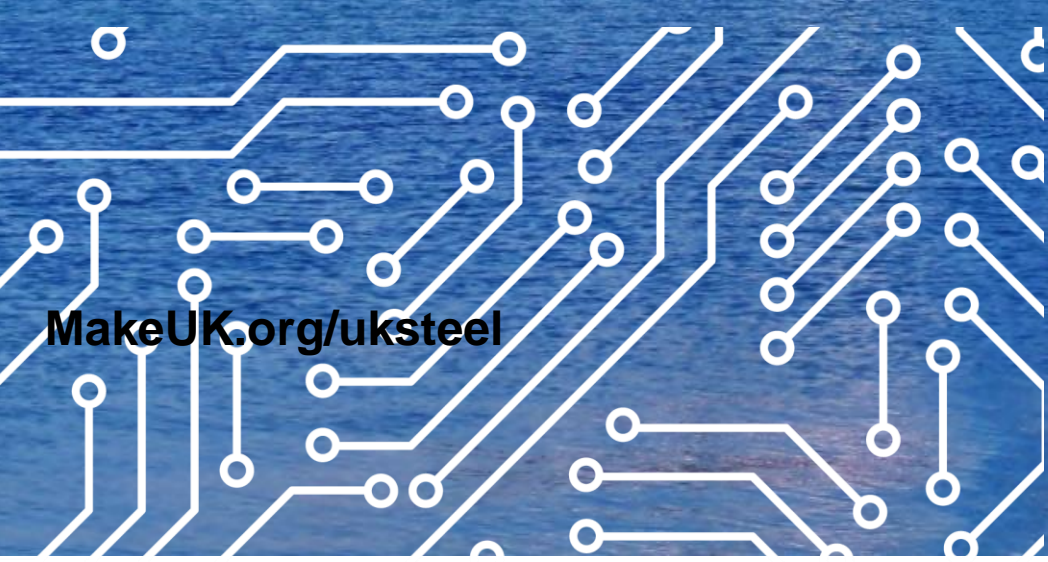
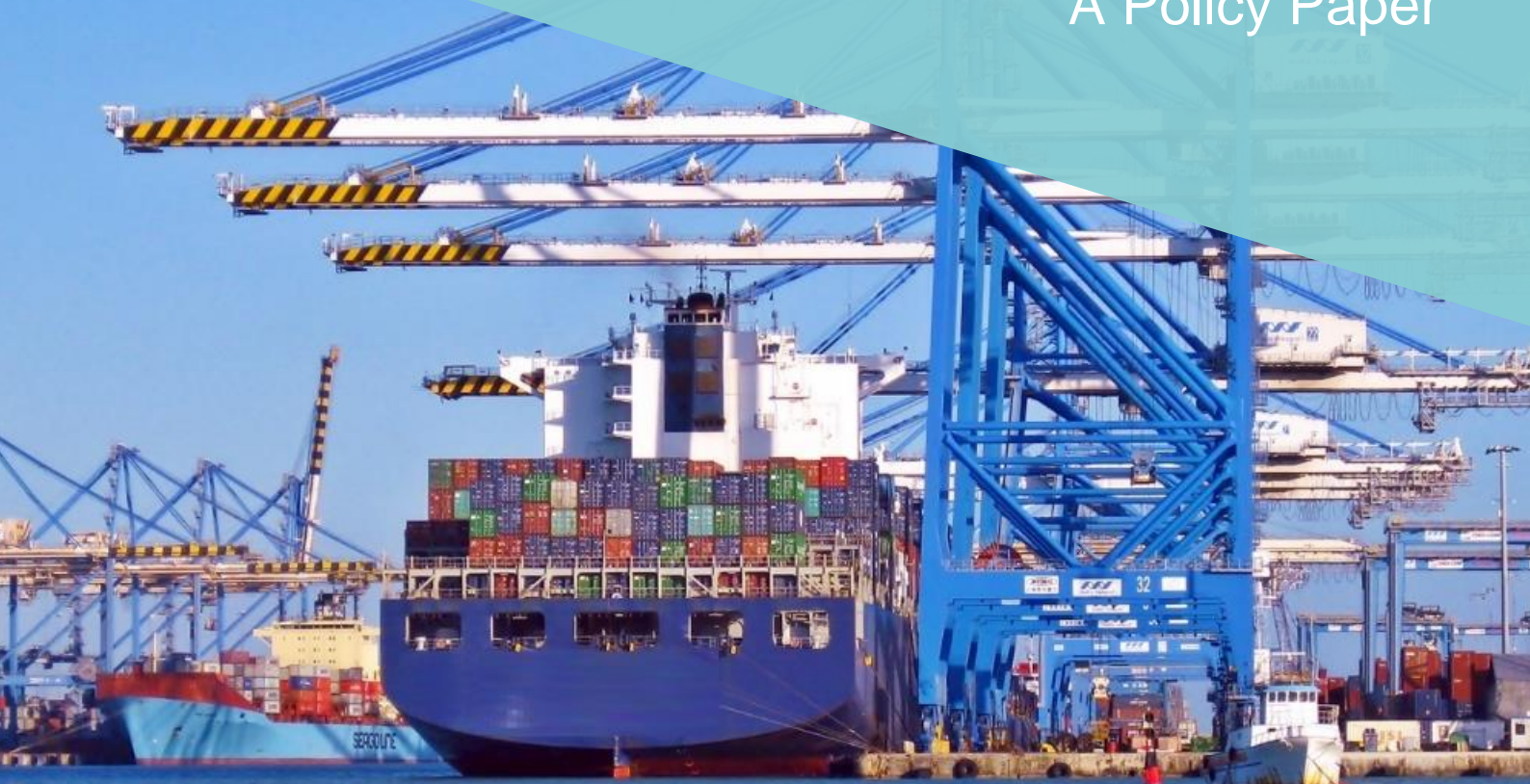


# UK STEEL

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## Free Trade Agreement Priorities of the UK Steel Sector A Policy Paper



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May 2020



## Introduction:

1. The UK steel industry survives and thrives on the basis of free trade. Almost 50% of the UK's annual steel production of 7.5 million tonnes is exported, 70% to the EU, whilst over 60% of the UK's 10.8 million tonne annual steel demand is met through imports. This high level of international trade, compared with a global average of 30%<sup>1</sup>, has been driven by the removal of all tariffs on steel products by developed countries<sup>2</sup>, the increasing spread of FTAs and the high level of manufacturing supply chain integration achieved across the EU.
2. For decades now the UK steel industry, like the rest of the European sector, has operated on this model where very high levels of import penetration are balanced out by equally high export levels. No European country produces all the different types of products and grades its economy requires. There is an element of specialisation with countries producing certain products to supply demand at home and abroad whilst requiring others to do the same in order that our full range of domestic demand requirements are met.
3. This provides for the most economically efficient model of steel production, ensuring sufficient levels of capacity utilisation crucial to the viability of steel companies. For example, the UK produces far more wire rod and rail than the UK itself requires, with significant volumes exported to the EU and further afield. If UK producers of these products, and others, were only producing for the UK market, production capacity utilisation would plummet and profitability with it. This situation would clearly be exacerbated should the UK experience surges in imports of steel products particularly those dumped and/or subsidised<sup>3</sup>. Conversely, the UK produces no sheet piling (the principle steel product for flood defences), and only a limited range of stainless steel products. UK demand for these is met by imports.
4. Significantly upsetting the balance between imports and exports in national steel markets can rapidly undermine the economics of steel production and the viability of producers. Primary steel plants, such as those in Port Talbot and Scunthorpe, cannot simply drastically reduce production to match demand – a minimum level of production is required for both technical and economic reasons. Whilst the UK industry has ambitions to capture more of the UK domestic market<sup>4</sup>, it is neither practical nor desirable to rely on it exclusively, or even predominately. Exports will remain of fundamental importance to the sector. This import/export balance is increasingly uncertain as the UK forges its own independent trading policy outside the framework of the EU. All manner of trade related decisions the UK Government will make in the coming months and years will have a profound impact upon it: from our own global tariff, to the implementation of trade remedies in the UK, to the continuity/transition of the FTAs we are currently party to, and of course the terms set out in future FTAs not least that with the EU.
5. As the UK Government conducts its first independent FTA negotiations, this paper sets out the UK steel industry's key priorities and points of principle in relation to those agreements. It principally concentrates on the issues that will be covered explicitly within trade agreements, although where useful and relevant it does look at related issues. Additionally, while the steel sector is heavily impacted by the fortunes of our customers in the manufacturing sector, this paper principally focuses on the issues that directly relate to the steel sector and does not extend to detailed considerations of the indirect impact on steel makers that may arise from changes in circumstances for other manufacturers.

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<sup>1</sup> World Steel Association (2019) World Steel in Figures – global steel exports as a percentage of total steel production

<sup>2</sup> All developed economies removed MFN tariffs on steel products as part of the Uruguay Round of the multilateral trade negotiations that concluded in 1993 with the creation of the WTO.

<sup>3</sup> Dumped products are those sold below the cost of production or below the selling price in the exporting country's domestic market. Dumping is an aggressive commercial practise often designed to explicitly undermine the domestic manufacturing industry in the importing country.

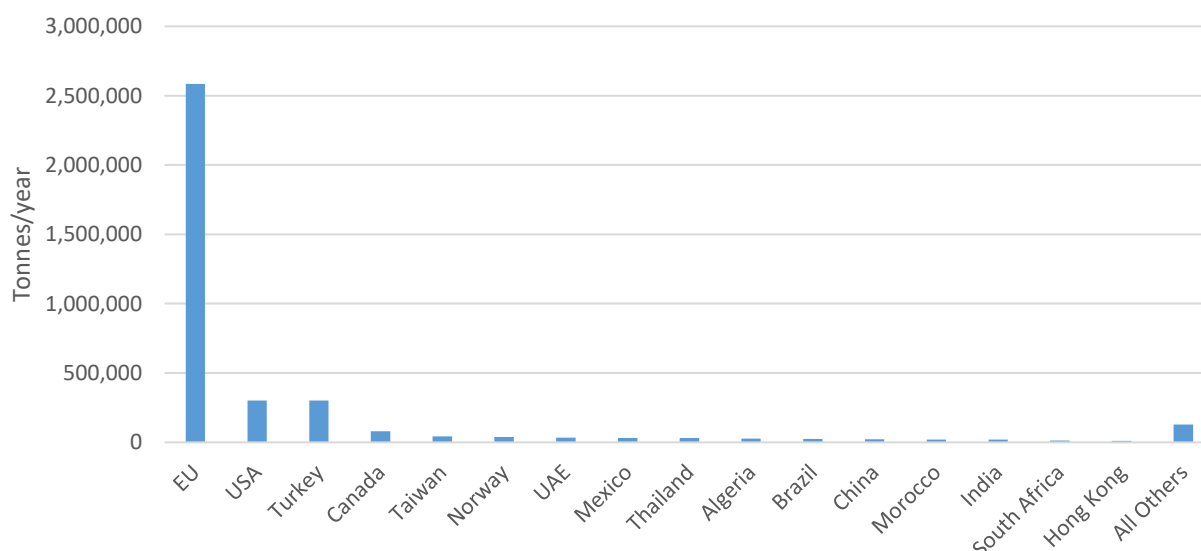
<sup>4</sup> BEIS (2017) Future capacities and capabilities of the UK steel industry. This report estimated a £4 billion additional opportunity for UK steel producers in domestic markets by 2030.

## Prioritising Trade Agreements:

### An EU Agreement is the top FTA priority:

6. The UK produces 7.5 million tonnes of steel each year<sup>5</sup>. Typically 4 million tonnes of this will go to supply the UK's 10.8 million tonne annual demand with the remaining 3.5 million tonnes<sup>6</sup> being exported around the world. The EU, for reasons of proximity and our close economic and regulatory alignment, is by far our biggest export market accounting for typically 2.5 million tonnes (70% of total exports) or £1.8 billion (60%) each year.

**Chart 1: UK steel mill exports (tonnes) 2017<sup>7</sup>**



Source: International Steel Statistic Bureau (ISSB)

7. As these figures clearly demonstrate, securing tariff free and frictionless access to the EU market is an overwhelming priority for UK steel makers. Over 30% of their entire production each year is sold to European customers and any disruption to this trade flow will prove extremely damaging. The importance of securing an agreement and avoiding a 'no-deal' type scenario at the end of the year has only grown in importance in the context of COVID-19. Business are already facing unprecedented challenges, including a 45% reduction in demand for steel<sup>8</sup>, expecting them to also navigate a major rupture in trading relationships as well as both unnecessary and unwise. An EU/UK FTA agreement must be reached.
8. The UK and EU have long since removed most favoured nations (MFN) tariffs on steel products<sup>9</sup>, and so thankfully there is no concern about the introduction of standard customs tariffs, but the lack of a new trade agreement and continued uncertainty will effect trade in a number of other ways:
- The EU currently has safeguarding measures in place on nearly all steel products in the form of a tariff rate quota system. Reaching the right agreement on how the UK and EU will treat each other's exports under their safeguarding measures will be crucial to maintaining historical trade flows. (See paras 13-19)
  - Customs checks and procedures, as well as complying with two different regulations/standards, are often more of a barrier to trade than tariffs. They increase cost and complexity both for UK exporters and their EU customers and will therefore reduce the competitiveness of UK producers

<sup>5</sup> 7.5 million tonnes represents average of 2017-2019 UK production

<sup>6</sup> International Steel Statistic Bureau (ISSB) exports from steel mills in 2017. This differs from total UK exports which may include steel not produced here but travels through the UK in transit to elsewhere.

<sup>7</sup> Export data from 2017 has been used in this paper as it provides the most useful illustration of traditional export flows – i.e. before the disruption of US 232 tariffs, EU customer concerns over Brexit, EU Safeguards and similar action elsewhere.

<sup>8</sup> UK Steel April 2020 survey of members – April 2020 compared to April 2019

<sup>9</sup> Principally those classified under Chapter 72 of the Harmonised System

in EU markets. A comprehensive trade agreement will be important in minimising the introduction of those non-tariff barriers. Again, COVID-19 has magnified the importance of minimising custom and regulatory disruption.

- Export orders to UK steel producers have fallen by 35% as a result of COVID-19. Steel companies will still be recovering their market base and share at the start of next year and in a very fragile position. Any new barriers to trade will seriously undermine UK producer's

competitive position in the EU and make that recovery more difficult.

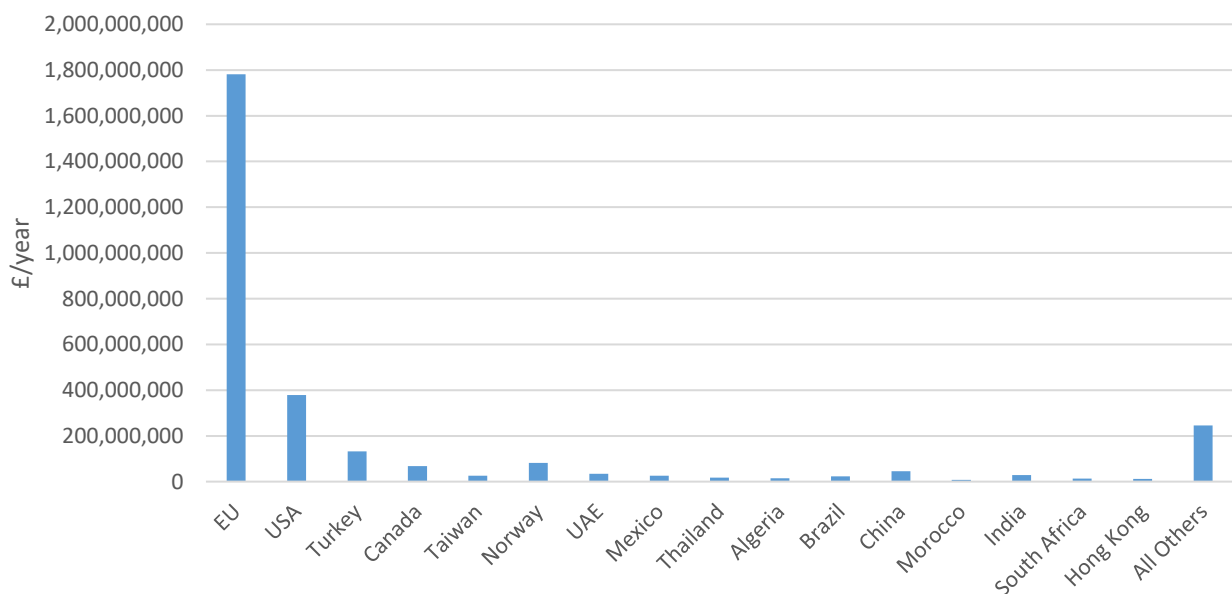
- Around 20% of UK produced steel goes to UK manufacturers, nearly all of them exporting to the EU. While the EU has no MFN tariffs on steel products, it does have plenty on steel containing products – everything from cars, to machinery, to tools, to tinned food. The lack of an FTA would see the introduction of tariffs on these goods, leading to a decrease in UK exports, a subsequent decrease of their production in the UK and therefore UK demand for steel.

## Other Priority Agreements:

### US:

9. The US is the UK's second largest market for steel exports after the EU, typically accounting for over 300,000 tonnes<sup>10</sup> (8% of total exports by weight) or £380 million (13% of total exports by value) each year. Whilst the US, like the EU, has no MFN tariffs in place on steel products, in early 2018 it introduced extraordinary 25% tariffs on imports from nearly all countries on the grounds of national security, commonly known as 'Section 232 tariffs'<sup>11</sup>. A trade agreement with the US is the most realistic route to securing an exemption from these tariffs. Not only would this allow UK steel exports to the US to recover to previous levels, but it could provide the UK with a critical competitive advantage over other global exporters helping to increase UK exports to the US.

**Chart 2: UK steel mill exports (£) 2017**



Source: International Steel Statistic Bureau (ISSB)

<sup>10</sup> 300,000 tonnes estimated in 2017. This represents UK export figures as opposed to US import figures which show a figure of 350,000. The difference is largely explained by around 30,000 tonnes being shipped to Canada first for further manufacturing.

<sup>11</sup> Section 232 of the Trade Expansion Act 1962 which provides for the Government, following an investigation, to impose tariffs on certain imports which are deemed to be posing a threat to national security.

## Turkey:

10. Turkey represents another important market for UK steel exports, accounting around 300,000 tonnes a year (8%) and £131 million (5%). Currently the UK has tariff free access to the Turkish market due to a steel and coal specific agreement in place since 1996<sup>12</sup> – this agreement is separate from the EU/Turkey Customs Union. Importantly, this means that although the UK will secure tariff free access to the Turkish market for most manufactured products once it has secured a trade agreement with the EU (via the EU/Turkey Customs Union), because steel products are not part of the EU/Turkey Custom’s Union a further separate agreement would need to be arranged before UK steel exports to Turkey would be tariff free. WTO rules would prevent such as an agreement being based purely on steel and coal products (i.e. transitioning the [current agreement](#)), as trade agreements are required to cover “substantially all trade” – a more comprehensive trade agreement would therefore be required.
11. Until such an agreement is reached, UK steel exports would face an average of 15% tariffs, while Turkish steel exports (around 500,000 tonnes/year) to the UK would continue to be tariff free. The UK Government must prioritise reaching an agreement with Turkey as soon as possible to ensure such a trade imbalance does not develop.

## Other Agreements:

12. While markets other than the EU, US and Turkey, individually account for 1% or less of UK steel exports, collectively they account for around 10% of UK steel exports by volume and 20% by value. For some individual steel companies they are important, high-value markets. It is therefore important that where trade agreements with the EU currently exist, and they have the effect of having removed tariffs on steel products (i.e. all those FTAs with developing countries), the UK Government prioritises continuity arrangements with them. The UK Government has thankfully started to transition many agreements important to the UK steel industry (including those relating to Morocco and South Africa) but a significant number are still to be agreed. Most importantly, these include Brazil (as part of the Mercosur agreement) and Mexico.

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<sup>12</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A21996A0907%2801%29>

## EU/UK Trade Agreement Priorities:

### EU Steel Safeguards:

13. As noted above, the EU has no MFN tariffs on steel products and as such there is no concern about the imposition of standard customs tariffs should the UK and EU not reach an agreement by the end of the year. However, the EU currently has in place safeguard measures in the form of a tariff rate quota (TRQ) on nearly all steel products with the intention that they will remain in place until at least 1 July 2021 (with the possibility of further extension) or the removal of US Section 232 steel tariffs. These tariff rate quotas apply to all non-EU countries equally. As such the UK can expect to become subject to the measures from 1<sup>st</sup> January 2021. Securing an exemption for UK exports, or at least provision of suitable tariff free quota allocations, is essential to ensure continuity of steel trade between the UK and EU.

### Exempting one another from safeguards:

14. In the first instance, the UK Government should offer to provide an exemption for EU steel exports from the UK's own steel safeguard measures (to be transitioned on 1<sup>st</sup> January 2021) in return for a reciprocal arrangement from the EU. This arrangement could be claimed for the following reasons of interest to both the UK and EU:

- The purpose of the EU steel safeguard is to guard against import surges into the EU expected as a result of the US reducing its imports of steel via 25% 'Section 232' tariffs. There is demonstrably no need for such a safeguard between the UK and EU. The US tariffs have been in place for almost two years and there has been no increase in exports of steel from the UK to the EU. Average annual UK exports to the EU between 2015 and 2017 into the EU were 2.7 million tonnes/year for the products in question<sup>13</sup>. In 2019 this had reduced to 2.5 million tonnes.
- Given the lack of any threat of a surge in imports between the UK and EU, the introduction of tariff rate quotas will simply serve to introduce unnecessary administrative costs and complexity between the UK and EU. If this can be avoided it should.
- Prior to COVID-19, the European Commission had been of the view that the current safeguarding measures would not be extended beyond June 2021, just six months after the UK's departure from the EU Customs Union. Should this position remain, and concurrent with the points above, there is very little practical justification for introducing measures between the UK and EU for such a short period of time – it would do nothing but introduce complexity and costs for EU industry and national governments.
- Numerous FTAs currently in place (most recently the new US/Mexico/Canada agreement - USMCA) have provisions for the contracting parties to exempt one another from future safeguarding measures. The EU and UK should follow suit and include provision for this in the agreement negotiated this year. (see para 19 below)

15. We believe this mutually beneficial arrangement could be agreed upon very quickly and both parties' intentions made clear. It is of paramount importance that certainty is provided as soon as possible about the possible introduction of TRQs between the UK and EU so steel companies and their customs can plan accordingly. It would be hugely beneficial for UK steel companies to be able to communicate to their EU customers as soon as possible that they will not have to deal with a TRQ regime when purchasing from UK suppliers.

**EUROFER Position:** EUROFER, representing the interests of the steel industry throughout the EU member states, has not formally expressed a position on the provision on mutual safeguarding exemptions.

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<sup>13</sup> Please note this 2.7 million tonnes includes all exports of steel from the UK, not simply those produced and exported by UK steel companies

## Provision of UK TRQs:

16. Should a reciprocal safeguard exemption not be agreed by the UK and EU, it is essential that the EU provides the UK with its own tariff free quotas from 1<sup>st</sup> January 2021. This is far from ideal, but it would at least allow UK steel companies to avoid the imposition of tariffs whilst trading at 2015-2017 levels. It should be noted that for some products and companies such a position would be extremely detrimental to future business plans; 2015-2017 were periods of low production and export levels for some products and companies. For such companies looking to rebuild their EU customer base, such TRQs would be a major barrier.
17. During 2019, in the run up to two potential 'no-deal' exits from the EU, the European Commission argued it would not be able to provide the UK with its own TRQs immediately after Brexit as there was too much uncertainty about the timing and nature of the UK's departure. Instead it argued that the UK would have to export without tariff free quotas for a period of time until the necessary changes could be made to the implementing regulation. At the time UK Steel estimated that this would cost the sector £15 million a quarter until TRQs were provided.
18. The UK Government has made clear it will be leaving the EU Customs Union and Single Market at the end of 2020 even if a trade agreement has not yet been reached. There is no longer any serious ambiguity about the UK and EU's fundamental trading relationship from 2021 onwards – either it will be purely on a 'WTO' basis or it will be via a trade agreement – and as such if a reciprocal safeguards exemption cannot be agreed to, then the EU should make clear as soon as possible that the UK will be provided with its own TRQs from 1 January 2021 onwards.

**EUROFER Position:** EUROFER supports the timely provision of TRQs to the UK within EU safeguards.

## A future exemption from safeguards:

19. As noted above, many FTAs in place around the world include provision to exempt contracting parties from each other's safeguarding action. There is debate about the usefulness of such provisions given they are always discretionary in nature, but there is an argument to say that they set out intent for exempting each other from safeguard measures in future and therefore, could provide a default/starting position for the EU and UK in discussions about future measures. For this reason, the UK should seek the inclusion of this provision.

**EUROFER Position:** Not currently specified.

## Trade Remedies (general):

20. In line with the intentions set out in the 'The Future Relationship with the EU: The UK's Approach to Negotiations'<sup>14</sup> the UK Government should aim to limit itself to replicating the trade remedies provisions set out in the EU's most recent agreements – such as those with Japan and Canada (CETA). That is the agreement should simply confirm each party's rights and obligations under the WTO Agreements on anti-dumping measures, subsidies and countervailing measures, and safeguards, and agree transparency and cooperation with regards to investigations and introduced measures.
21. It is highly likely that both the UK and EU authorities will be investigating the same cases of dumping and/or subsidies at the same time. An agreement to share and discuss information pertaining to these parallel investigations would be beneficial to both parties and strengthen both regimes. Such information sharing would be particularly valuable to both UK authorities and industry early on in the UK's independent regime.
22. While there are some potential benefits for the inclusion of trade remedies within an EU/UK FTA's bilateral dispute mechanism (particularly given the WTO Appellate Body crisis), there are also a number of possible downsides and complexities that should be fully considered before deciding upon a formal position. These include:

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/868874/The\\_Future\\_Relationship\\_with\\_the\\_EU.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/868874/The_Future_Relationship_with_the_EU.pdf)



- Despite the difficulties the WTO Appellate Body is currently going through, it is hoped this is not a permanent state of impasse and it may be unwise to include trade remedies permanently in the dispute mechanism to deal with what should be a short-medium term issue.
- Disagreements with trade remedies measures introduced by the UK can be challenged at the WTO (Appellate body difficulties aside) and through the UK's Upper Tribunal – introducing a third means of challenging the measures could be potentially confusing.
- The EU has not included trade remedies in its bilateral dispute mechanisms before, indeed it is not common practise in FTAs generally. In the absence of a strong justification for their inclusion, there is no serious need for the UK to seek to be innovative in this particular respect.
- It is the stated intention of the UK Government to include requirements for both parties to have some form of economic/community interest test in trade remedies regimes. The explicit inclusion of this in the FTA would mean that the application of the UK's own economic interest test could be legally challenged in the bilateral dispute mechanism. Because the UK's test involves more subjective judgement, including political considerations such as the regional impact on jobs, this could be a complex area to handle under the EU/UK FTA dispute provisions.

**EUROFER Position:** EUROFER shares the position of UK Steel that the FTA should uphold one another's rights to use trade remedies measures.

### **Minimisation of customs and border disruption:**

23. UK steel producers exports some 2.5 million tonnes of steel to the EU each year. With such huge volumes of steel moving across the border, (including an estimated 1400 trucks and six trains each week) any delay and additional checks/administration would have a major impact on the sector. Estimates on the cost of this are in the region of an additional 4-5% on total costs for each tonne that crosses the channel – an estimated £70 million cost to the industry each year. The UK Government should aim to work with the EU and relevant EU27 national authorities to minimise this disruption.
24. Within the context of the UK Government's stated intent to withdraw from the EU Single Market and Customs Union and to have complete regulatory autonomy, the opportunities for so-called 'frictionless trade' are more limited than previously hoped but some possibilities remain:
  - The UK should fully implement the 'transitional simplified procedures' it had intended to in the case of a no-deal Brexit at the end of last year. Earlier this year, it was announced that these 'transitional' measures would not be implemented on the grounds that businesses had time during 2020 to prepare for changes to customs procedures. Given the unprecedented challenges businesses are now facing as a result of COVID-19, the assumptions this assessment was based on have now fundamentally changed. UK businesses will have no time to adequately prepare for a drastic change in trading and customs rules between the UK and EU. Whatever the outcome of the UK/EU negotiations it is pragmatic for the Government now to commit to implementing all measures it had been planning to in the event of a 'no-deal Brexit' to minimise the impact on fragile businesses at the end of the year.
  - On a bilateral basis, the UK Government should work with key EU countries (i.e. France, Belgium, the Netherlands) to encourage the implementation of similar simplified customs procedures during 2021 to minimise disruption to UK exports.
  - The UK and EU should fully implement all provisions of the WTO Trade Facilitation Agreement and agree to cooperatively and progressively build upon them
  - The UK and EU should explore possibilities for the use of the Customs Freight Simplified Procedures (or a similar mechanism) to allow for UK and EU goods to be released as quickly as possible from the border.
  - As is planned, the UK must remain part of the Common Transit Convention.
  - The UK should work with key EU national authorities to develop and implement technological solutions to speed up customs and border procedures past Brexit.

**EUROFER Position:** EUROFER has also called for the implementation of the UK's previously proposed transitional simplified procedures.

### **Rules of Origin:**

25. In the context of 0% MFN tariffs on steel products in the EU and UK, the specific rules of origin governing steel products contained in the EU/UK agreement are not of critical importance to UK steel companies. Regardless of the origin of the steel, or what part of the process took place in the UK, steel goods will be exported to the EU on a tariff free basis. The only exception to this are cases where trade remedies measures are in place, but in these instances it is the EU's non-preferential rules of origin that apply and are therefore not relevant for considerations on the future UK/EU FTA.
26. However, what is of significant interest to UK steel producers are the rules of origin set out in the EU's FTAs with regards to our EU customers products. These determine how/if an EU manufacturer can continue to use UK materials/inputs whilst ensuring their end product is still eligible for tariff free treatment in certain export markets. So for example – can a German car manufacturer still use UK steel for the body of their cars and export tariff free to Japan?
27. The answer for the majority of all of our customers' products, in virtually every single FTA will be yes. In all examples examined by UK Steel to date<sup>15</sup>, if an imported steel product (those in chapter HS codes 7206 through to 7306) is transformed into another product (i.e. anything outside of those product codes) it would obtain EU origin and therefore be eligible for tariff free treatment in EU FTA partners' markets. Moreover, for those products with a local content percentage threshold rule (rather than a change in tariff code heading) such as automobiles, it is simply the origin of the input/component that is the relevant consideration, not the origin of the steel that was used to make that component. As such a car door panel made in France from UK steel would count as 100% EU for the purposes of cumulation.
28. However, the sheer complexity of the rules and the numerous small variations that exist between different FTAs is resulting in confusion amongst EU customers with many choosing to err on the side of caution and reduce their use of UK steel. There is an important role for UK steel companies to play in educating their EU customers of these rules and their ability to continue to use UK steel without fear of losing preferential treatment in other markets but a move towards a system of diagonal cumulation is also critical here. Moving towards a conformity of approach to rules of origin in all future FTAs will simplify the system, ultimately allow origin from multiple FTA partners to effectively qualify as local content and considerably simplify the messages steel companies must communicate to their customers. Moreover, it will help ensure continued EU demand for the products of many of our UK customers (such as engineering component manufacturers) if they increasingly count as the equivalent of EU products when, for example, an OEM is choosing where to source from.
29. In determining the rules of origin to be included in the EU/UK FTA, the UK Government should therefore aim towards those that will best facilitate a gradual move towards diagonal accumulation. Whilst some have suggested that the UK should look to join the Pan European Mediterranean (PEM) Convention as this already allows diagonal cumulation across multiple FTA partners (EU27, EFTA countries, Turkey, amongst others) this is unlikely to be the most beneficial approach. The rules of origin set out in the PEM Convention are now somewhat dated, and signing up to these would establish a different set of rules of origin between the UK and EU, then those that are likely to be agreed between the UK and Japan, Canada, and the US. The UK should instead seek to establish a set of rules of origin that it can seek to replicate in subsequent agreements, thereby maximising the potential early on for diagonal cumulation.
30. UK Steel does not have formal preference on which model of rules of origin to follow in this regard, but it would be pragmatic to align with a set from a recent FTA with a major trading partner such as Japan or South Korea. The same considerations should be made when determining the rules of origin in relation to the ones out in the US/UK FTA. For further information on rules of origin please see paras 52-57.

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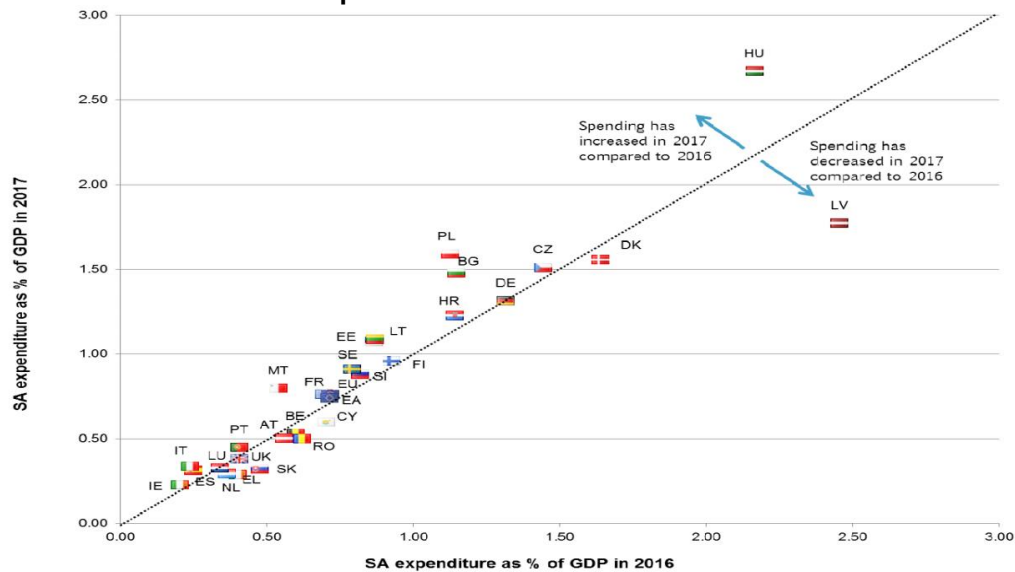
<sup>15</sup> For more information please see: UK Steel (2019) 'Preparing for a No Deal Brexit: Guidance for the Steel Sector'. <https://www.makeuk.org/insights/publications/2019/10/16/preparing-for-a-no-deal-brex-it-guidance-for-the-steel-sector>

**EUROFER POSITION:** EUROFER’s stated position is broadly the same as UK Steel’s in aiming for diagonal cumulation and the treatment of EU and UK-origin steel as of the same origin for the purposes of UK and EU FTAs with third parties. It does however have a preference for a set of rules within the UK/UK FTA whereby the processing of a semi-finished product does not confer origin to the final product.” This is a somewhat outdated rule for steel products (for example it was not used in the Japan, Canada or South Korean FTAs) and, from our perspective, would make diagonal cumulation between major trading partners less likely.

### Subsidies/State Aid:

31. The question of state aid/subsidies within the EU/UK agreement is evidently one of the most contentious. The UK Government has already stated its intension for autonomy and simple replication of the provisions included in the CETA. The EU on the other hand is looking for considerably more robust provisions, essentially calling for dynamic alignment between the UK and EU (with the EU setting the standard), with a system for dispute settlement, the application of remedies and the introduction of bilateral safeguarding measures. For historical reasons the EU already has particularly strict state aid rules with regards to the steel sector, and will be extremely robust in attempting to ensure the UK continues along these lines.
  
32. UK Steel should be clear that it has no desire for the creation of a more generous subsidies system in the UK than already exists in the EU, but would support the UK Government’s ambitions to have autonomy in this area whilst seeking to be open, transparent and cooperative with the EU. The UK has historically been an extremely cautious user of state-aid – spending 0.4% of GDP on measures in 2016 and 2017 compared with the EU average of 0.7% and a German spend of 1.3% - and therefore any concerns the EU has about the UK significantly increasing its state aid spend from 2021 onwards are unwarranted. The relatively small UK Government spend in this area to date has to a significant degree been the choice of the UK Government rather than the constraints of the EU system.

**Chart 3: Total State Aid Expenditure as % of GDP 2016 and 2017**



Source: EU Commission – State Aid Scoreboard 2018<sup>16</sup>

33. However, the UK Steel industry has at times been frustrated at the inflexible nature of the EU rules and the extremely long time required to gain approval from the EU Commission. In numerous cases where the UK has attempted to provide reductions in energy costs to the steel industry, and others, the EU Commission has delayed the process and insisted upon an overly constricted, and ultimately unnecessary, interpretation of state aid guidelines. It would be disappointing to have left the EU, and dealt with all the challenges that this will present, but to still remain entirely beholden to the EU state-aid regime.

<sup>16</sup> [https://ec.europa.eu/competition/state\\_aid/scoreboard/state\\_aid\\_scoreboard\\_2018.pdf](https://ec.europa.eu/competition/state_aid/scoreboard/state_aid_scoreboard_2018.pdf)

34. Once again, CETA provides a suitable template to emulate, requiring that each party notify each other every two years in relation to the form, legal basis and level of certain forms of state aid measures. The EU and Canada are also required to provide information and respond to questions relating to particular instances of government support related to the trade in services where a party requests it. It contains a non-binding consultation mechanism, whereby parties must try to minimise adverse effects of the subsidy on the complaining party's interests. Importantly, CETA does not, however, it does require the parties to implement domestic subsidy legislation or for subsidies to be pre-authorised in the way that they are under EU State aid law. Such a model for state aid alignment would be favoured by UK Steel.

**EUROFER Position:** Eurofer shares the EU Commission position in aiming for alignment of state aid regimes, and bilateral system of arbitration.

### **Environment and Climate Change:**

35. As with state aid/subsidies it is evident that environment/climate change is an area of disagreement in the EU/UK negotiations. Again, while UK Steel has no desire to establish less stringent regulation in the areas of environmental protection or climate action, it would agree with the UK Government proposed approach of following the examples set out in recent trade agreements like CETA. Namely a commitment to not reduce current environmental protections or ambitions, and to continue to cooperate on these issues in future.
36. The UK has some of the most ambitious climate change legislation in EU, the highest carbon price of any major economy in the world, and is widely recognised to be one of the more rigorous implementers of environmental regulations – none of this has been required by EU regulations but has been undertaken unilaterally. Any concerns that the EU may therefore voice about a deregulated UK reducing environmental regulation outside of the EU are unfounded and unjustified.
37. In the context of the UK Government's ambition to negotiate a standard trade agreement with the EU, we should not commit ourselves, within the text of this agreement, to regulatory restrictions or commitments that other EU FTA partners are not expected to. Outside of the Customs Union and the Single Market – the UK must seek to establish regulatory flexibility and autonomy to develop policy that best suits the circumstances of UK industry. This clearly would not be possible through the EU's proposed model of dynamic alignment.
38. UK Steel supports the UK Government's proposed plan to establish a separate agreement on energy and climate change that provides a more flexible route to cooperation and leadership on these issues, and importantly one that is not tied to our agreements on trade. On the critical issue of carbon pricing and emissions trading: In principle, it would be beneficial to link a new UK Emission Trading System (ETS) to the EU ETS, as this would increase liquidity within the market and lower the overall costs of decarbonisation. However, some flexibility must be retained for UK scheme design, as the UK may wish to take a different approach in some technical aspects. Nonetheless, it would still be in the interests of the UK to link its ETS to the EU ETS, as the benefits outweigh the costs.

**EUROFER Position:** EUROFER shares the EU Commission position on these issues.

### **Public Procurement:**

39. The UK and EU are both signatories of the WTO Agreement on Government Procurement which will continue to provide the UK and EU27 member state companies with generous access to each other's public procurement markets. This agreement should form the basis of any agreement reached on public procurement in any EU/UK FTA – which must be fundamentally based on equal access to each of the 28 (UK + EU27) national markets.

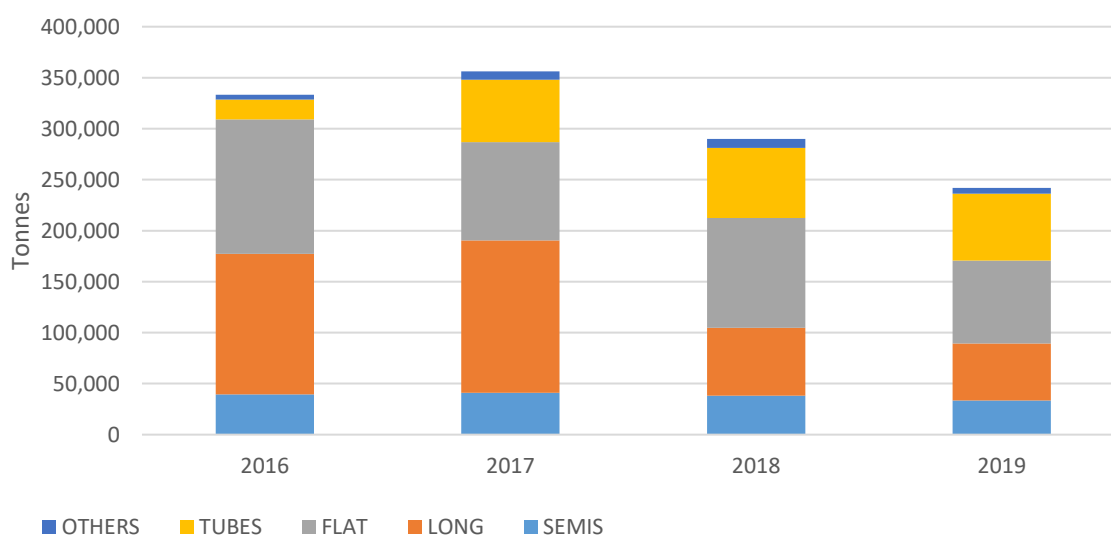
**EUROFER POSITION:** EUROFER has called for equal access for UK and EU companies to respective public procurement markets.

## US/UK Trade Agreement Priorities:

### Section 232 Tariffs:

40. As noted above, the US is the second largest export market for UK steel producers after the EU, accounting for over 300,000 tonnes in 2017 (before 232 tariffs were introduced). Crucially, it is also a high value market for the UK with an average export value of £1,200/tonne<sup>17</sup> compared with £689/tonne for the EU. In common with other developed countries, the US has no MFN tariffs on steel products and therefore the UK has had tariff free access for many decades. However, in March 2018 the US Administration introduced 25% tariffs on steel imports under Section 232 of the Trade Expansion Act which provides for such extraordinary measures if it is determined that imports of specified products are a threat to US national security. Such a determination was made in early 2018, with tariffs coming into place for most countries in March and the EU (and UK) in June.
41. As intended by US authorities, steel imports into the US have since reduced significantly since, including those from the UK. US import data<sup>18</sup> shows UK exports have reduced from 356,000 tonnes in 2017 to 242,000 tonnes last year, a 32% drop since tariffs were introduced. Securing removal of these tariffs as part of negotiations of US/UK negotiations is the top priority for UK steel companies. It would allow exports to return to historical levels and would provide UK companies with a competitive advantage over nearly all other steel producing countries.<sup>19</sup>

**Chart 4: US Imports of steel from the UK – 2016 to 2019**



Source: International Steel Statistic Bureau (ISSB)

42. It is important to note that the US has provided various different exporting countries with a range of different exemptions to the S232 tariffs and they are far from equal. UK Steel should be clear that the UK Government's aim must be to negotiate a complete exemption from tariffs – i.e. a return to the pre-2018 situation in which no tariffs, quotas, or import surge prevention measures existed for UK exporters. This is broadly in line with what Australia has secured but goes a step beyond what Canada and Mexico have been provided with. Given the small proportion of total US steel imports that are accounted for by UK exporters (approximately 1%), there is no realistic possibility of any disruptive import surges from UK sources – the UK Government should robustly argue this point.
43. As part of the USMCA, Canada and Mexico have been provided with an exemption with no specific quota limit set. However, the agreement reached between them does provide for monitoring and a mechanism to

<sup>17</sup> 2017 figure – total exports of 301,101 tonnes with a value of £379 million

<sup>18</sup> Note this differs from UK export data and includes some exports that are subsequently exported elsewhere such as Canada and Brazil

<sup>19</sup> The advantage would be most marked if provided with a complete exemption (i.e. not quota level) as Canada, Mexico and Australia have received.

prevent surges in imports of steel and aluminium. If surges in imports of steel and aluminium products occur, the US can re-impose tariffs on those products. Any retaliation by Canada and Mexico would then be limited to steel and aluminium products.

44. This is far from UK Steel's preferred approach, but should the US insist upon surge prevention controls like this, it will be important to define what would qualify as an import surge. UK exports are now considerably below what they were before tariffs were introduced and so any import monitoring would need to be done from a pre-tariff, 2017 baseline not the current reduced levels. Moreover, with UK exports to the US only 1% of the total – even a 10% increase above historical levels would only result in a 0.1% increase in total imports, hardly a surge. Should the US insist on including 'surge controls' in this manner – the UK should secure them on the basis of tariff rate quotas – i.e. a 25% tariff to be levied only on those imports over and above a specified level, not on all imports.

### **Exemptions from Future 'Extraordinary' Tariffs:**

45. The UK Government should also take the opportunity to secure exemptions from the US possible future use of extraordinary global tariffs – these should include standard safeguard measures (Sections 201 and 202 of the Trade Act 1974), and more specific measures such as those under Section 232 of the Trade Expansion 1962. As noted above, numerous FTA's include provisions for safeguard exemptions, not least the USMCA, and it should therefore be possible to negotiate the inclusion of this within the UK/US agreement.
46. With regards to an exemption from the future use of Section 232 tariffs, introduced on the grounds of national security, the UK Government has a strong case to argue for this on the grounds of mutual membership of NATO, and the long and particularly close security partnership that the US and UK share. UK Steel is realistic in its expectations of securing a standing/blanket exemption from all such future measures – but it should be possible to secure an agreement to consult, share information, and establish certain exceptional qualifying criteria for the introduction of such tariffs against UK exports in future.

### **Trade Remedies (other than safeguards and S232):**

47. The US is a frequent and robust user of trade remedies measures with approximately 80 measures currently in place on the imports of steel products. This includes two measures concerning exports from the UK of wire rod and hot-rolled coil. It should be stated ambition of UK Government to work towards greater transparency and cooperation in the field of trade remedies but it should not be considered a top priority to engender any major change or alignment in approach. As stated above, UK Steel's top priority is the removal of Section 232 tariffs, and securing mechanisms to guard against the use of such measures against UK exports in the future. This will be a notable achievement in itself and efforts should be focussed here. As such, the UK Government should aim simply for a standard FTA chapter on trade remedies that restates each parties' right to use such measures in line with WTO agreements and establishing the rights of interested parties in each country to defend themselves.

### **Rules of Origin:**

48. In approaching the rules of origin within the US/UK negotiation, the UK Government should again aim for a regime that best facilitates a move towards diagonal cumulation of inputs from multiple mutual FTA partners. UK manufacturers will continue to source a significant proportion of inputs/components for final products from the EU and realistically will not be able to meet the typical local content thresholds (usually in the region of 50%) required to gain tariff free access to FTA partner markets, like the US, unless a progressive move to diagonal accumulation is achieved.
49. If possible, the UK should therefore aim in parallel negotiations with the US and the EU to adopt the same rules of origin in both agreements that will ultimately allow diagonal cumulation across the three markets once an EU/US agreement also exists. Importantly we should avoid overly complicated rules, such as those introduced under the new Canada/Mexico/US agreement, which will make diagonal cumulation very difficult to achieve.

## Other Trade Agreements - General Principles:

### Trade Remedies:

50. The UK's primary objective with regards to trade remedies in future FTAs, particularly those negotiated with large developing nations, must be to retain autonomy in approach as allowed under WTO rules. Importantly, specific requirements on methodology and treatment of specified countries that would constrain the UK's ability to introduce legitimate measures to protect domestic industry, or develop its regime as it sees fit must be avoided. Critically, the UK should not agree in any FTA to curtail its ability to use the range of anti-dumping methodologies provided in current UK legislation.
51. The UK Government should naturally aim to establish fair and equal treatment of interested parties in investigations in the UK and in FTA partner countries, but within this overarching aim, should limit chapters on trade remedies to the standard statement of rights, responsibilities and commitment to cooperation and transparency.

### Rules of Origin:

52. As with the suggested approach for EU and US negotiations, the UK Government should approach rules of origin in future FTA negotiations with a mind to achieving diagonal accumulation across all FTA partners. Fundamentally, this will entail adopting the same set of rules of origin across multiple FTAs with an aim to ultimately encourage others to do the same.
53. The feasibility of doing this, and the particular set chosen by the UK will largely be determined by the outcome of negotiations with the US and the EU. Creating a common set of rules in both agreements, with an understanding from the US and the EU that they should seek the same objective in their own FTA – will be a significant undertaking but would establish a framework across three major economies/markets on which to build.
54. It would not be appropriate for UK Steel to comment on the rules of origin with regards to products other than steel, but we will briefly summarise the different types of rules in relation to steel here. Broadly speaking there are two different sets of rules of origin for steel. One used in older EU FTAs (such as that with EFTA countries and/or those party to the Pan Euro-Mediterranean Cumulation Convention) and one used in the more recent EU FTAs (such as Canada and Japan). However it should be noted that even within the agreements with Canada and Japan there are small differences between the rules.
55. The principle difference is the recognition of 'continuous casting'<sup>20</sup> – in the older agreements only those products rolled from an imported ingot would obtain the origin of the rolling country, in the newer agreements origin would be obtained if products were rolled from either an ingot or a continuously cast semi-finished product. In practice almost all steel products are produced via continuous casting these days, with little requirement for ingots. The table below summarises the two basic sets of rules.

S1	<ul style="list-style-type: none"><li>• Ingots have the origin of the country in which the steel was melted and cast.</li><li>• Continuously cast semis have the origin of the country in which they are cast.</li><li>• Semis rolled from ingots retain the origin of the ingot.</li><li>• For hot rolled flat and long products (including rail) : origin only obtained if rolled/produced via ingot-route</li><li>• Wire, seamless tubes and welded tubes acquire the origin of the country in which they are formed or drawn from a semi-finished product. (i.e. tubes made from imported hot rolled coil would retain the origin of the coil)</li></ul>
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<sup>20</sup> Continuous casting is a steel production process whereby liquid steel is cast straight into semi-finished products (slab, bloom, and billet) and therefore foregoing the interim step of casting ingots which must then be rolled into semi-finished products.

S2	<ul style="list-style-type: none"> <li>• Ingots have the origin of the country in which the steel was melted and cast.</li> <li>• Continuously cast semis have the origin of the country in which they are cast.</li> <li>• Semis rolled from ingots acquire the origin of the country in which they are rolled.</li> <li>• Hot rolled flat and long products (including rail) acquire the origin of the country in which they are rolled from semis. (Further processing beyond this does not change origin: i.e. cold rolled and coated products retain the origin of the HR.)</li> <li>• Wire, seamless tubes and welded tubes acquire the origin of the country in which they are formed and drawn.</li> </ul>
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56. Given the lack of standard customs tariffs on steel imports into the UK, the UK steel sector does not have a formal view on its preference for one set of rules or the other. But would strongly prefer for the UK to establish one set of rules in all its FTAs. Note, the recent USMCA agreement largely follows the S2 model above (with the exception of tubes and wire products), this suggests in relation to steel at least that common ground could be found between the EU, Canada, Japan, The Republic of Korea, Mexico and the UK.
57. Whilst not strictly relevant to discussions on FTAs, UK Steel should state its desire to see the UK's non-preferential rules of origin<sup>21</sup> amended in due course to prevent the conferment of origin on a finished steel product rolled from imported semi-finished product. This would minimise the possibility of circumvention of trade remedies measures by countries exporting semis to other countries for re-rolling and the export onto the UK.

### **Environment and Climate Change:**

58. The issue of environmental and climate change regulations and ambition is unlikely to be as continuous in other UK FTA negotiations (including that of the US) as it will in those with the EU. Environmental chapters are typically a commitment for each party to: not reduce environmental standards and regulations, to ensure domestic legislation is enforced, to meet their international commitments under certain specified agreements, and to retain their own autonomy and right to develop and introduce new domestic legislation.
59. The UK should be ambitious in trying to introduce new more rigorous commitments to environmental protection and climate change in its future agreements, for example inclusion of commitments under the Paris Climate Change Agreement. Achieving a level playing field on environmental and climate change regulations/ambitions of critical importance to the steel sector – whilst the UK and EU are moving ahead with increasingly ambitious targets for industry others are not following suit and this creates a clear cost disadvantage for domestic producers versus more carbon intensive imports. Where the UK can include commitments to climate change ambitions, carbon pricing and ambitious environmental regulations it should do.
60. However, it is evident that this will need to be done a case by case basis with focus placed on those negotiations where the UK is likely to have substantive influence in this area. For example, US Congress has effectively banned the mention of climate change in any US FTAs and as such it is clear this issue will not feature in any US/UK agreement. However, the UK is a globally important market for many exporting countries and in negotiations where it has leverage and negotiating power it should use this to advance our global environment and climate change objectives.
61. Where such objectives cannot be substantively advanced through FTAs, it is critical that the UK retains the ability to introduce domestic laws, taxes and regulations that can achieve similar objectives. For example, there is increasing talk in the UK and EU about the potential of so-called 'carbon-border mechanisms' to provide a level playing field in terms of climate change cost and competitiveness between domestic producers seeking to reduce their emissions and exporting producers based in regions with less stringent regulations. It is important that the UK ensures any agreement it reaches does not restrict its ability to introduce measures in the future.

<sup>21</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/785844/Rules-Origin-reference-document.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785844/Rules-Origin-reference-document.pdf)



UK Steel is the trade association for the UK steel industry and champions the country's steel manufacturers.

We represent the sector's interests to government and promote our innovative, vibrant and dynamic industry to the public.

**Together, we build the future of the UK steel industry.**

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