple comparison of imports in 2013 and 2017. Whilst it comments on trends across the whole five-year period, it concludes that in general unless imports were higher in 2017 than in 2013 there is no risk of an increase in imports. This is an unnecessarily narrow view of examining imports and a wider view should be taken. As stated above, Regulations 49(4) and 50 (4) provide considerable flexibility on what should be considered an increase in imports, and TRID should use this flexibility.

Para 29 of TRID's determination places an arbitrary definition of an 'absolute increase in imports, stating that if imports in 2017 fell below the 2013 levels, even if imports increases were seen elsewhere in the period, then the 'criteria' for an absolute increase in imports is not met. However, it is far from clear where this criteria comes from. Equally TRID has not followed its own logic in this respect. Category 25A shows a substantial increase in imports (125% based on TRID's analysis) between 2013 and 2015 but reducing to below 2013 levels by 2017. TRID correctly determines that significant increases up to

2015 should be sufficient grounds to conclude the imports for this product category did increase during the POI. Why has the same approach not been taken for category 6?

TRID's own analysis shows a steady increase in imports of Tin Mill products between 2013 and 2016 (+16%) before a reduction in 2017. The ISSB data puts this increase at 20%. It is important that the investigation takes into account this longer-term trend and is not overly focused on the import level in just one given year.

We maintain that the increase in imports should not be assessed on an individual product category basis as explained above and that measures should be extended for all products. However, even with TRID's approach, UK Steel submits that categories 6, 7, 12, 25, 28 meet the increase in imports test in absolute or relative terms. Using ISSB data, the increases are even sharper and category 16 and 17 also demonstrate an increase in imports.

Assessing likely recurrence of increased imports and injury:

TRID concludes that there is considerable global excess capacity, that without steel safeguards the UK would be one of only a few major steel markets without such measures and that the UK market would be attractive. TRID also considers the injurious effects of Brexit uncertainty and COVID-19, as well as declining production, market share, capacity and profitability of UK producers. Therefore TRID concludes that an increase in imports and injury are likely to recur. All these factors are sector wide and not product specific.

Assessing imports relative to production for individual product categories, while a useful indicator, is not a definitive metric and considering both the nature of the challenges and the highly interconnected nature of steel products, it is clear that the injurious factors would not pick and choose which product category to target. TRID acknowledges: "We have found evidence of harm at an industry level across most injury factors" (Point 138, page 43)

For product category 7, TRID says that while it is not able to assess imports relative to production or consumption due to a lack of data, the broader evidence points to increased imports likely recurring in the absence of safeguards, considering the increase in imports across the POI and the dramatic drop of imports since the imposition of provisional measures in 2018. (Point 82, page 31) It is unclear then why TRID takes a very narrow view of injury analysis and completely rejects category 7 just because there was no available data from domestic producers in advance of the publication of this determination.

Similarly, category 25A is singled out, which demonstrated a huge increase in imports in relative terms and a drop in production – in itself strong evidence of injury. TRID says: "Product category 25A experienced the most significant fall in production volume across the POI with a particularly large decrease in 2015. It remained low and eventually recorded no production in 2020." (Point 123, page 40) Yet, it concludes that there is no likelihood of serious injury.

There is no more serious injury than having to halt production at a plant, and in that sense, TRID is correct that no additional injury can be incurred. This however is a somewhat skewed interpretation as continuation of no production in reality reflects continued injury when the alternative could be returning to production and employment in the UK. In this light, a fairer analysis would consider the opportunity cost within injury analysis.

We strongly request that TRID reconsider their approach for categories 7 and 28 where the increase in imports test has clearly been met, and the broader evidence points to likely recurrence of an increase in imports and injury as per TRID's own analysis. Likewise for category 25, which UK Steel submits should be assessed as a single product category without the split in A and B, as explained below in this submission, but even if not, 25A demonstrates evidence of injury in its own right.

Categories excluded on the basis of no data provided by UK producers:

TRID has determined that for product categories where UK producers had not provided production data and full responses to this investigation, this should be taken as evidence of no UK production of the product, notably for Category 28 (Non-Alloy Wire). We urge TRID to reconsider this approach, especially when industry data exists and has been provided by UK Steel, to demonstrate that UK production exists. As TRID has performed injury analysis principally at the global level and has concluded that the sector as a whole is in a vulnerable position and likely to sustain injury if imports increase, it is clear that this would also be the case for Non-Alloy Wire. There was in fact a significant increase in imports for this category, acknowledged by TRID in its analysis, yet it has decided to disregard this due to the lack of data obtained directly from producers.

As part of this submission UK Steel would like to provide the following information on UK production of non-alloy wire and letters from the producers can be found in Annex 3. While these producers do not represent the entirety of the UK wire industry, their production figures are evidence of the existence of a UK wire sector. Combined with the ISSB total wire production figure, TRID now has additional data at its disposal to conduct analysis on relative imports and injury metrics. Wire imports increased by 41% (26% based on HMRC data) in absolute terms between 2013-2017, while total production fell by 30 to 40% over the same period. The trends are similar when looking at individual producer data. The increase in imports relative to production is sharp, sudden and significant both using the total ISSB total production data and using the sample of the two UK producers, who have provided data directly to TRID in letters accompanying this submission.

Table: UK Wire production and imports (tonnes)

	2013	2014	2015	2016	2017	2018	2019	2020
	Data removed from non-confidential version							
Imports as a % of total UK production	61%	73%	82%	111%	116%			
Imports as a % of GJohnPower+KTS Wire production	1217%	1474%	1626%	1847%	1787%			

See Annex 2 for full data set

Similarly, Category 7 (Quarto Plates) suffered an increase in imports but TRID deemed it could not perform an injury assessment in the absence of production data and therefore dismissed the whole category. Similarly to Wire we have been able to provide the following information on UK Production. The trends of UK production figures are telling. Between 2013 and 2017, production – a key injury indicator – fell by 50-100% at a time when imports increased by 14% (11% based on HMRC data) in absolute terms. Imports as a percentage of production show an even sharper surge in imports in relative terms, demonstrating that the increase was sharp and sudden and therefore significant.

Table: Quarto Plate production, absolute and relative increase in imports

	2013	2014	2015	2016	2017
UK Production	Data removed from non-confidential version				
Plate imports (HMRC)	281,712	273,946	268,958	335,397	311,579
Imports as a % of UK production	100-150%	100-150%	100-150%	200-300%	300 to 400%

See Annex 2 for full data set

Another way to assess injury for these products would be to consider related product categories. For example, wire is a downstream product of wire rod. Any factor impacting the wire rod category, for which TRID has obtained more information on, would also cascade to the products that use them as inputs.

Whilst it would be preferable to have full producer data for these categories, there are rather major extenuating circumstances. This review has straddled the immediate periods before and after Brexit when all companies were intensely focussed on preparing for major changes to trading conditions. Moreover, COVID has caused huge difficulties for steel companies with large numbers of staff furloughed, sites mothballing production, and all having struggled with major downturns in orders. It is unsurprising that some companies, with no experience of trade remedies measures, have struggled to fully participate in this review. Moreover, category 28 (wire) is dominated by SMEs who have been particularly exposed to the challenges mentioned above and will have had even less resource and expertise to respond to this review.

At this current time, UK Steel has been able to obtain additional data from producers of plate and wire which we ask TRID to consider as evidence of existence of a UK production base for these two products and as additional data points in its injury analysis.

Given the extenuating circumstances mentioned above, TRID should include both of these product categories on the basis of significant absolute increases in imports and on evidence of sector wide injury, as well as likelihood of recurrence of imports and injury.

Large Welded Tubes should be assessed as a single product category:

The breakdown of Category 25 (large-welded tubes) into A and B was done by the Commission for the purposes of quota management rather than major differences in the products of these two sub-categories. The products are made at the same sites by the same companies and, for the reasons stated above, the profitability and viability of both product lines are closely linked. Even HMRC data for the product category as a whole demonstrates an 8% increase in imports between 2013 and 2017 and a 102% increase up to 2016.

TRID should treat this product category as one for the purposes of its assessment, as the EU Commission did in its original investigation. Indeed, even TRID's own analysis on imports seems to conclude that on the basis of an increase in imports alone category 25A and 25B should be retained within the safeguards (it later recommends revocation for different reasons). This should be sufficient for TRID to conclude that the measures should remain in place, particularly given that the injury analysis and a likelihood of an increase in imports analysis was conducted at the global/combined product level.

Should TRID insist to review 25A and 25B separately, UK Steel would also like to challenge the basis for the economic interest test conclusion with regards to category 25B. TRID states that the small market share of UK producers for category 25B leads to the possibility of increased costs to downstream users under strong demand conditions in the future, which would not be in the economic interest of the

UK. TRID later also notes that known consumption for this product category, averaged over 2017-19, was smaller than the 2021 annualised quota, which would suggest that there would be no price impacts if import patterns similar to 2017-19 were observed in the future. Even if quotas were exhausted and 25% tariffs had to be paid on some imports, UK Steel has illustrated with examples in its previous submissions and TRID has also stated that any small change in the price of steel is likely to have a negligible impact on the prices of downstream products. (Point 214, page 61).

Indeed table 28 of the analysis indicates a likely 0% reduction in prices for category 25B if the measures are revoked, on the basis that importers only used an average of 52% of the quota levels in 2017 to 2019. Moreover, Table 30 shows that steel costs accounted for less than 1% of turnover in the construction, manufacturing, automotive and rail industries in 2015. Steel represents such a small cost component relative to the overall value of the end product, that incurring a 25% tariff on some of the imported tubes will have a marginal effect on the final cost. In any event, as noted above there is no clear consistent trend pointing to imports actually expected to exceed the quota level.

Further to these arguments, UK Steel has additionally provided information on the production and market share of UK producers of products in Category 25B. TRID says that for the Large Welded Tubes category 25B, UK producers have a market share of under 5%. This however is not correct, although we appreciate that TRID had limited data to work with. We have been able to obtain additional production data from UK tube producers as displayed below and confirmed in letters directly from the producers also supplied as part of this submission (see annex 3).

Whilst this data remains imperfect, it shows that in 2017, UK producers of 25B had a market share of 10 to 20%, rising to 20 to 30% % in 2018 and 30 to 40%% in 2019, after the imposition of safeguards reduced import volumes. With much of the production being exported, there is also scope for more product being diverted to the domestic market should the need arise, especially in light of likely caps to EU exports if the EU safeguards are extended. Therefore, concerns over limited domestic market share for 25B and likelihood of disproportionate increases in prices in the unlikely event that quotas are exhausted are unwarranted.

Table: Home and export delivery (tonnes) and UK market share for 25B

		2013	2014	2015	2016	2017	2018	2019	2020
	Domestic								
	Exports								
	Domestic								
	Exports								
	Domestic								
	Exports								
25B imports		38,471	55,744	55,768	129,799	80,386	35,124	37,686	
UK demand						80,000 to 100,000	40,000 to 60,000	50,000 to 70,000	
UK producer market share						10 to 20%	20 to 30%	30 to 40%	

See Annex 2 for full data set.

Individual commodity codes dropped without consideration of like goods:

TRID has recommended revocation of measures on individual commodity codes due to no UK production (within 4B and 19). While UK producers confirmed they do not produce the specific tariff

codes within category 19 and are agreed that tariff codes 7302 10 40 and 7302 40 00 can be removed from the measure, this is not the case for category 4B. There is UK production of tariff code 7210 69 00 30 which TRID can confirm directly with the producer. In addition, there is no mention in TRID's analysis of consideration of like/directly competitive goods and the extent to which these tariff codes compete with those that are produced by UK producers.

It is common in trade remedy investigations that domestic industry and exporting countries are not necessarily producing exactly the same products within a product definition, but these products may still be substitutable and in direct competition with each other. For example, revoking tariff codes 7210 30 00 and 7210 69 00 30 under 4B would be damaging since it encourages importers to import hot-dipped galvanized steel (HDG) or electrozinc coated steel (EZ) into the UK in sheet form, by-passing controls or quotas on coil products. This damages both UK steel makers and UK service centres.

In UK Steel's response to submissions on the public file (dated 22.04.2021), we addressed requests by other interested parties to exclude specific tariff codes that are not produced in the UK. UK Steel submitted that it is not against tariff codes being excluded when a product or a like product is not supplied by UK producers. However, UK Steel would like to reiterate that TRID should review any such propositions in consultation with the industry to ensure that indeed there is no UK production of a certain product or a like product and to fully appraise any unintended consequences of excluding any products.

Table 8: Summary of justification for continuation of safeguard measures on the following product categories currently recommended for revocation:

In the first instance, as argued at the start of this submission, all product categories should be included in extended measures on the basis that analysis conducted at the global or product family level indicates the necessary increase in imports, likelihood of imports of increase and likelihood of injury required to maintain the measures. However, to supplement this broader arguments, TRID should also consider the following points.

6. Tin Mill Products	<ul style="list-style-type: none"> • Absolute increase in imports 2013-2016 of 16% • Relative increase 2013-2017 and more significant up to 2016 • Import trend should be considered not just the start and end points • Injury and likely increase in imports analysis done at combined level
7. Non Alloy and Other Alloy Quarto Plates	<ul style="list-style-type: none"> • Absolute increase in imports of 11% even in basic HMRC data used by TRID • TRID has revoked on basis of no likelihood of injury, even though injury analysis conducted at global/combined level • New data provided by UK Steel clearly shows UK production of product and key injury indicator of falling production • Extenuating circumstances for inadequate data provided by producers at a time of dealing with Brexit and Covid related challenges
12. Non Alloy and Other Alloy Merchant Bars and Light Sections	<ul style="list-style-type: none"> • Absolute increase in imports if ISSB data is used (11%) • Relative increase in imports using HMRC data (6%) • Injury and likely increase in imports analysis done at global/combined level
16. Non Alloy and Other Alloy Wire Rod	<ul style="list-style-type: none"> • Absolute increase in imports if ISSB data is used (4%) • Injury and likely increase in imports analysis done at combined level

17. Angles, Shapes and Sections of Iron or Non Alloy Steel	<ul style="list-style-type: none"> • Absolute increase in imports if ISSB data is used (5%) • Injury and likely increase in imports analysis done at combined level
25. Large Welded Tubes	<ul style="list-style-type: none"> • Absolute increase in imports if assessed as a single product category - 8% increase between 2013-2017 and a 102% increase up to 2016 • 25A: relative increase in imports • 25B: significant absolute increase in imports • No grounds for 25A not meeting likelihood of injury test: <ul style="list-style-type: none"> ○ 25A+B are in effect a single product category ○ Already incurred injury in the form of ceased production is unfair grounds for concluding there is no further likelihood of injury – continued halt to production represents injury when this is production that could resume ○ TRID Injury and likely increase in imports analysis done at combined level • No grounds for 25B not meeting economic interest: <ul style="list-style-type: none"> ○ UK producers have a notable market share when considering 25A+B ○ New data provided by UK Steel clearly shows notable market share of domestic producers for category 25B ○ No clear consistent trend in trade pattern for 25B to show that quota would be exhausted and prices would be disproportionately impacted
27. Non Alloy and other alloy cold finished bars	<ul style="list-style-type: none"> • Analysis should have been conducted on the global or product family level which as evidenced above shows an increase in imports, likelihood of imports increase and likelihood of injury.
28. Non Alloy Wire	<ul style="list-style-type: none"> • Significant absolute increase in imports - 26% increase between 2013-2017 and a 32% increase up to 2016 • New data provided by UK Steel clearly shows significant UK production • Injury indicators are industry wide – wire injury correlated to wire rod for which more granular data is available • Dominated by SMEs - smaller producers should not be penalised for not submitting data at a time of dealing with Brexit and Covid related challenges