



CATERPILLAR (U.K.) LIMITED AND PROGRESS RAIL SERVICES UK LIMITED

COMMENTS ON THE TRADE REMEDIES AUTHORITY'S STATEMENT OF INTENDED FINAL DETERMINATION IN TARIFF RATE QUOTA REVIEW TQ0066 FOR STEEL PRODUCTS

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. Caterpillar (U.K.) Limited and Progress Rail Services UK Limited (together, the "**Caterpillar Companies**"), both companies that are subsidiaries of Caterpillar Inc., the world's leading manufacturer of construction and mining equipment, off-highway diesel and natural gas engines, industrial gas turbines and diesel-electric locomotives, hereby submit their comments on the UK Trade Remedies Authority's ("**TRA**") statement of intended final determination of 13 May 2025 in tariff rate quota review TQ0066 in relation to steel products (the "**SIFD**").¹
2. In the SIFD, the TRA provisionally makes the following key findings:
 - a. The level of tariff rate quotas ("**TRQs**") should neither be increased nor reduced but should rather remain at current levels.
 - b. The carry-over of the TRQs to the following quarter should be removed.
 - c. Exporting countries that already have their own country-specific TRQ should no longer have access to the residual quota.
 - d. Caps of 40% per country should be imposed on the residual quotas for product categories 4 (metallic coated sheets); 7 (non-alloy and other alloy quarto plates) and 13 (rebar).²
3. The Caterpillar Companies respectfully disagree with a number of these provisional findings and request that the TRA reconsider its approach in light of the legal and practical issues that the Caterpillar Companies have identified. In terms of the key points:
 - a. WTO law excludes changes to an extended safeguard measure that increase its restrictiveness relative to the original safeguard measure. A number of the changes proposed in the SIFD fall foul of this requirement, namely, the removal of the carry-over, the removal of access to the residual quota for countries that already have their own country-specific TRQs and the imposition of individual country caps in relation to the residual quotas for certain product categories.
 - b. The TRA should take into account the potential impact of the Economic Prosperity Deal between the UK and the United States and the new trade accord between the UK and the EU, both of which will boost the UK steel industry and are likely to lead to increased demand for UK steel. These developments mean that the restrictive changes proposed in the SIFD should not, in any event, be warranted.
 - c. The SIFD does not adequately assess the changes in demand for the relevant steel products. In particular, the data relied upon by the TRA to evidence a fall in demand in fact indicates that this is not the case for certain product categories, meaning that a differentiated approach is warranted. The SIFD also does not adequately assess the projected increase in demand going forward, rejecting the evidence that has been provided without adducing any counter-evidence.
 - d. The restrictive changes proposed in the SIFD are not, in any event, justified by the reasoning in the SIFD. In particular, the removal of the carry-over and the removal

¹ TRA Statement of Intended Final Determination of 13 May 2025 in Tariff Rate Quota Review Case TQ0066.

² In addition, the TRA also provisionally concludes that various changes should be made to the list of the developing countries that are exempt from the safeguard duties under the "developing country exception".



of access to the residual quota for countries that already have their own country-specific TRQs, cannot be justified by the fact that these facilities have only infrequently been used, as this means that their removal would not have any impact in addressing the alleged competitive pressure that UK steel faces. Similarly, the imposition of individual country caps in relation to the residual quotas for certain product categories cannot be justified on the basis of "crowding out" concerns as there always remained headroom for other countries in these product categories.

- e. Rather, the only impact of these changes would be to operate to the detriment of customers in the UK, without conferring any real benefits to the UK steel industry.

II. WTO LAW EXCLUDES CHANGES TO AN EXTENDED SAFEGUARD MEASURE THAT INCREASE ITS RESTRICTIVENESS RELATIVE TO THE ORIGINAL MEASURE

4. As a WTO member, the UK and the TRA must adhere to the requirements of the WTO Agreement on Safeguards ("**WTO SGA**") when taking action in relation to safeguard measures, as in the present case.
5. The WTO SGA requires, among other things, that any safeguard measure is progressively liberalised over time and that extended safeguard measures cannot be made more restrictive than the original safeguard measure. In particular, Article 7.4 of the WTO SGA states as follows:

"Duration and Review of Safeguard Measures

[...]

(4) In order to facilitate adjustment in a situation where the expected duration of a safeguard measure as notified under the provisions of paragraph 1 of Article 12 is over one year, the Member applying the measure shall progressively liberalize it at regular intervals during the period of application. If the duration of the measure exceeds three years, the Member applying such a measure shall review the situation not later than the mid-term of the measure and, if appropriate, withdraw it or increase the pace of liberalization. A measure extended under paragraph 2 shall not be more restrictive than it was at the end of the initial period, and should continue to be liberalized." (emphasis added)

6. The steel safeguard measures at issue in this case were, pursuant to a transition review, originally rolled over in 2021³ from the EU steel safeguard measures adopted in 2019.⁴ Following an extension review by the TRA, the UK steel safeguard measures were extended on 1 July 2024⁵ for an additional two-year period, to 30 June 2026.
7. This means that the requirements in the last sentence of Article 7.4 of the WTO SGA apply, namely, that an extended safeguard measure should not be more restrictive than the original measure was at the end of its duration, and that it must continue to be liberalised.
8. Commenting on these requirements, the WTO panel in *Argentina – Footwear (EC)*⁶ explained as follows:

"[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

³ Trade remedies notice 2021/01: safeguard measure: tariff-rate quota on steel goods, 30 June 2021.

⁴ Commission Implementing Regulation (EU) 2019/159 of 31 January 2019 imposing definitive safeguard measures against imports of certain steel products.

⁵ Trade remedies notice 2024/06: safeguard measure: tariff-rate quota on steel goods, 30 June 2024.

⁶ WTO Panel Report, *Argentina – Safeguard Measures on Imports of Footwear*, WT/DS121/R, adopted 12 January 2000, as modified by Appellate Body Report WT/DS121/AB/R, DSR 2000:II, 575.



thus contains no notification requirement for such restrictive modifications".⁷
(emphasis added)

9. These requirements follow from the essential nature of safeguard measures, which the WTO law jurisprudence explains are temporary measures in order to facilitate the adjustment of the domestic industry and which must therefore be progressively liberalised as part of that adjustment.⁸
10. As a result, changes to an extended safeguard measure that make it more restrictive than the original measure (as at the end of its duration) and / or run counter to the continued liberalisation under the measure at regular intervals, are prohibited – the only changes that can be made to an extended safeguard measure are those that liberalise it further and / or make it more flexible.
11. A number of the changes proposed by the TRA in its SIFD fall foul of this requirement – in particular:
 - a. The proposal to remove the carry-over of the TRQs to the following quarter would render the extended measure more restrictive, as the original measure (as at the end of its duration) provided for the carry-over. The removal of the carry-over reduces the amount of quota that would be effectively available over the second, third and fourth quarters of the year and is therefore, by definition, more restrictive.

It also runs counter to the requirement of continued liberalisation under the measure at "regular intervals", which has been interpreted as meaning "uniform intervals",⁹ seeing that liberalisation would no longer really be annual as the amount of quota effectively available over the second, third and fourth quarters of the year would be less than the same period during the previous year.
 - b. The proposal to remove access to the residual quota for countries that already have their own country-specific TRQ would render the extended measure more restrictive, as the original measure (as at the end of its duration) provided for such access.
 - c. The proposal to impose individual country caps in relation to the residual quotas for categories 4, 7 and 13 would render the extended measure more restrictive, as the original measure (as at the end of its duration) did not include these kinds of caps.
12. In light of the above, the Caterpillar Companies respectfully request that the TRA reconsider these proposed changes.

III. THE SIFD DOES NOT TAKE INTO ACCOUNT THE ECONOMIC PROSPERITY DEAL BETWEEN THE UK AND THE UNITED STATES OR THE NEW TRADE ACCORD BETWEEN THE UK AND THE EU

13. In its SIFD, the TRA examines whether there has been a change in demand for the UK steel products that constitutes a relevant "changes in circumstances" within the meaning of the UK Safeguard Regulations¹⁰ and that would therefore justify changes in the TRQs.¹¹ It provisionally concludes that this may be the case on the basis that, *inter alia*, there has allegedly been a decrease in demand for UK steel, and in light of the imposition of a 25% duty by the United States on all steel products and the recent amendment by the EU of its safeguard measure on certain steel products, which creates uncertainty.¹²

⁷ *Ibid.*, para 8.303.

⁸ See WTO Panel Report, Ukraine Definitive Safeguard Measures on Certain Passenger Cars, WT/DS468/R, adopted 20 July 2015, para 7.362.

⁹ *Ibid.*

¹⁰ Trade Remedies (Increase in Imports Causing Serious Injury to UK Produces) (EU Exit) regulations 2019, as amended (the "**UK Safeguard Regulations**"), section 35B(1) and (9)(b).

¹¹ SIFD, section D1.2.

¹² SIFD, para 46.



14. The Caterpillar Companies doubt whether the existence of "uncertainty" can justify changes to the TRQs. The SIFD, however, does not take into account developments that could, in any event, remove uncertainty and result in potential increases in demand for UK steel.
15. First, the SIFD does not take into account the Economic Prosperity Deal between the UK and the United States ("**UK-US EPD**"),¹³ announced on 8 May 2025 (the week before the SIFD), pursuant to which the United States will provide for a quota for UK steel products.¹⁴
16. The UK-US EPD may grant UK steel production a competitive advantage over steel exported from other countries. Indeed, in its press release, the UK Government stated that the UK-US EPD, "*delivers for British business and British workers protecting thousands of British jobs in key sectors including car manufacturing and steel*".¹⁵
17. Second, the TRA should also take into account the new trade accord between the UK and the EU announced on 19 May 2025.¹⁶ As part of this new accord, it has been agreed that the EU will restore the UK's country-specific steel quota to historic levels, thereby allowing for more tariff-free exports to the EU.¹⁷
18. Potential increases in demand for UK produced steel may increase the reliance of UK customers, including the Caterpillar Companies, on imported steel from other countries and therefore on the TRQs.
19. In particular, during the past year the Caterpillar Companies purchased approximately [10,000 – 150,000] tonnes of steel products subject to the safeguard measure, from UK steel operators. Should an increased percentage of UK steel products instead be exported, the Caterpillar Companies would need to replace these with imported steel products, potentially facing a 25% tariff should the quotas no longer be available, the likelihood of which would increase should the TRA's proposed changes be implemented. This would result in increased costs for the Caterpillar Companies, with negative impact to their business in the UK.
20. These developments mean that the restrictive changes that the TRA has proposed should not, in any event, be warranted.

IV. THE SIFD DOES NOT ADEQUATELY ASSESS THE CHANGES IN DEMAND

21. In the SIFD, the TRA relies upon data provided by UK Steel in order to assess the changes in demand in the UK and concludes that there had been a notable fall in demand for the steel product categories subject to the safeguard measure.¹⁸ However, the data provided by UK Steel does not actually show a fall in demand for all the product categories. In fact, for certain product categories, namely, product categories 1, 25B and 26, demand has increased, while for product categories 7, 13 and 16, demand has remained relatively stable and for product categories 5, 17 and 21, demand appears to be rebounding. This differentiation between the positions of different product categories should be taken into account in determining whether any changes to the TRQs are warranted.
22. The SIFD also does not adequately assess the projected increase in demand going forward. In their registration forms, the Caterpillar Companies explained that demand for the steel products subject to the safeguard measure was projected to increase due to the significant

¹³ See, UK Government Press Release, "Landmark economic deal with United States saves thousands of jobs for British car makers and steel industry", 8 May 2025, available [here](#).

¹⁴ See, General terms for the United States of America and the United Kingdom of Great Britain and Northern Ireland Economic Prosperity Deal, 8 May 2025, available [here](#), section 1(c)(ii).

¹⁵ See, UK Government Press Release, "Landmark economic deal with United States saves thousands of jobs for British car makers and steel industry", 8 May 2025, available [here](#).

¹⁶ See, UK Government Press Release, "PM secures new agreement with EU to benefit British people", 19 May 2025, available [here](#).

¹⁷ See UK Government Policy Paper, UK-EU Summit – Explainer, 19 May 2025, available [here](#).

¹⁸ SIFD, para 42.



growth in the construction sector, including in light of the UK Government's recently announced major investment plan to support social and affordable housebuilding, namely a £2 billion injection of new grant funding to deliver up to 18,000 new social and affordable homes.¹⁹

23. This was supported by, among others, the International Steel Trade Association ("**ISTA**"),²⁰ which referred to the UK Government's intentions to increase not only housebuilding, but also defence spending and infrastructure projects, thereby stimulating increased demand for the steel products.
24. In the SIFD, the TRA rejects these arguments, stating simply that the projected increase in demand has not yet materialised. However, this statement is not supported by any data or evidence. The only data for UK demand referred to is the information provided by UK Steel covering 2021-2024 only, which in fact shows increased demand already in 2024 for certain product categories (as noted above).
25. [CONFIDENTIAL – Caterpillar Companies' own projections]

V. THE PROPOSED CHANGES ARE NOT IN ANY EVENT JUSTIFIED BY THE REASONING IN THE SIFD

26. Notwithstanding the above, the reasoning set out in the SIFD also does not justify the proposed changes.

A. Removal of the carry-over

27. In the SIFD, the TRA justifies the removal of the carry-over on two grounds – namely that:
 - a. There is competitive pressure on UK steel and also significant uncertainty in the steel sector, both domestically and internationally.
 - b. In the vast majority of quota allocations, utilisation rates were considerably under 100%, quarter by quarter.²¹
28. With respect to the first ground, the Caterpillar Companies refer to the points raised in sections III and IV above in relation to the UK-US EPD and the new accord between the UK and EU as well as projected increase in demand, which alleviate competitive pressure and uncertainty for UK steel production.
29. With respect to the second ground – essentially that the carry-over has not been utilised in the vast majority of cases – the Caterpillar Companies would point out that this goes against the first ground, as it indicates that the competitive pressure from imports is more limited.
30. In any event, the fact that the carry-over has only been infrequently used cannot serve as a justification for its removal. On the contrary, it indicates that removing the carry-over would not have any impact in addressing the alleged competitive pressure that UK steel faces and therefore cannot be justified from this perspective.
31. On the other hand, removing the carry-over could have a significant impact on steel customers in the UK. A number of parties with direct experience highlighted in their submissions the importance of the carry-over in addressing potential delays in shipping,²²

¹⁹ See, UK Government Press Release, "£2 billion new investment to support biggest boost in social and affordable housebuilding in a generation", 25 March 2025, available [here](#).

²⁰ ISTA submission, 9 April 2025, available [here](#).

²¹ SIFD, para 65.

²² ISTA stated that: "[t]he carry-over of unutilised quota from quarter to quarter is essential to the smooth running of import supply; it helps to avoid import surges and enables traditional trade flows. It is often the case that steel is sourced to cover a particular project at a fixed price. If projects become delayed or shipments are delayed for any unforeseen circumstances, it is essential to have the flexibility to use the carry over facility" – see ISTA submission of 9 April 2025, available [here](#). In a similar vein, L.M. Products



port congestion and customs clearance.²³ Removing the quotas will therefore simply be to the detriment of customers in the UK, without conferring any real benefits to the UK steel industry.

32. Finally, the Caterpillar Companies would highlight that removal of the carry-over could further have a significant impact on operators' behaviour, with negative effects on customers in the UK. In particular, without the security provided by the carry-over, exporters and importers will be incentivised to front-load as much as possible, to avoid being in a position where the quotas may be exhausted. As a result, the carry-over – which is only relatively infrequently used at present – may well become fundamental in practice going forward.

B. Removing access to the residual quota for countries that already have their own country-specific TRQ

33. In the SIFD, the TRA justifies the removal of access to the residual quota for countries that already have their own country-specific TRQ on the same grounds as the removal of the carry-over, namely due to the competitive pressure and uncertainty for the UK steel industry.²⁴
34. These grounds cannot be justified for the same reasons referred to above. In particular, the fact that these countries have only infrequently used the residual quota indicates that the removal of their access would not have any impact in addressing the alleged competitive pressure that UK steel faces and would only lead to difficulties for customers in the UK.

C. Imposing individual country caps in relation to the residual quotas for categories 4, 7 and 13

35. In the SIFD, the TRA justifies the imposition of individual country caps on the ground that this would prevent crowding out of other countries.²⁵ In this context, the SIFD indicates the following significant shares held of the quota:
- a. Category 4 – Vietnam, with 62%
 - b. Category 7 – Korea, with 80%
 - c. Category 13 – Algeria, with 86%
36. While these shares are significant, it is important to note that the residual quotas were nearly never exhausted, meaning that there was always headroom for other countries in these product categories. Accordingly, there should be no concerns in relation to possible crowding out and rather, the main impact of the TRA's proposal would be to limit the supply of steel that can be imported within quota in each of these categories.

Limited stated that "[t]he carry-over quota plays a vital role in managing unexpected shipment delays caused by factors such as weather and port congestion. This flexibility is essential for businesses to minimise disruptions, ensuring they can meet demand and manage inventory efficiently" – see L.M. Products Limited submission of 7 April 2025, available [here](#).

²³ BIRFA (the British Independent Fabricators Association) stated that: "[t]he ability to carry over quotas is essential for managing unexpected delays in shipments, such as those caused by weather or port congestion. This flexibility is crucial for businesses to avoid significant disruptions, ensuring they can effectively meet demand and manage inventory. Without the option to carry over quotas, companies might face impractically small shipment sizes, rendering the quotas unusable and increasing the risk of inefficiencies in the supply chain." – see BIRFA submission of 9 April 2025, available [here](#). In a similar vein, POSCO noted that: "customs clearance delays also frequently occur due to congestion at UK ports – notably at Liverpool port. In such events, customs clearance is typically delayed by one to three weeks, which may result in customs clearance occurring later than scheduled. While it is necessary to supply steel to customers in the UK in a timely manner, delays in customs clearance can prevent such timely supply. To avoid causing potential harm to the UK steel industry and its downstream industries, it is imperative that the quota carry-over system be maintained." – see POSCO submission of 8 April 2025, available [here](#).

²⁴ SIFD, para 64.

²⁵ SIFD, section D1.3.4.