UK STEEL
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April 2023

Case TD0031: Certain corrosion resistant steels exported from the People's Republic of China

APPENDIX TO UK STEEL QUESTIONNAIRE RESPONSE

NON-CONFIDENTIAL

1 Likelihood of dumping

1.1 Relevant UK law and principles for establishing Normal Value

1.1.1 It is not appropriate to use domestic Chinese prices and costs

Regulation 7(1)[1] establishes the default position for the calculation of normal value stating that:

> *The TRA must use the comparable price to determine the normal value unless it is not appropriate to use that price.*

However, the regulations set out several alternatives to that position including two of particular relevance to this transition review:

- Regulation 14(1)(b) – which deals with situations where normal value can be calculated in an alternative manner because of the specific terms of an exporting country's WTO membership
- Regulation 7(2) – which details situations in which a 'particular market situation' exists in the exporting country

We deem that both of these situations hold true with regards to establishment of normal value with respect to Chinese producers and as such it would not be appropriate to use any domestic Chinese prices or costs in this review.

1.1.2 Regulation 14(1)(b) is applicable in establishing Normal Value

UK Steel strongly argues that regulation 14(1)(b) still applies to China and requests that China is treated in accordance with this provision. Whilst subparagraph 15(a)(ii) of the Chinese WTO accession protocol expired in December 2016, the remainder of paragraph 15 did not expire and remains in effect. Whilst China's WTO accession protocol specifies that para 15(a)(ii) expires after 15 years, it does not provide any statement on para 15(a) as a whole or paragraph 15(a)(i) in particular. With the expiry of paragraph 15(a)(ii), paragraph 15(a) of China's accession protocol now reads:

(a) In determining price comparability under Article VI of the GATT 1994 and the Anti-Dumping Agreement, the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China based on the following rules:

(i) If the producers under investigation can clearly show that market economy conditions prevail in the industry producing the like product with regard to the manufacture, production and sale of that product, the importing WTO Member shall use Chinese prices or costs for the industry under investigation in determining price comparability.

This clearly allows WTO members the option of using a methodology that is not based on a strict comparison with domestic prices or costs in China. Without para 15(a)(ii), importing countries can still use an alternative methodology unless the Chinese producers clearly show that market economy conditions prevail in the industry producing the like product.

Furthermore, press reports on the confidential interim panel report in the case of EU – Price Comparison Methodologies (DS516) strongly suggest that a WTO panel was going to confirm that the above argument is correct. China has prevented this from being published by its request to suspend the proceedings but the UK would certainly be within its rights to use regulation 14(1)(b) of the UK dumping and subsidy regulations with respect to China, where cooperating producers are unable to clearly demonstrate that market conditions exists.

Regulation 14(1)(b) explicitly covers the situation where members of the WTO have specific provisions in their membership terms regarding the determinations of normal value. These provisions must have meaning in UK law and cannot just be ignored. UK Steel strongly argues that Regulation 14(1)(b) is applicable to China in this

[1] Unless otherwise specified, all regulations quoted refer to statutory instrument 2019 No.450 The Trade Remedies (Dumping and Subsidisation)(EU Exit) Regulations 2019

investigation and the TRA should determine that this provision applies and that the TRA should calculate normal value in line with the options available under Regulation 14. These include:

- *In accordance with regulation 10 (appropriate third country or territory and representative price) or regulations 11 (costs of production) and 12 (the amounts for administrative, selling and general costs and for profits),*
- *on the basis of the costs of production of the like goods plus a reasonable amount for administrative, selling and general costs and for profits in an appropriate third country,*
- *where paragraph (1)(b) applies, in accordance with the terms of the membership in that paragraph;*
- *on any other basis the TRA considers is reasonable…*

With regards to the third bullet point immediately above, 'the terms of the membership' in this case should be read to refer to paragraph 15 of China's WTO Accession Protocol which provides significant flexibility stating that "..*the importing WTO Member shall use either Chinese prices or costs for the industry under investigation or a methodology that is not based on a strict comparison with domestic prices or costs in China.."*

UK Steel submits that it is appropriate for the TRA to apply Regulation 14(1)(b) in constructing a normal value for China.

1.1.3 In the alternative, the existence of a 'particular market situation' means that all prices and costs should be adjusted in accordance with regulation 13

If the TRA decides that it will not use Regulation 14(1)(b) against China, a position that the TRA would need to justify in its Statement of Essential Facts and UK Steel will continue to vigorously challenge, UK Steel requests in the alternative that the TRA uses the provisions set out in Regulations 7, 8, and 13 as they are applicable and should be used in determining normal value in this case.

- Regulation 7(1) states that the comparable price must be used to determine normal value <u>unless it is not appropriate to use that price.</u>
- Regulation 7(2)(b) establishes that one of the reasons why it would not be appropriate to use the comparable price is because of the existence of a 'particular market situation'.
- Regulation 7(4) establishes that a 'particular market situation' includes situations where:
  a) Prices are artificially low
  b) There is significant barter trade
  c) Prices reflect non-commercial factors

This list is not exhaustive and may include other situations.

Based on the evidence presented in section 4 of this appendix, UK Steel claims that a particular market situation exists in the Chinese steel industry, including corrosion-resistant steel. Prices and costs are artificially low and reflect non-commercial factors. Other trade remedy authorities (e.g. Canada, US, European Union) have also made similar findings that Chinese steel markets, including those of corrosion-resistant steel products, are affected by significant distortions. The level of distortion renders domestic prices and costs wholly inappropriate to use in determining normal value and means that alternative methodologies should be used to determine normal value in accordance with regulation 8.

1.1.4 Conclusion on UK law and principles in determination of Normal Value for China

In either case (either referring to regulation 14(1)(b) or 7(2)(b), 8 & 13), we argue strongly that the normal value for China needs to be calculated using an 'alternative methodology' according to Regulation 8, and that due to the widespread market distortions in the Chinese corrosion-resistant steel market, adjustments are required to the extent that no Chinese costs should be used. UK Steel proposes that normal value is constructed for China on the basis of cost of production plus SGA and profit in accordance with Regulation 8(1)(a), with adjustments made in accordance with Regulation 13.

1.2 Comment on product concerned

Corrosion resistant steel (CRS) is a flat-rolled product that is coated to protect against humidity and the risk of corrosion. The coating process typically occurs through immersion in a bath of zinc also known as galvanising. The main end-use sectors are construction and automotive. Other uses include the manufacture of machinery, tubes, tanks and white goods. CRS is produced in the UK by Tata Steel in Llanwern and Shotton in Wales. Tata's hot-rolling mill in Llanwern was mothballed in 2015 following the surge in dumped imports from China so hot-rolled products are supplied from Port Talbot.

1.3 Likely export prices

As a result of the existing measure, Chinese exports of CRS steel to the UK have dropped dramatically since 2018 and remain below 3% of total CRS imports, which both the UK legislation and the WTO anti-dumping agreement define as negligible imports. Therefore, UK import price information for Chinese made CRS is insufficient and unreliable and should not be used to establish an export price for comparison with normal value.

Table 1 : UK CRS imports (tonnes)

	2014	2015	2016	2017	2018	2019	2020	2021	2022
Imports from China	189,476	161,263	363,125	268,160	16,216	24,690	1,209	1,711	814
Total imports	1,273,267	1,233,086	1,727,321	1,678,154	1,504,660	1,346,891	966,122	1,413,315	994,460
China import share	15%	13%	21%	16%	1%	2%	0%	0%	0%

Source: UK Trade Info Data (HMRC) (See Annex 1 – Tabs 1 and 2)

2 Likely recurrence of injurious dumping

2.1 Developments in Chinese imports

The original period under review for the EU investigation 2013-2016 saw a huge surge in imports of Chinese CRS into the EU of 146%[2]. As the data above shows, a similar trend was observed in the UK where CRS imports from China in 2016 were more than double than the year prior. Provisional measures came into force in August 2017 which dampened imports somewhat before the definitive measures took effect in 2018.

China was dumping in the EU market, including the UK, before 2018 and continues to do so in other export markets as evidenced by trade investigation authorities in several countries. Back in 2017 the EU Commission found dumping margins of 46.2%-62.9.9% for Chinese exports of CRS to the EU[3]. Similarly, the US Department of Commerce found dumping margins of over 200% and evidence of subsidies for Chinese CRS[4].

Historical trends also show that China is able to increase its exports to the UK very quickly and by a huge amount relative to the size of the UK market. To this extent, it can be expected that UK imports from China are highly likely to significantly increase if the current UK measures are removed and this is highly likely to be at dumped prices, considering activity in other export markets, production levels, high levels of spare capacity, and limited export markets as a result of trade defence measures in third countries.

2.2 Trade Measures in Third Countries

The likelihood of a resumption in injurious dumping by Chinese exporters is increased and evidenced by the significant number of trade measures in place in third countries on exports of CRS products from China. The EU, the US, Canada and Mexico[5] all have anti-dumping measures in place against Chinese CRS. The existence of these measures ensures that major markets effectively remain closed for Chinese exporters thereby increasing the likelihood that, with fewer export opportunities, they would target a UK market in the absence of the current anti-dumping measure. Furthermore, these measures provide a strong evidence base for the likelihood of a recurrence of dumping with multiple authorities determining a continued and sustained threat of dumping from Chinese CRS exporters. Similarly, there are a multitude of anti-dumping measures on Chinese hot-rolled flat (HRF) steel more widely, which is just a step upstream to CRS. This further confirms and amplifies the point around Chinese exporter's capacity and propensity to dump. In fact, having an anti-dumping measure

[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32018R0186&from=EN

[3] Ibid.

[4] Commerce Finds Dumping of Imports of Corrosion-Resistant Steel Products from China, India, Italy, Korea, and Taiwan, Countervailable Subsidization of Imports of Corrosion-Resistant Steel Products from China, India, Italy, Korea, and No Countervailable Subsidization of Imports of Corrosion-Resistant Steel Products from Taiwan (trade.gov)

[5] Mexico's measure is on coated flat steel, which is wider than CRS but includes CRS: Practicas_Desleales_de_Comercio_Exterior-24_febrero_2023_VF (canacero.org.mx)

on Chinese HRF but not on CRS increases the likelihood of dumping of the latter given that there is an incentive to undertake the additional step of processing before exporting so as to avoid the HRF duty. It is therefore no surprise that the EU, the US, Canada and Mexico have anti-dumping measures in place on both HRF and CRS from China.

The high prevalence of trade defence measures in place in third countries, coupled with the standard/MFN customs tariffs on steel in all developing country markets, means that should the UK remove its own measures it would be one of the few exposed markets for this product globally and would be a target for dumping.

2.3 Excess production and production capacity in China

The likelihood of resumption of injurious dumping of CRS by Chinese exporters is further increased and evidenced by the significant levels of production and spare capacity in China. This excess capacity is significantly larger than UK consumption, which increases both the incentive and the ability of Chinese exporters to dump.

According to Worldsteel data (see Annex 1, tab 3), China accounts for nearly half the world's coated flat steel production ([REDACTED DUE TO WORLDSTEEL COPYRIGHT] million tonnes in 2020), doubling its production in the last decade. The following chart shows how Chinese production has grown prodigiously over the past 20 years, while the production of the rest of the world stayed relatively constant and in fact has been declining since 2017. Chinese production evidently dwarfs the UK's production of less than a million tonnes. The product scope of the Worldsteel coated sheet and strip production data is wider than this review, however, the Chinese and UK production relevant to this case will still be proportional to these figures and therefore a good indication of the relative sizes of the CRS industry in China and the UK.

Chart 1: Global Production of Coated Flat Steel Products 2002-2020

[REDACTED DUE TO WORLDSTEEL COPYRIGHT]

Source: World Steel Association. (Data provided in Annex 1, tab 3.)

China produces nearly as much CRS as the rest of the world combined. Chinese CRS production is so many times multiple the size of the UK market that even a small proportion of Chinese CRS being dumped in the UK has the capacity to flood the market and cause material injury. Just a tiny fraction of China's CRS production could meet the entirety of the UK's demand requirements. It is clear that China has the capacity to very quickly flood and overwhelm the UK market should the AD measures be removed.

While Chinese CRS production has hugely increased, there is still a considerable amount of spare capacity that could be utilised in the future. UK Steel does not have access to capacity data at the product level, however, the Canadian International Trade Tribune (CITT) references CRU data which showed significant excess capacity in the global CRS industry in 2018, in its 2019 injury inquiry as part of Canada's CRS anti-dumping investigation[6]. This is unlikely to have changed significantly in recent years. The CITT also notes as part of its likelihood of injurious dumping analysis that:

"[113] The oversupply of COR worldwide is driven by China. Notably, CRU forecasts an increase in China's annual excess capacity for COR in 2018, in comparison to 2017, with modest decreases in domestic consumption and production (while capacity remains flat). Excess capacity is projected to be stable in 2019 and 2020, relative to 2018, as a minimal increase in demand will correspond with a minimal increase in capacity (while POSCO argued that steel production capacity is being reduced in China, this does not appear to be so for COR capacity, particularly in the next year). In addition, although China's annual COR export volume has decreased since 2016, it remained massive in 2018."[7]

Excess steel capacity is a well-established fact and a long-standing challenge for the global steel industry, as highlighted by the OECD amongst others[8]. The Canada Border Services Agency (CBSA) also notes that *"the Chinese overcapacity issue with respect to the steel industry will be a longstanding one, despite the Government of China efforts to reduce capacity and outputs by 2020."*[9] Indeed, despite a slowing down of capacity expansion

[6] CORROSION-RESISTANT STEEL SHEET - Canadian International Trade Tribunal (citt-tcce.gc.ca)

[7] Ibid.

[8] Latest developments in steelmaking capacity (oecd.org)

[9] Ibid, page 19

in China in recent years, there is still investment in new steel facilities. Some of these are to replace small and outdated plants, but others relate to expansion of capacity. In its 2021 report, the OECD found evidence of Chinese steelmakers using loopholes in the capacity swap scheme to expand their capacity[10].

China was a member of the Global Forum on Steel Excess Capacity (GFSEC) from 2016-2019 and made efforts to reduce excess capacity through closure of old and outdated facilities. However, China walked away from this Forum in 2020 and according to the 2021 Ministerial Report of the GFSEC, this trend has since reversed, with Chinese crude steelmaking capacity increasing in 2019, 2020 and 2021, coupled with cross-border investments that are contributing to capacity growth in other regions.[11] The GFSEC report finds that China's steelmaking capacity increased by a cumulative 32.9 million tonnes during 2019-2020, accounting for 45% of the world's capacity increase of 73.7 million tonnes over these two years. According to the Centre for Research on Energy and Clean Air (CREA), a total of 18 new blast furnace projects with a total capacity of 35 million tonnes per year have been announced in the first half of 2021 alone.[12] S&P Global Commodity Insights reports 18.74 million tonnes of crude steel net capacity growth in China over 2022-2023, with commissioned and planned capacity expansions of 154 million tonnes[13]. Even not accounting for excess capacity, the sheer size of Chinese CRS production relative to the UK market poses a significant risk as even a small percentage of Chinese CRS production could flood the UK market.

2.4 Rising production against weakening domestic steel demand in China

The pressure to increase exports will be even greater as China is seeing weak demand domestically, particularly by the construction sector, a key consumer of CRS. Worldsteel analysis[14] shows that apparent steel use is increasing at a slower rate than crude steel production in China. In the first two months of 2023, apparent crude steel use increased by 2.1% year on year to 158.34Mt, while crude steel production grew by 5.6% to 168.70Mt. According to data from China's National Bureau of Statistics, China's crude steel output in March increased 6.9% year-on-year to 95.73 million tonnes. Crude steel production in Q1 saw a 6.1% y-o-y increase to 261.56 million tonnes.[15] China is expected to announce a 2.5% cut to its 2023 output, but market reports state that this will likely not be enough to offset the decline in steel demand. S&P Global analysis notes: *"China's fast-rising steel production but slowly recovering end-user demand has continued to squeeze steel profit margins in April, with mills still showing no signs of cutting back on production. Mill sources said China's steel capacity was too huge, but demand had more or less plateaued, and thus in order to retain market share, it was difficult for Chinese mills to voluntarily cut their production even when they were running at a loss."*[16]

This is confirmed by recent price trends for flat steel in China, for both domestic and export prices.[17] Steel prices in China had started to increase following the relaxation of lockdown measures and government attempts to boost demand, but have reverted to a downtrend over the last month as the market optimism is increasingly proving not to be matched by fundamentals.

While the Chinese government is trying to provide stimulus to the property sector and the wider economy, the impact is relatively marginal, with increases mainly in infrastructure spend, while the real estate sector continues to struggle, as demonstrated by the charts below. This is also confirmed by the recent National Bureau of Statistics quarterly report showing quarterly investment in real estate dropping by 5.8% on year at CNY 2.6 trillion ($378 billion).[18]

[CHARTS REDACTED DUE TO WORLDSTEEL COPYRIGHT]

Source: World Steel Association

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[10] Latest developments in steelmaking capacity (oecd.org)

[11] gfsec-ministerial-report-2021.pdf (steelforum.org)

[12] BRIEFING: China's power & steel firms continue to invest in coal even as emissions surge cools down – Centre for Research on Energy and Clean Air

[13] China's huge steel capacity beleaguers steel market, government to order output cuts soon | S&P Global Commodity Insights (spglobal.com)

[14] China Monthly 191.pdf (worldsteel.org)

[15] China's first-quarter crude steel output gains 6.1% (kallanish.com)

[16] China's huge steel capacity beleaguers steel market, government to order output cuts soon | S&P Global Commodity Insights (spglobal.com)

[17] Chinese HRC prices touch year-to-date lows (kallanish.com)

[18] China's real estate indicators diverge further in March (kallanish.com)

The outlook for broader manufacturing is similarly not particularly optimistic. According to the China Federation of Logistics and Purchasing (CFLP), China's manufacturing PMI for the steel industry in March 2023 decreased by 1.7 points to 48.4 from 50.1 in February 2023.[19] Automotive output also dropped by 14.0% year on year in the first two months of 2023, compared to an annual growth of 3.4% in 2022.[20]

Weak domestic demand would further increase the incentive for Chinese producers to seek export markets to direct excess volumes even at dumped prices. Indeed, exports of semi-finished and finished steel over January-February jumped by 40.5% on the year to [REDACTED DUE TO WORLDSTEEL COPYRIGHT].[21] The capital-intensive nature of steel production means that steel mills must run at high levels of production capacity to recover fixed costs, so that when domestic demand weakens, rather than further cut production, producers will look for foreign markets to maintain as high capacity utilisation as they can.

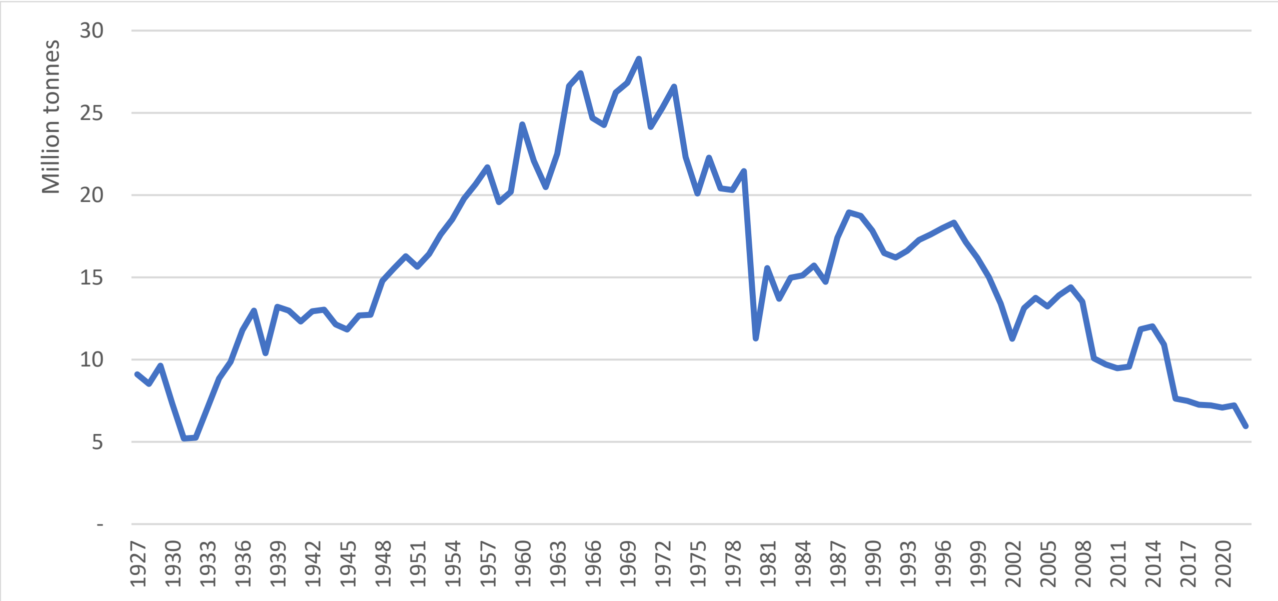
Given high production levels against waning domestic demand, combined with trade defence measures in key export markets, the likelihood of injurious dumping should the UK drop its measures is extremely high, especially when considering the relative size of the UK market.

2.5 Situation of UK industry

The UK industry is in a vulnerable position and highly susceptible to injury in the event of an increase in dumped imports. Tata Steel is the only producer of CRS in the UK, at its plants in Llanwern and Shotton in Wales. Tata Steel had to mothball its Llanwern hot-rolling mill in 2015 as import pressure, including dumped imports, made the operation unsustainable. Hot-rolled products are now supplied to the mills for coating from Port Talbot.

Recent years have seen a challenging environment for the UK steel industry, first with the global pandemic and then with the energy crisis as a result of the war in Ukraine. Exorbitant energy costs have reduced production and demand in the UK and across Europe. In 2022, UK steel production plummeted to the lowest level since the Great Depression at 6 million tonnes, a drop of 17% on year.[22] Much of the world saw drops in steel production last year as a result of reduced demand and high energy prices, but not quite as steeply as the UK (-4.3% globally and -10.5% for EU27)[23].

Chart 2: UK crude steel production 1927-2022



Source: ISSB

[19] China Monthly 191.pdf (worldsteel.org)
[20] Ibid.
[21] Ibid.
[22] ISSB data collected from UK producers.
[23] December 2022 crude steel production and 2022 global crude steel production totals - worldsteel.org

The global outlook for 2023 and the coming years is highly uncertain, and so is the outlook for the UK market. The World Steel Association's latest forecast sees recovery to global steel demand but not before 2024 in the EU and the UK as the impact of the war, inflation, high interest rates and supply-chain challenges continue to weigh on the market. After a fall of 7.9% in 2022, demand in the EU and UK combined is expected to fall by 0.4% in 2023 and increase by 5.6% in 2024[24]. Given that the UK economy has recently performed worse than other developed economies, we would expect the UK portion of this forecast to be less optimistic than the average. UK Steel's own forecast sees a sharp reduction in steel demand for 2023 across the main end-use sectors (construction -11%, automotive -15%, mechanical engineering -14%), and staying flat or increasing only marginally into 2024. The Construction Products Association similarly forecasts construction output in the UK to decline by 4.7% in 2023 before recovering slowly in 2024 with growth of just 0.6%.[25]

Against this weak demand environment, the massive increase in input and energy costs over the past year has left the UK industry, including the CRS industry, in a fragile state. This is further compounded by the huge global overcapacity issue. In this context, the injury and economic impact of a resumption of dumping would be significant. Additionally, as noted in Section 2.2 several other countries have trade restrictions in place on imports from China. This would increase the likelihood of dumped imports and injury to any country which left its market exposed as trade from other markets would be diverted. Considering the weakened position of the UK industry, a resumption of dumping would certainly be severely injurious.

In contrast, importers and downstream users have great flexibility in where to source CRS products, given that these are produced by numerous countries around the world. Furthermore, importers do not face the capital costs that producers do, nor the scale of running costs that need to be covered. The same applies to fabricators. They are therefore far less vulnerable and can more easily pass on increased costs to consumers. In relation to downstream users, CRS costs are a tiny fraction of any end-product and therefore any cost implications would be negligible. Furthermore, it should be noted that CRS prices are governed by much broader drivers and dynamics and not by the specific supply of Chinese CRS to the UK. Clearly the supply of Chinese CRS at dumped prices would lower UK prices, but that would be the result of a distortion and not an equilibrium market price for CRS in the UK. Meanwhile, the contrary is not true, i.e. steel prices are not higher because of the anti-dumping measure since importers are not paying the tariff and there are other sources of supply. In that sense, UK importers and downstream users are currently paying a non-dumped market price. While steel prices remain at higher than pre-Covid and pre-war levels, these are equivalent to the high input prices faced by producers so this is a factor equally impacting each segment of the supply chain and not an additional cost specifically imposed on importers or end-users.

3 Economic effects on the UK if the existing measure was no longer applied

3.1 Importance of the UK CRS industry

The UK CRS industry provides significant employment opportunities in Wales where operations are currently located and offering wages considerably higher than the local average. The contribution to the local economy is even more prominent when considering the Government's levelling up agenda which is important context within which the TRA should interpret Paragraph 25(4)(a)(iv) (likely geographic impact) of the Taxation (Cross-Border Trade) Act 2018.

CRS products are produced in Tata Steel's Llanwern and Shotton facilities, supporting skilled well-paid jobs in the area. Given that hot-rolled products are supplied for coating from Port Talbot, these jobs are also directly linked to the health of the CRS operations. Not only do these steel plants employ a large number of workers in Wales, but these steel workers receive wages that are considerably higher higher than the local median in Newport, Flintshire and Port Talbot. These salaries also rank above the [CONFIDENTIAL] percentile or higher of the local wage distribution. Most of Wales had Assisted Area status under European state aid rules, including local authorities like Neath Port Talbot which were defined as 'a' areas. These were areas whose GDP per capita was below 75% of the EU average. While this legislation is no longer relevant for the UK, the classification is indicative of less advantaged local economies. Removing the measures not only risks current UK production and employment but also future investment and therefore future high-wage employment opportunities which will be invaluable to the local community.

[24] worldsteel Short Range Outlook April 2023 - worldsteel.org
[25] CPA Forecasts Recession in Construction for 2023 (constructionproducts.org.uk)

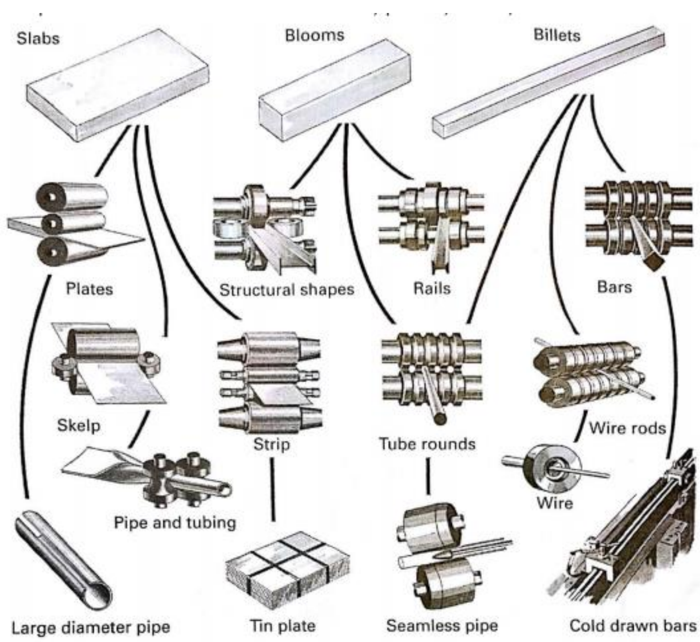
While Tata's CRS steel production is centred at Llanwern and Shotton, this is a core product line for Tata and any injury suffered would impact operations in other sites, putting at risk the jobs of thousands of workers who receive wages considerably higher than the local median across all site locations. The interconnectivity of steel products and economics of steel production, as explained in the next section, mean that one should not simply consider the potential injury on the elements of the business directly producing CRS, but also the impact on the wider business.

3.2 Interconnectivity of steel products and importance of UK supply chain

The interconnectivity of steel products means that when considering the totality of injury that may occur in the absence of this measure, it is critical to look at the up and downstream elements of the steel business related to CRS production.

CRS and more widely hot-rolled flat products represent a significant portion of overall UK steel production, but the segment's real economic impact is even wider when considering steel production economics as well as the broader supply chain. Most plants will produce multiple steel products and the profitability of each will have an effect on wider production decisions, with implications for employment and future investment.

Steel production can come through a variety of different routes, largely depending on the kind of semi-finished product (slab, bloom, billet) that a plant is equipped to make. As shown below, a plant with a continuous slab caster and appropriate rolling mills (such as Port Talbot) can then go on to produce a variety of flat products such as strips and plates that can be further worked into an array of goods including cold-rolled, coated products, and tubes and will typically produce a combination.



The production economics of the steel making process means that economies of scale are key. As such, plants will typically produce more than one product and will often rely on all product lines running at high capacity utilisation rates to ensure profitability.

Steel making is highly capital intensive and with particularly high fixed costs. Steel plants will typically need to run at around a 70-75% capacity utilisation rate before it will break even and begin to operate profitably. Thus, both the processes themselves, and their economics, require the plant to run at consistently high output levels and limit the ability to adapt to changed market conditions by reducing output volumes. This is why steel plants often continue to run even without making a profit. Commodity prices can also be volatile so sometimes it pays to weather a downturn, in expectation that prices will recover, thus avoiding the huge disruption, additional costs, and inefficiencies brough about by halting production. Indeed, many parts of the 'heavy end' such as production of coke and iron cannot simply be turned on an off.

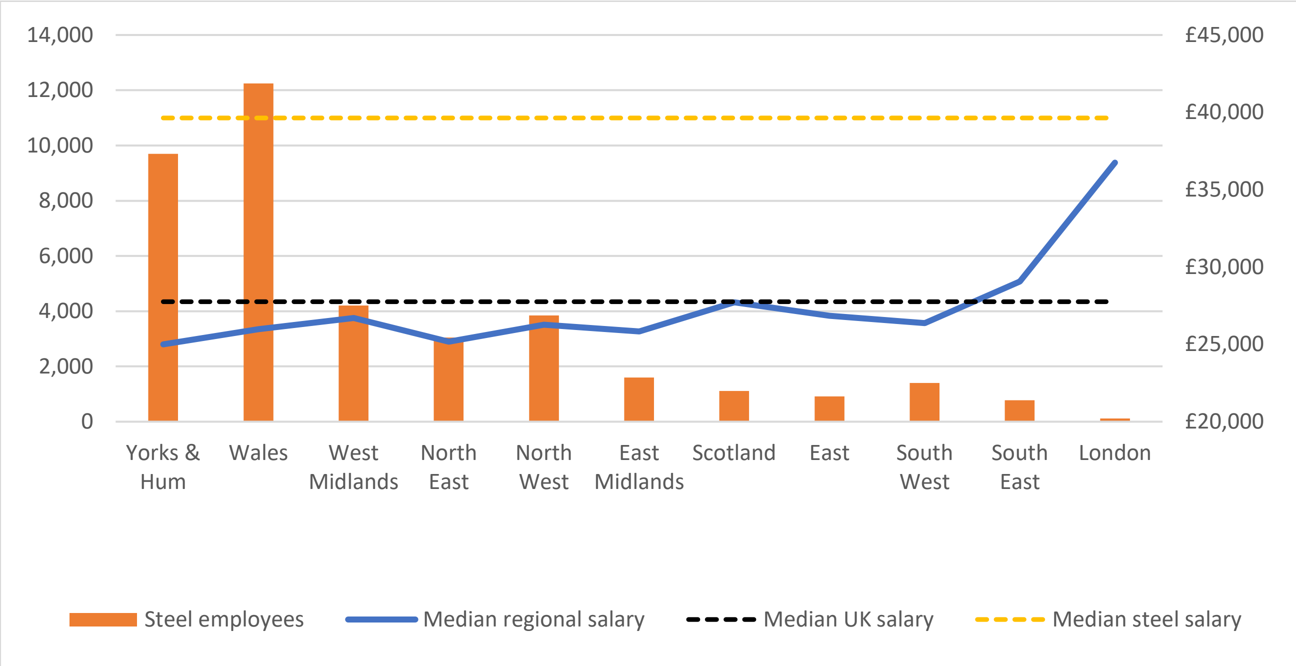
This highlights how delicate the balances are and knock-on effects that individual products can have on the overall profitability of a plant. For example, Tata's Port Talbot facility does not only produce hot-rolled flat products but also cold-rolled products. Much of the hot-rolled output of Port Talbot is then transferred to other sites such as Llanwern, Shotton and Trostre to produce metallic and organic coated sheets and tin mill products. Further material is also transferred to sites in Corby and Hartlepool to be turned into pipes and structural hollow sections. Imports of dumped CRS products would therefore damage market share and profitability more widely and would impact all production lines linked to hot-rolled flat products.

Therefore, in order to assess the economic significance of the CRS sector, it is useful to evaluate the contribution of the segment but also the wider steel sector that it forms an integral part of.

3.3 Importance of the wider UK steel industry

- The UK steel industry directly employs 39,800 people across the UK – jobs that would be at risk if the health of domestic steel companies is compromised[26]
- The UK steel industry also supports a further 50,000 in its high-value supplies chains[27]
- The steel industry is predominantly based in the regions of the country the Government is seeking to level-up. We directly employ tens of thousands of skilled workers in Teesside, Yorkshire and Humberside, the West Midlands and Wales. The median wage of our workers (£39,637) is 43% higher than the UK national median and 56% higher than the regional median in Wales, and Yorkshire & Humberside.[28]

Chart 3: UK Steel Employment and Pay by Region 2022



Source: ONS Various and UK Steel Analysis

- The UK Steel Industry makes a £2.9 billion direct contribution to UK GVA and supports a further £3.8 billion in its supply chains [29]
- UK steel also makes a £2.4 billion direct contribution to the UK's balance of trade[30], critical to the Government's ambitions of developing a more a global trading Britain.
- We train hundreds more skilled individuals every year, providing the United Kingdom with the engineers of the future. Approximately 65% of the technical workforce is educated to degree level, and around 40% possess a postgraduate qualification. By working together, Government and industry can ensure that we go on providing high-quality employment and opportunities.

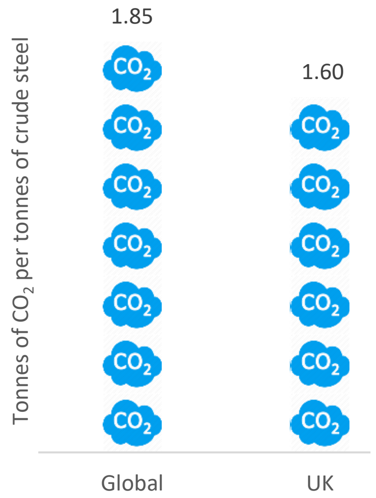
We provide the high-quality materials vital to an array of challenges. From delivering the Government's infrastructure revolution to creating a low carbon economy, steel is an essential ingredient. The UK directly consumes 9-10 million tonnes of steel each and every year – in infrastructure, construction, and a vast array of manufactured products. Our increasing need for steel in high-speed rail, energy efficient buildings, low-carbon and electric vehicles, wind-turbines and much more besides means this demand will grow 10% this decade creating a huge £6 billion annual market. It is vital that we retain a strong and resilient steel industry in the UK to supply this.

[26] ONS – Business Register and Employment Survey 2021
[27] ONS – Business Register and Employment Survey 2021 and ONS Type 1 employment multipliers
[28] ONS – Annual Survey of Hours and Earnings, ASHE Table 16 and ASHE Table 7
[29] ONS GDP Output – low level aggregates 2022 and type 1 multiplier
[30] International Steel Statistic Bureau – UK steel exports net of import of raw materials/inputs

3.4 Importance of domestic UK steel industry to decarbonisation

Increased reliance on steel imports could lead to higher emissions if imported steel is produced in a more carbon-intensive steel plant. Global carbon intensity varies from 0.29-3.38 tonnes of CO_2 per tonnes of crude steel, depending on plant efficiency and production method (i.e. BOF vs EAF), with the weighted average being 1.85tCO_2/tCS in 2018. UK steel production sites are less carbon-intensive than the global average for both BOF and EAF steelmaking, and therefore increases in imports will likely lead to an increase in global greenhouse gas emissions. Additionally, increased imports of finished steel products will also increase transport-related emissions – for example shipping a tonne of product from China will result in an estimated 0.3 tonnes of CO2[31]. Given this picture of lower production and transport-related emissions from domestically produced steel, it is clear that replacing domestic production with greater imports of steel would be defeating the point of trying to achieve net zero targets, when that would equate with simply offshoring our emissions to other countries. If any attempt to decarbonise is to be meaningful, then this must be aimed at consumption-based emissions and a real net-zero future is indisputably in the public interest.

GHG Emissions per tonne of steel produced



Source: WorldSteel, CO2 Data Collection Summary Report 2018

We recognise that public interest considerations are not strictly within the TRA's remit. But even from an economic interest perspective, the UK stands to lose out from lagging in decarbonising its steel sector. In the next few years, the EU will be introducing a Carbon Border Adjustment Mechanism (CBAM) which will penalise high emission steel with tariffs. This could see UK exports to the EU suffer if the pace of decarbonisation doesn't pick up. Even worse, if the UK does not introduce an equivalent CBAM, then large volumes of high emission steel could be diverted to the UK, putting UK production and jobs at risk. Decarbonisation is essential for the future of the UK steel industry and will require a huge amount of investment. This in turn requires an environment which makes the UK steel industry an attractive investment proposition for the international parent companies who own them. A market which is exposed to damaging dumped imports is exactly the opposite of what is required at this critical period of transition.

3.5 Interplay between safeguards and anti-dumping measures

Foreign exporters often contend that the safeguard measures in place make anti-dumping duties redundant. This view is palpably incorrect.

Safeguards and anti-dumping duties are different measures, designed to address different issues. Safeguards will protect from surges in imports and trade diversion but cannot guarantee that imports are coming at non-dumped prices. WTO rules and the UK trade remedies framework allow for both types of measure to apply simultaneously for this reason. For products that are subject to both measures, only one of the two duties applies at any one time; the stated AD duty applies until the quota is exhausted, after which time both apply but the AD rate is adjusted to ensure that the maximum charged is either 25% or the stated AD duty level, whichever is the higher. Safeguard measures act to limit imports above a certain level, and therefore will have some impact on the volumes of dumping. However, dumping is perfectly possible within the volumes allowed by a tariff-rate quota.

Other than the general point around the difference between the two measures, currently China is exempt from the safeguards on CRS, as it is considered a developing country whose exports to the UK fall below the 3% threshold. But the reason for this is precisely because anti-dumping measures have been in place on this product. If the anti-dumping duty was dropped, there would be no safeguarding mechanism in place at least for a period of time until the developing country exemption was reassessed. Even when developing country imports are reviewed it would take at least a year after the removal of the anti-dumping duty before there is enough data showing increased imports from China. In that period, China could export unlimited quantities without any

[31] Defra conversion factor for large container vessel of 0.01267 kgCO2e/tonne product/km shipped. Shipping distance from Shanghai to Dover of 22,000 km. Estimated CO2e emissions of 278 kg per tonne.

restriction in place and by the time its exempt status was reassessed, its exports could cause considerable damage to the UK market.

Additionally, the safeguard measures will only be in place until June 2024 providing no protection at all after this point. An extension of the anti-dumping measure would provide critical protection for at least three years beyond this point.

3.6 Presumption that the Economic Interest Test has been met

It is important to emphasise that the UK legislation[32] establishes a presumption in favour of the economic interest test having been met.

"*That test is presumed to be met unless the TRA or, as the case may be, the Secretary of State is satisfied that the application of the remedy is not in the economic interest of the United Kingdom."*

Therefore, the burden of proof rests on the TRA (or Secretary of State) to demonstrate clearly that maintaining the measure would not be in the economic interests of the UK, if the Economic Interest Test (EIT) were to be used as justification for the revocation of the measure. Demonstrating that maintaining the measure would not be in the economic interests of the UK must require the presentation of reasonable, robust and verifiable evidence to support this conclusion. In the absence of this reliable evidence base that stands up to independent scrutiny, the legislation is clear that that the TRA should presume that the EIT has been met.

4 Distortions in the Chinese market affecting CRS steel production and prices

4.1 Horizontal distortions affecting steel industry

4.1.1 Constitution of the PRC and Constitution of the CPC

The Chinese steel industry and markets have to be viewed through the lens of the political system. Although there is no doubt that China is undergoing dramatic changes and can no longer be considered as a pure planned economy, Chinese industry still operates in a system dominated by the state and government intervention.

For example, the Preamble of the current Constitution of the People's Republic of China[33] states:

> *The victory in China's New-Democratic Revolution and the successes in its socialist cause have been achieved by the Chinese people of all nationalities, under the leadership of the Communist Party of China and the guidance of Marxism-Leninism and Mao Zedong Thought, by upholding truth, correcting errors and surmounting numerous difficulties and hardships. China will be in the primary stage of socialism for a long time to come. The basic task of the nation is to concentrate its effort on socialist modernization along the road of Chinese-style socialism. Under the leadership of the Communist Party of China and the guidance of Marxism-Leninism, Mao Zedong Thought, Deng Xiaoping Theory and the important thought of Three Represents, the Chinese people of all nationalities will continue to adhere to the people's democratic dictatorship and the socialist road, persevere in reform and opening to the outside world, steadily improve socialist institutions, develop the socialist market economy, develop socialist democracy, improve the socialist legal system and work hard and self-reliantly to modernize the country's industry, agriculture, national defence and science and technology step by step and promote the coordinated development of the material, political and spiritual civilizations, to turn China into a socialist country that is prosperous, powerful, democratic and culturally advanced.*

This notes that China is still in the primary stage of socialism for a long time to come and that this guides the 'basic task of the nation'. Further, the Chinese people will continue to adhere to the 'people's democratic dictatorship' and the socialist road. It also talks about 'coordinated development'.

Further, Article 7 of the constitution states:

[32] Taxation (Cross-border Trade) Act 2018, Schedule 4, Part 6, Paragraph 25 (3)
[33] http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm

The State-owned economy, namely, the socialist economy under ownership by the whole people, is the leading force in the national economy. The State ensures the consolidation and growth of the State-owned economy.

The ‘leading force’ of the state is set out in Article 6:

The basis of the socialist economic system of the People’s Republic of China is socialist public ownership of the means of production, namely, ownership by the whole people and collective ownership by the working people. The system of socialist public ownership supersedes the system of exploitation of man by man; it applies the principle of “from each according to his ability, to each according to his work”.

In the primary stage of socialism, the State upholds the basic economic system in which the public ownership is dominant and diverse forms of ownership develop side by side and keeps to the distribution system in which distribution according to work is dominant and diverse modes of distribution coexist.

Article 6 talks of “socialist public ownership of the means of production” as the basis of the economic system. It also establishes the dominance of public ownership.

Likewise, the current Constitution of the Communist Party of China[34] affirms the dominant role of public ownership:

The Party must uphold and improve the basic economic system whereby public ownership plays a dominant role and economic entities under diverse forms of ownership develop side by side (page 3 of 28).

Further:

The Communist Party of China shall lead the people in developing the socialist market economy. It shall be firm in consolidating and developing the public sector of the economy and shall remain steadfast in encouraging, supporting, and guiding the development of the non-public sector.

In other words, The Communist Party China maintains a highly significant leadership role in the economy.

4.1.2 13th Five Year Plan

China has adopted five-year plans since 1953 and this has been the way in which the state, and specifically the Communist Party, have guided and shaped the Chinese economy.

The introductory paragraph of the most recent five-year plan covering the years 2016-2020 continues to emphasise the importance of the Communist Party in formulating economic and social policy:

Formulated on the basis of the Recommendations of the Central Committee of the Communist Party of China (CPC) for the 13th Five-Year Plan for Economic and Social Development of the People’s Republic of China (2016–2020), the 13th Five-Year Plan sets forth China’s strategic intentions and defines its major objectives, tasks, and measures for economic and social development. This plan is to serve as a guide to action for market entities, an important basis for government in performing its duties, and a common vision to be shared among the people of China.

The five-year plans sit amongst a myriad of broader horizontal plans affecting all industries (including ‘Made in China 2025’ and the ‘Belt and Road Initiative’) and plans for specific sectors. A full review of all the plans is beyond the scope of this submission. However, they are thoroughly described in the European Commission Staff Working Document on distortions in the Chinese economy (particularly section 4)[35].

On the ‘transformation and upgrading of traditional industries, Chapter 22 of the 13th Five Year plan states:

We will encourage mergers and acquisitions of enterprises so as to put in place a highly concentrated, specialized, and cooperative industrial structure with a core of conglomerate companies. We will support the development of specialized small and medium enterprises.

A high proportion, if not all, of these concentrated and cooperative enterprises are state-owned and, through this, the intention to control the economy and markets is clear.

[34] http://www.xinhuanet.com//english/download/Constitution_of_the_Communist_Party_of_China.pdf (Revised and adopted at the 19th National Congress of the Communist Party of China on October 24 2017.

[35] Commission Staff Working Document on ‘Significant distortions in the economy of the PRC for the purpose of trade defence investigations’. SWD(2017) 483 final/2. 20 December 2017.

The 'Steel Industry Adjustment and Upgrading plan for 2016-2020'[36] implements the 13th five year plan in relation to steel.

> *The iron and steel industry is an important basic industry of the national economy and the cornerstone of the country.*

The opening paragraph of the steel plan confirms that steel is a favoured and strategic sector at the heart of government policy towards the Chinese economy.

4.1.3 14th Five Year Plan

In late 2020, the Chinese Communist Party approved a proposal for China's 14th Five Year Plan (2021-2025)[37]. Paragraph 20 states:

> *We must adhere to and refine the basic socialist economic system, fully exploit the decisive role of the market in allocating resources, make better use of the role of government, and promote a better combination of effective markets and active government.*
>
> *Stimulating the vitality of various market entities. We will be unswerving in consolidating and developing the economy's public sector, and in encouraging, supporting and leading the development of the non-public sector. We will deepen the reform of state-owned capital and enterprises, and will strengthen, optimize and enlarge state-owned capital and state-owned enterprises (SOEs). We will accelerate the layout optimization and structural adjustment of the state-owned economy, and utilize the strategic supporting role played by the state-owned economy.*

Whilst reference to the market is made, the primary role of active government is emphasised in leading and stimulating the public and non-public sectors through strengthening and enlarging of state-owned capital and state-owned enterprises.

New guidance was produced in January 2021 on promoting high-quality development of the steel industry[38].

This document acknowledges that overcapacity continues to be a problem:

> *Entering the 14th Five-Year Plan period, the national steel industry still faces problems to achieve high-quality development as problems, such as overcapacity pressure….*

The guiding ideology outlined above remains the same, confirming the continued primary guiding role of the Communist Party:

> *Adhere to the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, thoroughly implement the spirit of the 19th National Congress of the Communist Party of China as well as the 2nd, 3rd, 4th, and 5th Plenary Sessions of the 19th Central Committee of the Communist Party of China*

The role of government in steel industry decision making and coordination is clearly stated:

> *Play a greater role in the global steel industry governance system.*
>
> *Adhere to overall coordination. Adhere to the systemic concept of promoting high-quality development, adhere to a national coordination effort. Coordinate the relationship between the state and localities, industries and enterprises. Fully mobilize the polarities of all parties and give full play to the advantages of concentrating forces to do major events. Focus on solid foundation, promote advantages, make up for shortcomings, cultivate strengths and reinforce weak points. (section2)*
>
> *Strengthen the coordination between policies, and form a policy synergy, so as to adapt measures to local conditions, maintain pressure, and implement precise policies (section 17).*

Significant intervention to guarantee resource supply is highlighted:

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[36] Translation on Australian Government website https://www.industry.gov.au/sites/default/files/adc/public-record/466-011.01_-_gatt_-_att_1_-_13th_five_year_plan_for_the_steel_industry_en_-_non-conf.pdf
[37] https://cset.georgetown.edu/wp-content/uploads/t0237_5th_Plenum_Proposal_EN-1.pdf
[38] https://www.hellenicshippingnews.com/china-finalizing-high-quality-growth-in-steel-industry/
https://www.chinadaily.com.cn/a/202001/13/WS5e1bfe30a310128217270876.html

Resource guarantee….Substantially enhance the guaranteed supply of iron, manganese, chromium and other ore resources. For iron, the domestic self- sufficiency rate shall exceed 45%......Establish equity control in 1-2 overseas iron mines with global influence and market competitiveness. (section 3)

Government is also directed to play an active role in location planning for the steel industry:

Optimize and adjust the industrial layout. The optimization of the layout of the steel industry must meet the requirements of national and local functional zone planning, environmental protection and related industrial policies. (section 6)

Guidance and co-ordination in relation to Chinese foreign economic policy is also encouraged:

Continue to strengthen the "Belt and Road" international steel production capacity cooperation, and guide superior production capacity to "go global" in an orderly manner. (section 13)

Thus, Chinese state documents produced in 2021 confirm the maintenance of a continued significant role for the state in the governance of the Chinese steel industry.

4.1.4 Decision No 40 of the State Council on Promulgating and Implementing the "Temporary Provisions on Promoting Industrial Structure Adjustment"

All levels of government are directed by Decision No 40[39] to play a major role in promoting structural adjustment.

The people's governments of all provinces, autonomous regions, and municipalities directly under the Central Government shall take the promotion of industrial structure adjustment as an important reform and development task at present and within a period in the future, establish the liability system, lay emphasis on implementation, and shall, in accordance with the "Temporary Provisions" and in light of the local situation on industrial development, formulate specific measures, rationally guide the investment directions, encourage and support the development of advanced production capacities, restrict and eliminate outdated production capacities, prevent blind investments and low-level redundant construction, and effectively propel industrial structure optimization and upgrading.

Article 12 of Decision 40 establishes the 'Guidance Catalogue for the Industrial Structure Adjustment' which guides investment directions and government policy.

The "Guidance Catalogue for the Industrial Structure Adjustment" is the important basis for guiding investment directions, and for the governments to administer investment projects, to formulate and enforce policies on public finance, taxation, credit, land, import and export, etc.

The catalogue identifies industrial sectors as 'encouraged', 'restricted' or 'eliminated'. Decision 40 remains in effect and the latest Guidance Catalogue was published in 2019[40]. The European Commission has confirmed that the steel industry belongs to the encouraged category[41]. The presence of such categories confirms the significant influence that the Chinese state has in industrial decision-making.

4.1.5 Comment on the selection of quotes from the Chinese planning documents

We have not conducted a formal, detailed analysis of all the Chinese government documents both quoted above and the many more not cited. Rather we have selected provisions which clearly indicate that the state still plays an active role in the Chinese economic system such that markets remain significantly distorted.

It might be pointed out that there are other quotes that could be selected that suggest that the law requires that market principles apply. However, the fact that a provision is written into Chinese law provides no guarantee that it will be applied in practice. A concrete example of this was found by the European Commission in the hot-rolled flat products investigation[42].

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[39] http://www.asianlii.org/cn/legis/cen/laws/tpopisa783/

[40] The Chinese version of the new guidance catalogue is at http://www.gov.cn/xinwen/2019-11/06/5449193/files/26c9d25f713f4ed5b8dc51ae40ef37af.pdf. We do not have a translation of this but press reports confirm that it came into effect in 2019 e.g. https://www.china-briefing.com/news/chinas-2019-catalogue-guiding-industry-restructuring/ https://research.hktdc.com/en/article/MzUxODEwMjQy

[41] For example, EU Regulation No 215/2013 imposing a countervailing duty on organic coated steel prdoucts from China (recital 182).

[42] Commission Implementing Regulation (EU) 2017/969 of 8 June 2017 imposing definitive CVD on hot-rolled flat products originating in the PRC.

…..the GOC quoted from Decision No. 40 that encouraged industries should receive credit support 'according to the credit principles'. According to the GOC it cannot be inferred that such support should be given on a preferential basis. However, the investigation has shown that the vague term 'credit principles' does not mean market-based and commercial behaviour, but rather that those credit principles include important public policy considerations, which override credit risk assessment or lead to a complete absence of any risk assessment. Furthermore, the sampled companies benefited from preferential lending policies where a proper credit risk assessment is effectively absent…..The Commission therefore rejected the GOC's assertion that lending to the steel industry was done on market based and commercial terms, and that the reference 'according to the credit principles' would constitute an obligation to follow those terms. The key point remains that according to Decision No 40, all financial institutions shall provide credit to encouraged industries, which includes the steel industry, and that that support is de facto provided on preferential terms disregarding the actual credit risk of the beneficiaries (recital 57).

Recital 123 describes how the Commission's verification visits with cooperating, sampled companies revealed that most lending was taking place at rates close to the People's Bank of China benchmark interest rates regardless of the companies' financial and credit risk situation. No concrete evidence of creditworthiness assessments was provided and loans were found to be at below market rates when compared to the rate corresponding to the risk profile of the companies concerned.

This is a concrete example of how provisions apparently introducing market elements into the Chinese economy cannot always be taken at face value.

In conclusion, there are many clear provisions in Chinese law and guidance that unambiguously establish the primary role and influence of the state in the Chinese steel industry. This conclusion is not affected by particular statements in any of these documents that market principles apply.

4.2 Other countries' findings on horizontal China market distortions affecting the steel industry

4.2.1 Introductory Comment

The above analysis of widespread government intervention and market distortions affecting the whole Chinese economy, and thus the whole of the steel industry, has been confirmed by all other major trade remedy regimes.

4.2.2 European Commission Staff Working Document

The EU Commission's report "*ON SIGNIFICANT DISTORTIONS IN THE ECONOMY OF THE PEOPLE'S REPUBLIC OF CHINA FOR THE PURPOSES OF TRADE DEFENCE INVESTIGATIONS*" published in December 2017 sets out clearly the numerous and widespread interventions by the Government of China (GOC) in the Chinese Steel industry and specifically on HRF production, which is simply one step more upstream to CRS.

Important conclusions from the report include:

- *The Government of China has consistently used a wide array of State support measures to promote the steel industry…These measures have a distortive effect on the market…*
- *State owned economy considered 'leading force of the national economy'*
- *Structures of state and CCP intertwined at every level*
- *Interventionist economic policy in pursuance of goals/political agenda set by CCP rather than prevailing economic conditions in free market.*
- *Complex system of industrial planning*
- *Financial system of China dominated by state-owned commercial banks*
- *Regulatory environment - public procedure rules regularly used in pursuit of policy goals. Significant control and influence over destination and magnitude of state and private investment.*
- *State presence in firms - CCP organisation established in every company.*
- *Steel industry, including production of HRF, regarded as key industry by Chinese government.*
- *Hot-rolled flat steel (HRF) producers owned by state - in anti-dumping investigation of HRF from China, Commission established that 3 of 4 sampled groups of exporting producers were state owned enterprise (SOE)*
- *Chinese bankruptcy system inadequate.*
- *Shortcomings of property rights. All land owned by Chinese state.*
- *Wage costs distorted. China not ratified essential ILO conventions.*

- *Chinese financial system characterised by strong position state owned banks.*
- *Various legal provisions refer to need to respect normal banking behaviour and prudential rules such as examining creditworthiness of borrower but overwhelming evidence that the provisions play only a secondary role in application of the various legal instruments.*
- *The Commission has recently established that the Government of China provided numerous forms of state support, some of which were found to be of a permanent and structural nature in the steel sector.*
- In the EU Commission investigation into *Hot rolled flat products from China* it was established that most of these state support schemes "*are permanent by nature, such as land use rights, tax breaks and grant programmes. Moreover, the credits received were a constant feature of Chinese industrial policy to support its steel industry. The Commission concluded that these subsidies were of structural nature.*
- These state interventions are noted to include:
    - Preferential policy loans, credit lines, preferential interest rates, other financing, and guarantees;
    - Grant Programmes;
    - Direct Tax Exemption and Reduction programmes;
    - Indirect Tax and Import Tariff Programmes;
    - Government provision of goods and services for less than adequate remuneration ('LTAR'), including: inputs, land use rights, water and electricity;
    - Equity programs, including: debt for equity swaps, equity infusions and unpaid dividends

4.2.3 Canada

Numerous anti-dumping and anti-subsidy investigations carried out by Canadian Border Services Agency (CBSA) have identified widespread and significant state distortions in the Chinese steel industry/market. These include the CBSA's 'Statement of Reasons' in its investigation into dumping of corrosion resistant steel sheet from China (2018)[43]. The CBSA examined a wide range of Chinese Government plans, strategies and policies as part of its 'Section 20 Inquiry'[44], that demonstrate the significant interventions the Chinese Government has in the flat-rolled steel industry, including CRS, ultimately distorting domestic prices. These include:

- **13th Five Year Plan.** The CBSA concludes that "*The analysis of the 13th Five-Year Plan….indicate that the GOC plays a key role in the control and administration of the steel industry, which includes the flat-rolled steel industry sector".*
- **Iron and Steel Industry Adjustment and Upgrade Plan** (2016-2020). The CBSA concluded that "*In analysing the Iron and Steel Industry Adjustment and Upgrade Plan (2016-2020)….indications are that the GOC continued its level of control in the administration of the flat-rolled steel industry sector"*
- **Iron and Steel Restructuring Policy** (2015). The CBSA quotes directly from this plan: "*There should be continuous innovation in the means of governmental administration; ongoing and respective oversight and services should be continuously strengthened; and the role of the government should be more effectively realised. Relevant laws and regulations should be better implemented in the industry to basically build a fair and competitive market environment."* This last sentence is particularly important, indicating as it does that the GOC does not believe the steel industry currently operates in a "fair and competitive market environment"
- **National Steel Policy** (2005). The CBSA highlights the key aims of the Chinese National Steel Policy which include: structural adjustment of the Chinese steel industry, industry consolidation, and government supervision and management of the steel industry
- **Steel Revitalisation/Rescue Plan** (2009). The CBSA sites the core objective as: strict control of total steel production and elimination of inefficient production, maintain stable imports of iron ore resources and rectify the market order, maintain the stability of the domestic market and the export environment, develop domestic and overseas resources and guarantee the safety of the industry, and optimise the layout of industry and overall arrangements of its development.

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[43] CBSA (February 2019) Statement of reasons concerning the final determination with respect to the dumping of certain corrosion resistant steel sheet from China, separate customs territory of Taiwan, Penghu, Kinmen and Matsu (Chinese Taipei), India and South Korea.

[44] Section 20 is a provision of the Canadian Special Import Measures Act (SIMA) that may be applied to determine normal value of goods in a dumping investigation where certain conditions prevail in the domestic market of the exporting country. In the case of the prescribed country under paragraph 20(1)(a) of SIMA, it is applied where, in the opinion of the CBSA, the government of that country substantially determines domestic prices and there is sufficient reason to believe that domestic prices are not substantially the same as they would be in a competitive market. In other words, a Section 20 investigation examines the same factors and circumstances as the UK regulations require for the establishment of a particular market situation, and on the justification of price adjustments when constructing normal value.

- **12th Five Year Development Plan for the Steel Industry** (2011-2015). The CBSA lists the objective of this plan as: Increased mergers and acquisitions to create large more efficiency steel companies (target top ten steel companies to account for 70% of production by 2020), government restrictions on capacity expansion, and government directed relocation of steel companies.

Elsewhere in the report, as part of the Section 20 investigation, the CBSA concludes:

- The GOC's extensive ownership and control of the majority of large Chinese steel producers means that these companies likely produce and market steel according to GOC objectives instead of market conditions.
- The GOC influences the price of hot rolled steel.
- The GOC maintains export controls on raw materials used in the production of steel – these include a 15% export tax imposed in 2017 on steel billet and slab, which creates an excess in supply in China and therefore lowers prices for producers of finished steel products (including wire rod) below what would exist in a competitive market without such government controls.
- That there is substantial evidence of subsidisation of steel production in China, reducing production costs of downstream finished steel products.

In its Statement of Reasons for its flat hot-rolled investigation[45], the CBSA notes:
"*Under SIMA (Special Import Measures Act), China is a "prescribed" country and normal values may be determined under section 20 of SIMA in situations where, in the opinion of the CBSA, domestic prices are substantially determined by the government of that country and there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market. Since June 2005, the CBSA has conducted five dumping re-investigations on steel products within the Chinese flat-rolled steel industry. This involved three re-investigations on the current goods under review, HRSS (2007, 2010, 2015) and two re-investigations concerning hot-rolled steel plate (2006, 2010). In respect of each of these products, the CBSA has consistently formed the opinion under section 20 that domestic prices are substantially determined by the Government of China (GOC) and that there is sufficient reason to believe that they are not substantially the same as they would be if they were determined in a competitive market."*

The CBSA reaches similar conclusions in its Statement of Reasons for its cold-rolled steel investigation, which is just one step further downstream from hot-rolled steel[46]. As part of its Section 20 Inquiry, the CBSA finds high proportions of state-ownership of cold rolled steel producers in China, whose operations are driven by GOC mandates and do not necessarily operate under market forces. The report finds that:

- Given that the state-owned steel companies produce raw material inputs for cold rolled steel, there is a strong likelihood that prices of cold rolled steel are also distorted in the flat-rolled steel sector.
- Prices of cold rolled steel in China are significantly lower than in other countries, suggesting that the GOC's involvement in the cold rolled steel sector is affecting prices. Cold rolled steel prices in China were lower than domestic pricing in the United States, Japan and the European Union by $164/tonne to $471/tonne in various periods.
- The domestic selling prices of cold rolled steel in China were 28.2 % lower than the reported domestic selling prices in other countries during 2017-2018.

The Section 20 Inquiry concludes:

> *"The wide range and material nature of the GOC measures have resulted in significant influence on the flat-rolled steel sector in China, which includes cold-rolled steel. Based on the preceding, the President is of the opinion that:*
>
> - *domestic prices are substantially determined by the GOC; and*
> - *there is sufficient reason to believe that the domestic prices are not substantially the same as they would be in a competitive market."*

[45] Expiry Review Report - OCTG 2014 (cbsa-asfc.gc.ca)
[46] CBSA (November 2018), Cold-Rolled Steel 2018 Investigation - Final Determinations (cbsa-asfc.gc.ca)

4.2.4 Australia

In the recent review of anti-dumping measures on steel rod in coil from China[47], the Australian Anti-Dumping Commission found that government involvement across the steel industry is the primary cause of prevailing structural imbalances.

> *The Commission considers the GOC's involvement within, and influence across the steel industry to be a primary cause of the prevailing structural imbalances within both the broader steel industry and the steel rod in coil market. This involvement includes the issuing of planning guidelines and directives, along with provisions of direct and indirect financial support. Other key mechanisms include the role and operation of SOEs, taxation arrangements and tariff policies.*

In relation to state-owned enterprises, the Commission makes the following conclusions:

> *In 2016, sixteen of the world's 50 largest steelmaking companies were SOEs from China.66 In 2018, eight of the top ten steel producers in China were SOEs…..While the Commission does not consider that the presence of these entities alone causes markets to be distorted, it does consider that the presence of these entities is likely to result in the GOC's plans and directives being adhered to. The Commission also considers that the support provided to these entities by the GOC has enabled many of them to be operated on non-commercial terms for extended periods, significantly impacting supply and pricing conditions within the domestic Chinese market. Examples of these support mechanisms include government subsidies, support from associated enterprises (through direct subsidy, interest-free loans or provision of loan guarantees) and loans from state- owned banks.*

Further, the Commission concludes that no progress has been made on the over-capacity problem:

> *The effectiveness of the GOC's attempts to address overcapacity through mergers and acquisitions has been constrained by the GOC's desire to:*
> - *replace older mills with new larger and more efficient mills; and*
> - *close smaller mills to offset the commissioning of new larger mills.*
>
> *Its impact to date has been to increase production and exacerbate existing structural imbalances.*

Similarly in its anti-dumping investigation on steel reinforcing bar from China[48], the Australian Anti-dumping Commission found several types of distorting subsidies provided to the Chinese steel industry including:

- *Steel inputs provided by the government at less than adequate remuneration.*
- *Coking coal and coke provided at less than adequate remuneration.*
- *Preferential Tax Policies for Enterprises with Foreign Investment.*
- *Preferential Tax policies for Specific Regions.*
- *Preferential Tax Policies for Foreign Invested Enterprises.*
- *Land Use Tax Deductions.*
- *Preferential Tax Policies for High and New Technology Enterprises.*
- *Tariff and value-added tax (VAT) Exemptions on Imported Materials and Equipment.*
- *Research and Development (R&D) Assistance Grants.*
- *Special Support Funds for Non State-Owned Enterprises.*

While these findings were reached in long steel products investigations, they are not factors that would specifically apply to the long steel market and there is no reason to assume that they would not apply to flat steel products including CRS. Indeed the findings are more generally in relation to the steel industry in China and not a specific product.

4.2.5 United States

The United States still treats China as a non-market economy in anti-dumping investigations, as permitted under the Chinese WTO accession protocol. The DOC's most recent determination[49] concluded the following:

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[47] Australian Anti-Dumping Commission – Report No 564, Review of anti-dumping measures applying to steel rod in coil exported to Australia from the People's Republic of China. 27 November 2020.

[48] Australian Anti-Dumping Commission – Report No 300, Alleged dumping of steel reinforcing bar exported from the People's Republic of China. March 2016. [063 - rep 300 0.pdf (industry.gov.au)]

[49] US DOC Memorandum '*China's Status as a Non-Market Economy*' A-570-053 October 26 2017.

The Department of Commerce ("Department") concludes that China is a non-market economy (NME) country because it does not operate sufficiently on market principles to permit the use of Chinese prices and costs for purposes of the Department's antidumping analysis. The basis for the Department's conclusion is that the state's role in the economy and its relationship with markets and the private sector results in fundamental distortions in China's economy.

At its core, the framework of China's economy is set by the Chinese government and the Chinese Communist Party (CCP), which exercise control directly and indirectly over the allocation of resources through instruments such as government ownership and control of key economic actors and government directives. The stated fundamental objective of the government and the CCP is to uphold the "socialist market economy" in which the Chinese government and the CCP direct and channel economic actors to meet the targets of state planning. The Chinese government does not seek economic outcomes that reflect predominantly market forces outside of a larger institutional framework of government and CCP control. In China's economic framework, state planning through industrial policies conveys instructions regarding sector- specific economic objectives, particularly for those sectors deemed strategic and fundamental.

In relation to the 13th Five Year Plan, the US-China Economic and Security Review Commission[50] found that "*China's continued reliance on state-led economic growth rather than more market-based growth represents a considerable challenge for US firms facing competition from Chinese firms in China and abroad".*

The Commission's report concludes that the 13th Five Year Plan is a step back from China's pledge to allow the market to play a decisive role.

The 13th FYP represents a step back from China's Third Plenum pledge to allow the market to play a "decisive role" by reiterating the CCP's central role in China's economic and social development. The Chinese government's intervention in the economy, particularly its ham-fisted response to the stock market collapse in the summer of 2015 and early 2016, counteracts the very market drivers it is hoping to unleash

The Commission also quotes a report from the Center for Strategic and International Studies[51] in relation to the *One Belt One Road* (OBOR) initiative which it describes as a cornerstone of the 13th Five Year Plan's objectives.

CSIS researcher Chris Johnson noted that beyond these stated objectives, the Chinese government is hoping to use OBOR to export China's enormous excess industrial capacity and strengthen debt-laden SOEs' international competitiveness "through abundant financing and markets where competition is not particularly fierce."

4.3 European Union findings on CRS cost inputs

4.3.1 Hot-rolled flat products investigation

The EU findings in the hot-rolled flat products CVD investigation[52], of which CRS is a part of, confirm that there are significant distortions to the principal raw material inputs of CRS in China.

The Commission found the following subsidy schemes that created distortions on the Chinese market:

- Preferential lending
- Land provision and acquisition at less than adequate revenue (LTAR). Provision of land is non-transparent and prices are arbitrarily set by the authorities.
- Direct tax exemption and reduction programmes.
- Indirect tax and import tariff programmes
- Grant programmes

[50] US-China Economic and Security Review Commission, Staff Research Report, *The 13th Five year Plan*, February 14 2017.

[51] Christopher K. Johnson, "President Xi Jinping's 'Belt and Road' Initiative: A Practical Assessment of the Chinese Communist Party's Roadmap for China's Global Resurgence," *Center for Strategic and International Studies,* March 2016

[52] COMMISSION IMPLEMENTING REGULATION (EU) 2017/969 of 8 June 2017 imposing definitive countervailing duties on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China and amending Commission Implementing Regulation (EU) 2017/649 imposing a definitive anti-dumping duty on imports of certain hot-rolled flat products of iron, non-alloy or other alloy steel originating in the People's Republic of China

4.3.2 Energy prices

The EU Commission's report into distortions in the Chinese economy provides significant detail of the various interventions national, regional, and local governments make into the energy market. In summarising, the report notes the following key findings:

- Energy prices are still not-market based and are largely controlled by the state. *"The prices for electricity and natural gas are regulated by the Chinese National Development Reform Commission and according to the Chinese government set on the basis of a procedure that includes cost investigation, expert appraisal, public hearings, and final price determination and publication*." In other words, energy prices in China are clearly not "*substantially determined by market forces*"[53]
- 50% of the generation capacity is state owned as well as the whole transmission grid.
- Price differentiation exists to the extent of favouring particular industries
- The Chinese state has in the past provided significant subsidies for the production of coal which in turn led to massive expansion of coal generating power stations – this in turn has led to an oversupply of electricity and therefore lower prices than would have existed in the absence of these coal subsidies

4.3.3 Labour Costs

The EU Commission's report into distortions in the Chinese economy provides the following key points with regards to Chinese Government interventions into labour markets, which limit the extent to which market forces are able to determine wages:

- The Commission report states that "*Market based wages should be understood as wages freely bargained between the workers and management in an undistorted economic environment."* And goes on to conclude that "*Chinese workers have no possibility to freely choose or establish a trade union in which they want to organise themselves, because there is only one legally recognized trade union, the ACFTU. Furthermore, although collective bargaining of wages exists, it is not well developed.*" Moreover, the report notes that the close integration of the ACFTU and the Chinese State, along with the Chinese State's role in many companies (particularly state owned enterprise) means the union effectively has limited independence to effectively act in the interest of workers to achieve wage settlements.

- Whilst significant reforms have been made since the 1980's, the *hukou system* (household registration) still places significant restrictions on the ability of Chinese citizens to move and find employment – this is particularly the case in terms of rural workers moving to the largest cities. The system actively prevents many would be migrant workers from gaining access to education for children, healthcare, welfare and affordable accommodation – this works to discourage and reduce labour mobility and ultimately distort wages.

- Previous trade remedies investigations have confirmed the existence of distortions in the labour market, examples of which include: lack of independence of companies from the state, GOC intervening in decisions of companies in relation to hiring and dismissals, labour contracts signed by Chinese workers with no reference to hours or remuneration.

[53] As required under Regulation 13(3) of the Trade Remedies Act when determining whether adjustments should be made to production costs.