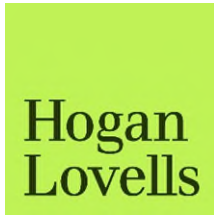


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**POSCO**

**Anti-dumping investigation concerning hot-rolled steel plate imported into the  
United Kingdom from the Republic of Korea (Case No. AD0071)**

**Comments on the Statements of Essential Facts**

**21 May 2026**

## TABLE OF CONTENTS

1.	INTRODUCTION	3
2.	THE TRA'S ALTERNATIVE PROPOSAL IS FULLY ALIGNED WITH THE MARKET EVIDENCE AND UK POLICY OBJECTIVES	3
	<b>2.1 Disproportionate adverse impact on UK downstream industries</b>	4
	<b>2.2 Lack of evidence of sustained UK domestic production above 2,100 mm</b>	6
	<b>2.3 Korean exports of 2,500 mm and above do not compete with UK production</b>	7
	<b>2.4 Policy alignment with Clean Power 2030 and defence objectives</b>	8
	<b>2.5 The 2,500 mm threshold adequately addresses the circumvention concerns</b>	10
3.	DUMPING MARGIN CALCULATION: ERRONEOUS EXCLUSION OF [CONFIDENTIAL – CONTAINS BUSINESS CONFIDENTIAL INFORMATION, INCLUDING INFORMATION THAT WOULD DIVULGE SALES STRATEGY OF POSCO. NON-CONFIDENTIAL SUMMARY: CERTAIN TYPES OF EXPORTS]	11
	<b>3.1 Background</b>	11
	<b>3.2 [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] cannot be excluded under applicable UK law</b>	11
	<b>3.3 The requirement to include all export sales is confirmed by applicable WTO law</b>	12
	<b>3.4 All of POSCO's [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] should be included</b>	13
4.	CONCLUSION	14

## 1. INTRODUCTION

This submission is made on behalf of POSCO, an exporting producer from the Republic of Korea, in respect of the Statement of Essential Facts (“SEF”) issued by the Trade Remedies Authority (“TRA”) on 23 April 2026 in the anti-dumping investigation concerning hot-rolled steel plate imported into the United Kingdom from Korea.

As demonstrated in Section 2 below, the evidentiary record, as established throughout the investigation and summarised in the SEF, fully supports the TRA’s Alternative Proposal to exclude hot-rolled steel plates (“HRP”) with a width of 2,500 mm and above from the scope of the proposed anti-dumping measure.

In particular, the evidence demonstrates that:

- UK domestic production of HRP above 2,100 mm is either non-existent or extremely limited and unstained;
- The overwhelming majority of Korean exports to the UK consist of plates with a width of 2,500 mm and above and therefore do not compete with the domestic UK production;
- The imposition of anti-dumping duties on such products would result in disproportionate and systemic adverse effects to UK downstream industries, including sectors of strategic importance such as offshore wind and defence; and
- The proposed 2,500 mm threshold is clear, enforceable, and effectively addresses any potential circumvention concerns.

In addition, as explained in Section 3 below, POSCO respectfully submits that [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports], must not be excluded from the dumping margin calculation.

POSCO thanks the TRA for its attention to these comments and remains available to provide any further information needed.

## 2. THE TRA’S ALTERNATIVE PROPOSAL IS FULLY ALIGNED WITH THE MARKET EVIDENCE AND UK POLICY OBJECTIVES

The SEF provides a detailed evidentiary basis demonstrating that the imposition of anti-dumping measures on HRP across the full product scope would result in significant and disproportionate adverse effects, particularly for UK downstream industries, without delivering commensurate benefits to the UK domestic industry.

In particular, the SEF confirms that UK domestic production of HRP above 2,100 mm is either non-existent or extremely limited and unstained.<sup>1</sup> At the same time, a substantial share of imports from Korea consists of ultra-wide plates ( $\geq 2,500$  mm) that are indispensable inputs for strategically important downstream applications. Thus, the inclusion of such products within the scope of anti-dumping measures would directly affect downstream users that are structurally dependent on imports, increasing costs and undermining the competitiveness of sectors of strategic importance to the UK economy. Therefore, as found by the TRA, the imposition of anti-dumping measures on HRP with a width of 2,500 mm and above would not be in the UK's economic interest.

Against this background, POSCO submits that:

- A full-scope measure would impose a disproportionate adverse impact on UK downstream industries (Section 2.1);
- There is no verified evidence of sustained UK domestic production above 2,100 mm that could justify a full-scope measure (Section 2.2);
- Korean ultra-wide plates ( $\geq 2,500$  mm) do not compete with the UK domestic HRP producers (Section 2.3);
- Excluding HRP with a width of 2,500 mm and above is fully aligned with UK policy objectives, including Clean Power 2030 Action Plan and defence-related priorities (Section 2.4); and
- The 2,500 mm threshold suggested by the Alternative Proposal adequately and proportionately addresses any potential circumvention concerns (Section 2.5).

Taken together, the evidence set out in the SEF confirms that the Alternative Proposal is the only outcome that is consistent with the Economic Interest Test, as envisaged by paragraph 25(4) of Schedule 4 of the UK Taxation (Cross-Border Trade) Act 2018 ("TCBTA 2018").

## **2.1 Disproportionate adverse impact on UK downstream industries**

The SEF confirms that HRP imports from Korea play a critical role in supplying UK downstream industries, particularly those that require wide and ultra-wide plates for specialised applications. It further recognises that UK downstream users are structurally dependent on imports for such products, given the lack of evidence of sustained domestic production at the relevant widths.<sup>2</sup>

As identified in the SEF, wider plates are indispensable for a range of strategically important downstream applications, including, *inter alia*:

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<sup>1</sup> SEF, paras. 274 and 340-341.

<sup>2</sup> SEF, paras. 274 and 340-341.

- Offshore wind turbine foundations and towers, where a wider plate is required to minimise welds and reduce the risk of fatigue cracks;<sup>3</sup>
- Large-scale civil engineering and infrastructure projects;
- Shipbuilding, heavy machinery, defence, and “yellow goods” manufacturing.<sup>4</sup>

Against this background, the imposition of anti-dumping duties on plates with a width of 2,500 mm and above would have immediate and unavoidable adverse consequences, including:

- Increased input costs for various UK downstream industries;<sup>5</sup>
- Reduced availability and reliability of supply for specialised products that cannot be substituted with domestically produced HRP;<sup>6</sup>
- Higher project costs, delays, and reduced competitiveness, particularly in capital-intensive sectors such as renewable energy and defence;<sup>7</sup> and
- An overall welfare loss of between £27m and £69m.<sup>8</sup>

Crucially, the SEF makes clear that these adverse downstream effects would arise without any corresponding benefit to UK producers, since the “UK [downstream] businesses would pay duties importing goods for which [the TRA] ha[s] no evidence of sustained production and that cannot be substituted for by goods produced in the UK”.<sup>9</sup> In particular:

- Spartan UK Limited (“Spartan”), the applicant, has expressly confirmed that its maximum production capability is limited to 2,100 mm, and that it does not manufacture wider plates.<sup>10</sup>
- Tata Steel UK Limited (“TSUK”), a cooperating domestic producer, produces plates up to a maximum width of 2,100 mm.<sup>11</sup>
- The only information suggesting production across “the full scope of products as detailed in the NOI”<sup>12</sup> comes from Liberty Steel Dalzell Ltd (“Liberty Steel”) and is of extremely limited evidentiary value. As the SEF itself concludes, “as Liberty did not register with the

<sup>3</sup> SEF, paras. 339 and 342-343.

<sup>4</sup> SEF, paras. 339 and 367.

<sup>5</sup> SEF, paras. 319-323 and 352-353.

<sup>6</sup> SEF, paras. 340-341 and 352-353.

<sup>7</sup> See e.g.: SEF, paras. 343 and 350.

<sup>8</sup> SEF, paras. 347 and 352.

<sup>9</sup> SEF, para. 352.

<sup>10</sup> See e.g.: Spartan’s letter No. 138/01 dated 5 February 2026 (uploaded to the public file on 24 February 2026); see also: SEF, paras. 60 and 90.

<sup>11</sup> SEF, paras. 61 and 90.

<sup>12</sup> TRA Note to Public File “Outcome of Scope Consultation” dated 24 February 2026.

case, [the TRA has] no data of sustained production from it and as a result ha[s] not been able to assess its economic significance”.<sup>13</sup>

In these circumstances, imposing anti-dumping duties on products for which there is no verified and sustained domestic production would result in a disproportionate adverse impact on UK downstream industries and would not serve the UK’s economic interest. Such measures would impose significant welfare costs, severely impact UK downstream industries, and jeopardise the feasibility of key government initiatives, including defence, infrastructure development and renewable energy projects.

## 2.2 Lack of evidence of sustained UK domestic production above 2,100 mm

POSCO understands that the submission of Liberty Steel<sup>14</sup> was central to the TRA’s conclusion that “there was UK production in the Period of Investigation covering the full scope of products as detailed in the NOI”.<sup>15</sup>

However, the evidence provided by Liberty Steel appears to have been extremely limited and affected by procedural deficiencies. In particular:

- Liberty Steel’s submission was filed entirely on a confidential basis, without any meaningful non-confidential summary, depriving POSCO and other interested parties of any effective opportunity to understand, assess, or rebut the alleged evidence, contrary to the basic procedural and transparency requirements set out in UK and WTO law.<sup>16</sup>
- Moreover, Liberty Steel did not meaningfully cooperate during the investigation. Notably, it:
  - did not register as an interested party within the prescribed registration period;<sup>17</sup>
  - did not submit a questionnaire response; and

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<sup>13</sup> SEF, para. 274.

<sup>14</sup> Submission of Liberty Steel in AD0071 (uploaded to the public file on 24 February 2026).

<sup>15</sup> TRA Note to Public File “Outcome of Scope Consultation” dated 24 February 2026.

<sup>16</sup> The non-confidential version of Liberty Steel’s submission contains no meaningful summary of the information provided to the TRA and thus does not permit a reasonable understanding of the substance of Liberty Steel’s arguments, which is inconsistent with the basic procedural requirements of the WTO Anti-Dumping Agreement and the Trade Remedies (Dumping and Subsidisation) (EU Exit) Regulations 2019 (“Regulations”). First, Article 6.5.1 of the Anti-Dumping Agreement and Regulation 45(1)(d)(ii) of the Regulations allow an exemption from furnishing a non-confidential summary only in “exceptional circumstances”. Such an exemption must be invoked and substantiated. If the “exceptional circumstance” exemption is not invoked and evidenced, as in the present case, it cannot be assumed to exist.

Second, according to Article 6.5 of the Anti-Dumping Agreement and Regulation 45(1)(c) of the Regulations, information should be treated as confidential only where “good cause” is demonstrated. Liberty Steel’s submission offers no discernible justification for designating its product-scope filing as entirely confidential.

<sup>17</sup> According to Regulation 54(1) of the Regulations, “[w]here the TRA has made a determination to initiate an investigation, it must set a period during which interested parties and any other person may make themselves known to the TRA (a “registration period”)”. In AD0071, the registration period lasted from 6 to 23 June 2025. At initiation, the TRA emphasised that registration within this window is essential to secure the opportunity to participate, and that any late requests would be considered on a case-by-case basis. The Notice of Initiation of the present investigation also made clear that only “[o]nce registered, interested parties and contributors can submit comments on any issues relevant to the investigation”.

- o did not undergo verification.<sup>18</sup>

The TRA has confirmed that, as a result, it “holds no other information about Liberty outside of the evidence referenced” in the scope consultation.<sup>19</sup>

Importantly, Liberty Steel’s evidence was only placed in the public file on 24 February 2026, more than eight months after initiation and after sampling, data collection, and verification had been completed.<sup>20</sup> Had Liberty Steel been producing HRP across the full scope in meaningful quantities, its inclusion in the sample would have been essential. Instead, Liberty’s late and partial engagement prevented the TRA from verifying and analysing the alleged production during the investigation.

Moreover, in the present investigation, one overseas producer and two importers that registered but failed to cooperate were designated non-cooperative by the TRA.<sup>21</sup> As explained by the TRA, “if a party fails to cooperate with an investigation, the TRA may disregard any information provided by these parties”.<sup>22</sup> In view of the above, there is no coherent basis on which Liberty Steel’s unverified and late submission should carry greater evidentiary weight.

Taken together, the SEF confirms that:

- There is no verified evidence of sustained UK production above 2,100 mm; and
- The sole suggestion of such production rests on Liberty Steel’s unverified data, which the TRA was unable to use “in the wider investigation”.<sup>23</sup>

In these circumstances, Liberty Steel’s submission cannot be accorded meaningful evidentiary weight and reasonably support the inclusion of ultra-wide plates within the scope of anti-dumping measures. The absence of verified evidence therefore weighs decisively in favour of excluding plates 2,500 mm and above from the scope of anti-dumping measures, consistent with the Alternative Proposal preferred by the TRA.

### **2.3 Korean exports of 2,500 mm and above do not compete with UK production**

As POSCO explained in its previous submission,<sup>24</sup> the evidence on the record demonstrates that ultra-wide plates ( $\geq 2,500$  mm) are neither interchangeable with nor serve the same end uses as narrower plates ( $< 2,100$  mm) produced by the UK industry.

Multiple interested parties, including the International Steel Trade Association and several UK importers, confirm that wider plates are essential for applications such as renewable energy

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<sup>18</sup> See e.g.: SEF, paras. 31-33 and 274.

<sup>19</sup> SEF, para. 62.

<sup>20</sup> SEF, para. 67.

<sup>21</sup> Notably, Dongkuk Steel Mill (overseas producer), OPR Service Ltd (UK importer), and Salzgitter Mannesmann UK Ltd (UK importer) registered but, “following the issuing of questionnaires, ... elected to not engage with the remainder of the investigation”, and were therefore declared non-cooperative. See: TRA Notice to Public File dated 2 September 2025; see also: SEF: paras. 36-37.

<sup>22</sup> See: SEF, para. 31; see also: TRA Notice to Public File dated 2 September 2025.

<sup>23</sup> SEF, para. 68.

<sup>24</sup> See: POSCO’s Comments on anti-dumping investigation concerning hot-rolled steel plates imported into the United Kingdom from the Republic of Korea dated 3 February 2026, Sections 4.2 and 4.3.

infrastructure, shipbuilding, bridges, and heavy machinery, where requirements for structural integrity, fewer weld seams, and safety cannot be met by welding narrower plates.<sup>25</sup> The same conclusion is confirmed by the results of the TRA's business survey conducted as part of this investigation.<sup>26</sup> UK producers are unable to supply plates exceeding 2,100 mm in width on a sustained basis and meet the relevant technical and safety requirements. As a result, there is no competitive overlap between ultra-wide plates imported from Korea and narrower plates produced by the UK domestic industry.

The SEF further confirms that:

- The “data available from participating domestic producers does not represent HRP over 2,100mm wide”.<sup>27</sup>
- The majority of Korean exports to the UK by volume consist of HRP with a width of 2,500 mm or more.<sup>28</sup>
- Korean plates with a width of 2,499 mm are “not in direct competition with the participating UK producers, who produce HRP up to 2,100mm wide”.<sup>29</sup>

This lack of direct competitive overlap has clear economic and legal implications. As explained by the Appellate Body in *China – HP-SSST (EU)/China – HP-SSST (Japan)*, “[w]e do not see how [a causal link determination] could be made if the relevant imports are not substitutable for the domestic like products”.<sup>30</sup>

As a result, in the present case, UK domestic producers cannot suffer injury from imports of products they do not produce or sell. Thus, maintaining the ultra-wide plates ( $\geq 2,500$  mm) within the scope of anti-dumping measures would extend the measure beyond the segment of the market in which any meaningful competitive relationship has been established.

#### 2.4 Policy alignment with Clean Power 2030 and defence objectives

The proposed exclusion of ultra-wide plates from the scope of the measures is also fully aligned with broader UK policy objectives expressly recognised in the SEF.

As the SEF emphasises, “there is clear evidence that the UK requires wider plates for which [the TRA does] not have evidence of sustained domestic production”.<sup>31</sup> POSCO concurs. As

<sup>25</sup> See e.g., International Steel Trade Association, Letters dated 17 June 2025 and 29 July 2025; Stemcor, Letter dated 8 July 2025; Stemcor's Questionnaire Response, p. 18; Korea Iron & Steel Association Questionnaire Response, p. 11; Hyundai Steel Questionnaire Response, Appendix A7.4.

<sup>26</sup> “Business Survey Publication Note” dated 22 April 2026, responses to questions 16 and 17.

<sup>27</sup> SEF, para. 146.

<sup>28</sup> SEF, para. 360.

<sup>29</sup> SEF, para. 360 (emphasis added).

<sup>30</sup> See: Appellate Body Reports, *China – HP-SSST (Japan) / China – HP-SSST (EU)*, para. 5.262 referring to Appellate Body Report, *EC and certain member States – Large Civil Aircraft*, paras. 1119-1120.

A similar approach was taken by the TRA in its previous investigations. See e.g.: Recommendation to the Secretary of State. Transition review of anti-dumping duties on imports of certain continuous filament glass fibre products originating in the People's Republic of China (TD0008), para. 76, available [here](#). As explained by the TRA in that investigation: “There is no UK production or planned production of mats, and therefore we have determined to vary the description of the goods to which the measure applies to remove mats as no injury can occur”.

<sup>31</sup> SEF, para. 356.

explained in POSCO's previous submission, wider hot-rolled steel plates from Korea are indispensable inputs for the UK's industrial base, including sectors such as wind turbines, bridge construction, machinery manufacturing, defence, shipbuilding, the yellow goods industry, and general construction.<sup>32</sup> This assessment is further corroborated by the TRA's own business survey, which confirms that industries such as defence, shipbuilding, wind turbines and yellow goods specifically require wider plates, while UK producers offer a more limited size and product range than South Korean exporters.<sup>33</sup>

The SEF further recognises that the UK Government's Commitment to Clean Power by 2030 requires rapid expansion of offshore wind capacity, which in turn depends on reliable access to high-specification wider plates.<sup>34</sup> In particular, the SEF recognises that "wide plates are important for the construction of offshore wind turbines and a [full-scope] measure may interfere with government aims of producing more electricity from clean energy sources".<sup>35</sup> It also confirms that a full-scope measure "may add to the cost of constructing offshore wind turbines and potentially adding to the cost of the Government's Clean Power by 2030 policy".<sup>36</sup>

Notably, large-scale projects, especially renewable energy projects, require a reliable and continuous supply of ultra-wide plates in substantial volumes, manufactured to precise technical specifications. Wider plates are essential to reduce welding, lower the risk of fatigue failure, and comply with stringent safety standards. Yet UK producers are unable to consistently manufacture the wider plates needed for such projects, nor can they meet key requirements for structural safety, durability, and the minimisation of weld seams.

Against this background, POSCO agrees with the TRA that the Alternative Proposal appropriately takes into account the significant role of wind-generated electricity in achieving Clean Power by 2030, while avoiding unnecessary disruption to supply chains for specialised steel products. By contrast, imposing duties on plates with a width of 2,500 mm and above would:

- Increase project costs for renewable energy infrastructure;
- Undermine investment certainty;
- Disrupt established supply chains for specialised steel products;
- Risk delays in project delivery, contrary to stated government objectives.

Similar considerations apply to other strategically important UK sectors, including defence and shipbuilding. These industries rely on specialised steel products, again at widths and specifications not supplied by the UK industry.<sup>37</sup> In shipbuilding in particular, wider plates enable

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<sup>32</sup> See: POSCO's Comments on anti-dumping investigation concerning hot-rolled steel plates imported into the United Kingdom from the Republic of Korea dated 3 February 2026, Section 7.

<sup>33</sup> "Business Survey Publication Note" dated 22 April 2026, responses to questions 16 and 17.

<sup>34</sup> SEF, paras. 342-343 and 350.

<sup>35</sup> SEF, para. 350.

<sup>36</sup> SEF, para. 352.

<sup>37</sup> SEF, paras. 339 and 367.

significantly greater fabrication efficiency, as they reduce the number of weld seams and, in turn, the costs of welding and inspections.<sup>38</sup> Given that welding accounts for a substantial share of both workload and total production costs, minimising weld seams is not only a safety consideration, but also a key efficiency driver.<sup>39</sup>

The SEF confirms that imposing measures on ultra-wide plates ( $\geq 2,500$  mm) would have disproportionate negative impacts, as downstream users would “pay duties on goods for which [the TRA has] no evidence of sustained domestic production”.<sup>40</sup> Conversely, it recognises that “UK manufacturers of defence-related goods, ships, wind turbines, and yellow goods would benefit from being able to purchase wider plates without a duty”.<sup>41</sup>

Ensuring continued access to these inputs is therefore not only a matter of economic efficiency but also of industrial resilience and national security.

## 2.5 The 2,500 mm threshold adequately addresses the circumvention concerns

The SEF identifies no substantiated circumvention concerns that would justify rejecting a 2,500 mm width threshold. On the contrary, the TRA explains why this cut-off is appropriate and proportionate.

In particular, the SEF confirms that:

- The 2,500 mm threshold corresponds to a distinct product category observed in actual trade data;<sup>42</sup>
- It lies clearly above Spartan’s and TSUK’s maximum production capability of 2,100 mm;<sup>43</sup>
- It reflects the next natural break point in overseas producers’ sales patterns and minimises circumvention risk;<sup>44</sup> and
- The proposal to limit the coverage of the measure to HRP below 2,500 mm wide has been expressly supported by Spartan and ISTA.<sup>45</sup>

In view of the above, POSCO concurs with the TRA that the 2,500 mm cut-off is justified in legal and economic terms.

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<sup>38</sup> See: Qingze Steel, “The Economic Advantage of Wide Plates: Minimising Labour and Inspection Costs in Shipbuilding”, available [here](#).

<sup>39</sup> See: Jinfeng Liu, Yifa Cheng, Xuwen Jing, Xiaojun Liu & Yu Chen, “The Economic Advantage of Wide Plates: Minimising Labour and Inspection Costs in Shipbuilding” (Nature Scientific Reports), available [here](#), indicating that welding represents approximately 70% of the workload and around 40% of total shipbuilding costs.

<sup>40</sup> SEF, para. 353.

<sup>41</sup> SEF, para. 367.

<sup>42</sup> SEF, para. 357.

<sup>43</sup> SEF, paras. 60-61 and 356.

<sup>44</sup> SEF, paras. 356-358.

<sup>45</sup> SEF, para. 359.

**3. DUMPING MARGIN CALCULATION: ERRONEOUS EXCLUSION OF [CONFIDENTIAL – CONTAINS BUSINESS CONFIDENTIAL INFORMATION, INCLUDING INFORMATION THAT WOULD DIVULGE SALES STRATEGY OF POSCO. NON-CONFIDENTIAL SUMMARY: CERTAIN TYPES OF EXPORTS]**

**3.1 Background**

POSCO respectfully submits that [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] must not be excluded from the dumping margin calculation, consistent with the requirement that dumping margins reflect the full universe of relevant export transactions.

Specifically, in POSCO's dumping margin calculation, the TRA calculated POSCO's dumping margin by reference to export sales of HRP to the United Kingdom during the period of investigation. However, the TRA excluded from the export sales [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports]. The TRA did not provide a justification for this exclusion.

Of note, [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports]. This is a substantial volume of POSCO's export sales that have been erroneously excluded by the TRA.

**3.2 [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] cannot be excluded under applicable UK law**

Schedule 4 to the TCBTA 2018 sets out the framework for anti-dumping investigations and the imposition of anti-dumping duties. The Act establishes the legal basis for determining whether goods have been dumped, by comparing the "normal value" of the goods with their "export price." The dumping margin is the amount by which the normal value exceeds the export price. Nothing in Schedule 4 to the TCBTA 2018 confers on the TRA a power or discretion to exclude export sales from the dumping margin calculation on the sole ground that [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports]. The legislation does not distinguish between [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] for the purpose of identifying which export transactions fall within the scope of the dumping margin calculation. Rather, the statutory scheme contemplates that all export transactions during the POI are to be taken into account.

The detailed rules for the calculation of the export price are set out in the Regulations. Regulation 14 provides for the determination of the export price on the basis of the price actually paid or payable for the goods when sold for export to the United Kingdom.

[Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Not susceptible of non-confidential summary]

In this context, Regulation 17 is of particular relevance. It governs the methodology for establishing the dumping margin through the comparison of normal value and export price, and requires that a dumping margin shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of "all comparable export transactions." This language mirrors, and transposes into domestic law, the obligation set out in Article 2.4.2 of the WTO Anti-Dumping Agreement ("WTO ADA"). The significance of Regulation 17 cannot be overstated: it imposes a binding statutory obligation on the TRA to base its dumping margin calculation on all comparable export transactions during the POI, without exception. The use of the word "all" is unqualified and admits of no discretionary carve-out for [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports].

Regulation 17 thus operates as a standalone and self-sufficient domestic-law prohibition on the selective exclusion of export transactions from the dumping margin calculation. Even if there were no WTO obligation on this point (which, as discussed below, there is) the TRA would be precluded from excluding [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] by operation of Regulation 17 alone. The TRA's approach in the SEF, whereby [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] was removed from the export sales file, is fundamentally irreconcilable with the statutory requirement to calculate the dumping margin on the basis of "all comparable export transactions".

In the light of the above, POSCO submits that there is no provision in the TCBTA 2018 or the Regulations that empowers the TRA to exclude entire categories of export transactions from the dumping margin calculation. [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Not susceptible of non-confidential summary] Read together, these provisions leave no room for the TRA to discard [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports]. [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Not susceptible of non-confidential summary]. The TRA may not simply discard the transactions as if they had never occurred.

### **3.3 The requirement to include all export sales is confirmed by applicable WTO law**

Finally, POSCO notes that this is also mandated by WTO law. Indeed, Article 2.4.2 of the WTO ADA requires that a dumping margin shall normally be established on the basis of a comparison of a weighted average normal value with a weighted average of prices of "all comparable export transactions." As noted above, this is the same formulation that Parliament adopted in Regulation

17 of the UK Regulations, thereby giving this WTO obligation direct statutory effect in UK law. The use of the word "all" is significant and has been the subject of extensive WTO jurisprudence. This provision imposes a mandatory obligation on investigating authorities to consider all comparable export transactions in calculating the dumping margin. An investigating authority that excludes a subset of export transactions (such as [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports]) from the weighted average export price calculation acts inconsistently with Article 2.4.2, and, by the same token, breaches Regulation 17 of the UK Regulations, because it fails to take into account "all" comparable transactions.

The parallel operation of Regulation 17 and Article 2.4.2 is of particular importance. Even if one were to take the view that the WTO obligations do not have direct effect in UK domestic law, Regulation 17 ensures that the same substantive obligation applies as a matter of UK statute. The TRA is therefore bound by the "all comparable export transactions" requirement as a matter of both domestic legislation and international trade law.

Several WTO dispute settlement rulings reinforce the principle that investigating authorities must account for all export transactions and may not exclude [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] from the dumping margin calculation.

For instance, in *European Communities — Definitive Anti-Dumping Measures on Certain Iron or Steel Fasteners from China* (DS397), the Appellate Body addressed the treatment of export transactions and the fair comparison obligation under Article 2.4 of the ADA. The Appellate Body emphasised that the purpose of the dumping determination is to establish whether the exporter is engaging in dumping and, if so, the magnitude of that dumping. To fulfil this purpose, the investigating authority must consider the totality of the exporter's pricing behaviour, not a selective subset of it. Specifically, it held that "once an investigating authority has defined the "like product", it cannot then exclude, from the comparison of normal value and export price, the exports of certain models or sub-groups in calculating dumping margins for the "like product" as a whole."<sup>46</sup> In addition, "the investigating authority cannot exclude from the dumping margin calculations any transactions of models that fall within the scope of the "like product" as defined by the investigating authority."<sup>47</sup> The Appellate Body then goes on to explain that, where necessary, adjustments can be made.

**3.4 All of POSCO's export sales, whether [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports], should be included**

In the light of the above, POSCO respectfully submits that the TRA should include all of POSCO's export sales for the purpose of the dumping margin calculation, whether [Confidential – Contains

<sup>46</sup> Appellate Body Report, *EC - Fasteners (China)* (Article 21.5 China), para. 5.263.

<sup>47</sup> Appellate Body Report, *EC - Fasteners (China)* (Article 21.5 China), para. 5.264.

business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports] or not.

#### **4. CONCLUSION**

For the reasons set out above, and as confirmed by the SEF itself, POSCO respectfully submits that:

- The evidentiary record fully supports the Alternative Proposal excluding HRP with a width of 2,500 mm and above from the scope of the prospective anti-dumping measures;
- Including ultra-wide plates ( $\geq 2,500$  mm) within the scope of the measures would impose disproportionate adverse effects on UK downstream industries without benefiting domestic producers;
- The 2,500 mm threshold is legally and economically justified, as well as sufficient to address any potential circumvention concerns; and
- In any event, all of POSCO's export sales, including [Confidential – Contains business confidential information, including information that would divulge sales strategy of POSCO. Non-confidential summary: certain types of exports], should be included for the purpose of the dumping margin calculation.

POSCO remains at the TRA's disposal should any further clarification or information be required.