

# Subsidy Advice Unit Report on a proposed Subsidy to Tata Steel UK

Referred by the Department for Business and  
Trade

06 February 2024

**Subsidy Advice Unit**

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Part of the Competition and Markets Authority

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# 1. Introduction

- 1.1 This report is an evaluation prepared by the Subsidy Advice Unit (SAU), part of the Competition and Markets Authority, under section 59 of the Subsidy Control Act 2022 (the Act).
- 1.2 The SAU has evaluated the Department for Business and Trade's (DBT)'s assessment of compliance of the proposed subsidy to Tata Steel UK with the requirements of Chapters 1 and 2 of Part 2 of the Act (the Assessment).<sup>1</sup>
- 1.3 This report is based on the information provided to the SAU by DBT in its Assessment and evidence submitted relevant to that Assessment.
- 1.4 This report is provided as non-binding advice to DBT. The purpose of the SAU's report is not to make a recommendation on whether the subsidy should be given, or directly assess whether it complies with the subsidy control requirements. DBT is ultimately responsible for granting the subsidy, based on its own assessment, having the benefit of the SAU's evaluation.
- 1.5 A summary of our observations is set out at section 2 of this report.

## The referred subsidy<sup>2</sup>

- 1.6 DBT is proposing to award Tata Steel UK a grant of up to £500 million to enable greener steel production at its Port Talbot site. This grant forms part of a potential £1.25 billion capital investment by Tata Steel UK, which was, at the time of the referral, subject to employee consultation. The proposal involves replacing existing blast furnaces with an electric arc furnace (EAF).<sup>3</sup> DBT described the Port Talbot site as the UK's largest single industrial carbon emitter, and it said this investment would reduce the UK's entire carbon emissions by around 1.5%.
- 1.7 DBT set out that the proposed subsidy would solely fund EAF installation and associated works/plant, and that grant funding would be paid in arrears against agreed milestones, reimbursing Tata Steel UK for approved capital expenditure upon completion of specific project stages. Tata Steel UK has begun engineering

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<sup>1</sup> Chapter 1 of Part 2 of the Act requires a public authority to consider the subsidy control principles and energy and environment principles before deciding to give a subsidy. The public authority must not award the subsidy unless it is of the view that it is consistent with those principles. Chapter 2 of Part 2 of the Act prohibits the giving of certain kinds of subsidies and, in relation to certain other categories of subsidy creates a number of requirements with which public authorities must comply.

<sup>2</sup> [Referral of the proposed subsidy to Tata Steel UK by the Department for Business and Trade - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/referral-of-the-proposed-subsidy-to-tata-steel-uk-by-the-department-for-business-and-trade)

<sup>3</sup> An EAF uses an electric current to melt scrap steel or iron and produce steel, whereas blast furnaces use iron ore as the source of material and coke (a carbon-intensive fuel made from coal) as the main fuel and sources of energy. In a second step a basic oxygen converter turns iron into steel.

design work and construction planning in order to be able to deliver the proposed EAF in 2027.<sup>4</sup>

## **SAU referral process**

- 1.8 On 15 December 2023 DBT requested a report from the SAU in relation to the proposed Tata Steel UK subsidy.
- 1.9 DBT explained<sup>5</sup> that the subsidy is a Subsidy of Particular Interest because its value exceeds £10 million.
- 1.10 The SAU notified DBT on 21 December 2023 that it would prepare and publish a report within 30 working days (ie on or before 6 February 2024).<sup>6</sup> The SAU published details of the referral on 21 December 2023.<sup>7</sup>

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<sup>4</sup> Tata Steel press release: [Tata Steel announces next steps towards its ambitious transformation from blast furnaces to green steelmaking in the UK and initiates statutory consultation](#)

<sup>5</sup> In the information provided under section 52(2) of the Act

<sup>6</sup> Sections 53(1) and 53(2) of the Act.

<sup>7</sup> [Referral of the proposed subsidy to Tata Steel UK by the Department for Business and Trade - GOV.UK \(www.gov.uk\)](#)

## 2. Summary of the SAU's observations

- 2.1 The Assessment is drafted in line with the four-step process described in the Statutory Guidance for the United Kingdom Subsidy Control Regime (the [Statutory Guidance](#)) and as reflected in the SAU's Guidance on the operation of the subsidy control functions of the Subsidy Advice Unit (the [SAU Guidance](#)).
- 2.2 Several aspects of the Assessment have been conducted in a way that is broadly commensurate with the size of the subsidy, including the explanation of (i) how the subsidy seeks to remedy a market failure based on a carbon emissions externality, (ii) how, absent the subsidy, the capital investment in the EAF would not go ahead and thus, the decarbonisation policy objective would otherwise not be met (ie the counterfactual); and (iii) the checks and negotiations undertaken to ensure that the subsidy will not be used to finance a project or activity that Tata Steel UK would have undertaken without the subsidy.
- 2.3 The Assessment would have benefited from greater clarity on the following aspects:
- (a) On Principle A, the Assessment could clarify whether the additional benefits described in the Assessment, including retaining some jobs in steel production or unlocking investment in South Wales, are part of the policy objectives alongside achieving decarbonisation.
  - (b) On Principle C (counterfactual), the Assessment would have further benefitted from sharing more details of how the total emissions savings were modelled to support the statement that the policy objective would not be met in the counterfactual.
  - (c) On principle F, the Assessment would be improved by more clearly identifying the product and geographic markets affected by the subsidy, and identifying Tata Steel UK's international competitors in those markets, to inform the competitive assessment.
- 2.4 Our report is advisory only and does not directly assess whether the subsidy complies with the subsidy control requirements. The report does not constitute a recommendation on whether DBT should implement the subsidy. We have not considered it necessary to provide any advice about how the proposed subsidy may be modified to ensure compliance with the subsidy control requirements.<sup>8</sup>

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<sup>8</sup> Section 59(3)(b) of the Act.

### 3. The SAU's evaluation

3.1 This section sets out our evaluation of the Assessment, following the four-step framework structure used by DBT.

#### **Step 1: Identifying the policy objective, ensuring it addresses a market failure or equity concern, and determining whether a subsidy is the right tool to use**

3.2 The first step involves an evaluation of the Assessment against:

- (a) Principle A: Subsidies should pursue a specific policy objective in order to (a) remedy an identified market failure or (b) address an equity rationale (such as local or regional disadvantage, social difficulties or distributional concerns); and
- (b) Principle E: Subsidies should be an appropriate policy instrument for achieving their specific policy objective and that objective cannot be achieved through other, less distortive, means.<sup>9</sup>

#### **Policy objectives**

3.3 The Assessment states that this subsidy aims to significantly progress the decarbonisation of steel production in the UK by transitioning the Tata Steel Port Talbot site to a lower carbon emission level while continuing flat steel production. The project is expected to decarbonise the UK's largest industrial carbon emissions site, reducing the UK's carbon emissions by around 1.5%.

3.4 The Assessment links the policy aim to the delivery of the UK's legal commitment to reach net zero carbon emissions by 2050 (Net Zero) and cites the Industrial Decarbonisation Strategy as setting out a plan for decarbonising the steel industry in line with the Government's net zero goals.

3.5 The Industrial Decarbonisation Strategy sets out that decarbonising the UK's two blast furnace sites (Port Talbot and Scunthorpe) and the wider steel sector will be essential for industrial decarbonisation in the UK, identifying deployment of Carbon Capture and Storage and replacement of the blast furnaces with EAFs as the two major decarbonisation options.<sup>10</sup>

3.6 The Assessment sets out that the project will also deliver some 'incidental additional benefits...such as security of supply and job protection in the longer

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<sup>9</sup> Further information about the Principles A and E can be found in the [Statutory Guidance](#) (paragraphs 3.32 to 3.56) and the [SAU Guidance](#) (paragraphs 4.7 to 4.11).

<sup>10</sup> See [Industrial Decarbonisation Strategy](#) (Annex 4).

term' (although this was, at the time of the referral, subject to a statutory consultation process). It is also expected that the investment at Port Talbot will likely help unlock future investment in South Wales and act as a catalyst for creating a Green Industrial Hub in the area alongside the Celtic Freeport proposal.<sup>11</sup> Other parts of the Assessment refer to similar benefits (for example, under Principles E and G).

- 3.7 In our view, the main policy objective of decarbonisation aligns well with the UK Government policy to achieve Net Zero. Given the significance of steel production to industrial carbon emissions and the significance of the Port Talbot site to UK steel carbon emissions, decarbonising the Tata Steel Port Talbot site is consistent with this objective.
- 3.8 The Assessment could be improved by clarifying whether the additional benefits described in the Assessment, including job retention or unlocking investment in South Wales, are part of the policy objective.

### **Market failure and equity objective**

- 3.9 The Statutory Guidance sets out that:
- (a) Market failure occurs where market forces alone do not produce an efficient outcome.<sup>12</sup>
  - (b) Equity objectives seek to reduce unequal or unfair outcomes between different groups in society or geographic areas.<sup>13</sup>
- 3.10 The Assessment sets out the market failure as follows:
- (a) There is a negative externality from carbon emissions arising from steel production that businesses do not consider when setting their production levels.
  - (b) The Emissions Trading Scheme (ETS) policy intervention adds a cost resulting from carbon production to manufacturers, thereby forcing manufacturers to account for the social cost of carbon emissions.
  - (c) There is an international coordination failure with governments having different levels of net zero ambitions, with some jurisdictions having 'less stringent environmental regulations', 'lower carbon/policy costs' or more 'generous subsidies for existing policy costs than the UK'. This leads to a market distortion where these jurisdictions have lower carbon costs.

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<sup>11</sup> <https://www.celticfreeport.wales/EN/Celtic-Freeport/green-light-transformational-bid>

<sup>12</sup> [Statutory Guidance](#), paragraphs 3.35-3.48.

<sup>13</sup> [Statutory Guidance](#), paragraphs 3.49-3.53.



- (d) Steel producers cannot pass these additional carbon costs on to their customers because steel is an internationally traded product.
- (e) In addition, the UK steel sector is at risk from indirect carbon leakage from high electricity prices, partly caused by the UK's funding for renewable policies and environmental regulations. The Assessment states that while the UK steel sector is heavily affected by indirect carbon leakage, the primary route for carbon leakage for the UK steel sector is the direct carbon costs that manufacturers are required to pay (as set out in bullets a to d above).
- (f) As a result of the above, there is a risk of carbon leakage where steel production would shift to other jurisdictions with no, or only limited, carbon policies or where higher-carbon emission imports would displace low-carbon domestic steel production. The Assessment sets out that around 86% of flat steel production capacity was blast furnace based in 2023, and therefore the UK would be required to import a significant amount of steel produced using blast furnaces in the counterfactual scenario.
- (g) Finally, it refers to other market failures relating to positive externalities and information asymmetries. Positive externalities relate to the fact that the manufacturer cannot capture the full value of the decarbonisation investment because the market does not fully value the benefits of decarbonisation. Information asymmetries exist where manufacturers do not progress decarbonisation as they are unsure of the resulting benefits. It also states that the UK ETS is insufficient to promote investment in step change innovations or capital investment because the carbon price does not reflect the true carbon value.

3.11 The Assessment sets out that the project will contribute to developing a more environmentally sustainable method of steel production and achieve two objectives: mitigating carbon leakage (mitigating the risk of importing high carbon emission steel); and decarbonisation (by reducing the UK's carbon emissions).

3.12 In our view, the Assessment sets out a reasonable presentation of the market failures that the policy objective seeks to remedy. The Assessment identifies the underlying market failure – externalities from carbon emissions – and how this subsidy will help resolve this by replacing imports of high carbon steel production in the counterfactual with the production of steel with lower carbon emissions in the UK.

3.13 We consider that the presentation could be improved by using this explanation of the market failure and referencing it throughout the Assessment. For example, in our view, the additional market failures mentioned in paragraph 3.10(g) reduce clarity. In relation to information asymmetry, the Assessment does not explain why

the presence of uncertainty amounts to a market failure.<sup>14</sup> Also, the Assessment portrays carbon leakage as the market failure, but in our view carbon leakage is better regarded as the consequence of differing interventions to address the market failure (ie a failure of regulatory coordination).<sup>15</sup>

### **Consideration of alternative policy options and why a subsidy is the most appropriate and least distortive instrument**

- 3.14 In order to comply with Principle E, public authorities should consider why the decision to give a subsidy is the most appropriate instrument for addressing the identified policy objective, and why other means are not appropriate for achieving the identified policy objective.<sup>16</sup>
- 3.15 The Assessment explains that decarbonising steel production requires significant capital investment and that production costs for decarbonised steel would be much higher than for steel produced by blast furnaces without carbon pricing. It states that as steel is widely traded internationally, a subsidy is required to overcome the cost differential against such steel suppliers. Further, it argues that many international producers are already receiving support to establish green production facilities (particularly including direct competitors across Europe). It therefore considers that support through a capital expenditure grant is necessary.
- 3.16 The following alternatives to the proposed subsidy were considered and rejected, such as, but not limited to, loans or operational expenses support:
- (a) [REDACTED]<sup>17</sup>
  - (b) [REDACTED]
  - (c) [REDACTED]
  - (d) [REDACTED]
  - (e) Other decarbonisation options using Carbon Capture, Usage and Storage (CCUS) or hydrogen technology. DBT stated that CCUS was rejected because Port Talbot is not one of the clusters selected for CCUS development, and retrofit of the CCUS technology at the Port Talbot site

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<sup>14</sup> Similarly, the statement in the Assessment that 'Positive externalities mean that the benefits of decarbonisation are often not fully valued by the market, so manufacturers cannot capture the full value of the decarbonisation investment they have paid for' seems to be a reformulation of the negative externality that firms are not effectively incentivised to account for the pollution impacts that are created.

<sup>15</sup> Carbon leakage is commonly understood as the displacement of production, and associated greenhouse gas emissions, in ways that would not have happened if climate rules and policies across jurisdictions were implemented in an equivalent way. [Statutory Guidance](#), paragraphs 4.58.

<sup>16</sup> [Statutory Guidance](#), paragraphs 3.54-3.56.

<sup>17</sup> The SAU has excluded from this published version of the report information which it considers should be excluded having regard to the three considerations set out in section 244 of the Enterprise Act 2002 (specified information: considerations relevant to disclosure). The omissions are indicated by [REDACTED]

would be very difficult. Hydrogen supply and infrastructure in the UK would need substantial further development to support steelmaking.

- 3.17 The Assessment helpfully considers alternatives to the subsidy. However,
- (a) the reasons for rejecting certain options suggest the presence of other policy objectives beyond decarbonisation. The Assessment could be improved by identifying these additional objectives and explaining how these objectives were treated alongside the decarbonisation goal; and
  - (b) the Assessment could set out whether DBT considered alternative approaches that could potentially deliver the decarbonisation goal.<sup>18</sup>

## **Step 2: Ensuring that the subsidy is designed to create the right incentives for the beneficiary and bring about a change**

- 3.18 The second step involves an evaluation of the Assessment against:
- (a) Principle C: First, subsidies should be designed to bring about a change of economic behaviour of the beneficiary. Second, that change, in relation to a subsidy, should be conducive to achieving its specific policy objective, and something that would not happen without the subsidy; and
  - (b) Principle D: Subsidies should not normally compensate for the costs the beneficiary would have funded in the absence of any subsidy.<sup>19</sup>

### **Counterfactual assessment**

- 3.19 In assessing the counterfactual, the Statutory Guidance explains that public authorities should assess any change against a baseline of what would happen in the absence of the subsidy (the ‘do nothing’ scenario’).<sup>20</sup> This baseline would not necessarily be the current ‘as is’ situation (the ‘status quo’) but what would likely happen in the future – over both the long and short term – if no subsidy were awarded.
- 3.20 The Assessment states that without the subsidy, Tata Steel UK’s capital investment in EAF technology would not go ahead because it would not have the ability to invest in EAFs. Therefore, the policy objectives outlined under Step 1 will not be met. The Assessment further explains that the lost production due to the closure of the existing blast furnaces at Tata Steel UK (and ceasing operations) or

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<sup>18</sup> Including for instance, those possible decarbonisation policies discussed in the summary of consultation responses and government response about addressing carbon leakage risk to support decarbonisation, available at <https://www.gov.uk/government/consultations/addressing-carbon-leakage-risk-to-support-decarbonisation>.

<sup>19</sup> Further information about the Principles C and D can be found in the [Statutory Guidance](#) (paragraphs 3.57 to 3.71) and the [SAU Guidance](#) (paragraphs 4.12 to 4.14).

<sup>20</sup> [Statutory Guidance](#), paragraphs 3.60-3.62.

operating a re-roller model<sup>21</sup> would be replaced by imported blast furnace-produced steel from other plants. This expectation is based on data showing that blast furnaces manufacture a high proportion of the world's flat steel.

- 3.21 DBT submitted an annex showing that production of 'green' flat steel (using the EAF) in the UK would likely mitigate the risk of importing high carbon emission produced steel to meet domestic demand and inducing an increase in the 'rest of the world' production, and hence address carbon leakage. The analysis was based on expected emission intensities over time under different production methods in the intervention (with subsidy), counterfactual and other scenarios. It considered possible future trade agreements such as the Carbon Border Adjustment Mechanism and the Global Arrangement for Sustainable Steel and Aluminium, which are likely to impact trade flows if flat steel has to be imported.
- 3.22 The Assessment notes that the potential consequences/options for Tata Steel UK in the counterfactual scenario (ie investment in EAF not proceeding) are as follows:
- (a) relining or rebuilding the blast furnace assets by making a major investment decision imminently. This is because one blast furnace in its entirety and raw material preparation facilities have reached the end of their operational lives. While there is some uncertainty over how long the blast furnace(s) could continue operating, it may not be feasible in the long term due to environmental and carbon policies. Thus, Tata Steel UK considered closing the blast furnaces and ceasing all UK production. This could induce an increase in global output by other steel makers that, via imports into the UK, would replace Tata Steel UK's products that would have been consumed within the UK or exported; or
  - (b) moving to a re-roller model (see paragraph 3.20).
- 3.23 In our view, the Assessment clearly explains how, absent the subsidy, the capital investment in the EAF would not go ahead, and thus:
- (a) The decarbonisation policy objective would not be met by operating either one or both blast furnaces in the short to medium term and then closing the blast furnaces (and ceasing UK production) in the long term. Nor would it be met by operating the re-roller model. The Assessment demonstrates that there would be higher carbon emissions without the subsidy.
  - (b) If the capital investment in the EAF did not go ahead, the UK would likely have to import high carbon emission steel because a significant proportion of global steel is currently produced using blast furnaces and companies might

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<sup>21</sup> A re-roller model is where Tata Steel would have to import hot rolled coil (ie work-in-progress) and transform it into finished bespoke products at downstream mills owned by Tata Steel in the UK.

be incentivised to import such steel if it is cheaper. An annex in the Assessment shows the total emissions savings if the investment in the EAFs were to go ahead compared to the counterfactual of no such investment. The annex explains the types of assumptions and variables that were considered to forecast carbon intensities and associated data source, but does not provide any details on the actual projections that were used. The Assessment would benefit from providing more details of how the total emissions savings were modeled (for example, on the treatment of possible future trade measures).

### **Changes in economic behaviour of the beneficiary and additionality assessment**

- 3.24 The Statutory Guidance sets out that subsidies must bring about something that would not have occurred without the subsidy.<sup>22</sup> In demonstrating this, public authorities should consider the likely change or additional net benefit. In addition, according to the Statutory Guidance, ‘additionality’ means that subsidies should not be used to finance a project or activity that the beneficiary would have undertaken in a similar form, manner, and timeframe without the subsidy.<sup>23</sup>
- 3.25 The Assessment states that the £500 million grant will support an overall £1.25 billion investment, which includes Tata Steel’s contribution towards the EAF and wider operating expenses.
- 3.26 The Assessment articulates that only the subsidy in the form of a grant would incentivise Tata Steel UK to invest in the EAF. Thus, the subsidy will change Tata Steel UK’s behaviour by enabling it to invest and achieve the policy objective and associated benefits. Furthermore, Tata Steel UK will invest in the company restructuring and cover current losses, ensuring longer-term profitability. The Assessment states that Tata Steel UK will invest several million pounds in the wider local area through the transition period. It adds that Tata Steel UK would not have provided this additional funding without the subsidy. Finally, the Assessment explains that post-transformation, Tata Steel UK plans to shift its product mix slightly towards higher value-added products and reduce fixed costs where appropriate.
- 3.27 The Assessment notes the following about additionality:
- (a) The subsidy is limited to the EAF and related infrastructure construction and development capital investment costs, not any associated operational expenditure transformation costs.

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<sup>22</sup> [Statutory Guidance](#), paragraph 3.64.

<sup>23</sup> [Statutory Guidance](#), paragraphs 3.63-3.67.

- (b) HMG and Tata Steel negotiated the subsidy amount of £500 million. It was based on several factors, including but not limited to ensuring the project's commercial viability and Tata Steel UK's long-term financial sustainability to induce its economic behaviour to invest in the EAF. Regarding the project's commercial viability, HMG contracted a professional services firm to check Tata Steel's financial model and its outputs, including conducting sensitivities on the downside risks.
- (c) HMG assured itself that the professional services firm's work and findings were robust and that the outputs could be used in the additionality assessments for this grant. HMG checked and challenged the professional services firm's reports on the performance of Tata Steel's financial model. Internal HMG checks were also carried out on the financial model to ensure the model produced reliable outputs.

3.28 In our view, the Assessment demonstrates how the subsidy will change Tata Steel UK's behaviour by investing in the EAF to achieve the policy objective compared to the counterfactual.

3.29 We consider that the Assessment explains well the overall approach regarding additionality, including the negotiations undertaken by HMG and the checks done by DBT's professional service firm. While there is always likely to be a significant element of judgement to estimate the project cash flows and commercial viability, the professional services firm carried out a range of reasonable checks, including sensitivities on Tata Steel UK's financial model, to demonstrate that the subsidy will not fund costs (ie the grant of £500 million) that Tata Steel UK could have financed without the subsidy. DBT further sense-checked the outputs from the models.

3.30 Nevertheless, the Assessment could have benefited from a more in-depth discussion of DBT's approach to demonstrate additionality, for instance, by including a more detailed explanation of the underlying assumptions and checks undertaken.

### **Step 3: Considering the distortive impacts that the subsidy may have and keeping them as low as possible**

3.31 The third step involves an evaluation of the Assessment against:

- (a) Principle B: Subsidies should be proportionate to their specific policy objective and limited to what is necessary to achieve it; and

- (b) Principle F: Subsidies should be designed to achieve their specific policy objective while minimising any negative effects on competition or investment within the United Kingdom.<sup>24</sup>

## Proportionality

- 3.32 The Assessment states that the proposed subsidy represents the minimum amount to be awarded for the company's proposed project (also see Step 2). The Assessment briefly mentions that the subsidy mechanism includes clawback provisions if Tata Steel UK fails to meet its key deliverables. The subsidy mechanism also includes a requirement for part of the aid to be returned in the event of financial out-performance.
- 3.33 In our view the approach to Principle B is appropriate, in particular by considering proportionality explicitly against the policy objective. The details on how the subsidy design aims to limit the amount given are also broadly appropriate. The supporting evidence provides estimates of the cost per million tonnes of carbon savings resulting from this subsidy compared to that resulting from subsidies given by other governments to foreign competitors.
- 3.34 However, some aspects could be strengthened. The Assessment could be improved by:
- (a) Providing more information on the clawback provisions, for example, by setting out the proportion of the subsidy that could be clawed back under what conditions, timeframes, and in different circumstances.
  - (b) Explaining potential risks to achieving the date at which the EAF should come into operation, particularly relating to how possible delays in connecting to the energy grid (which is noted as the most significant delivery risk elsewhere in the supporting evidence) could impact proportionality. In this respect the Assessment notes that, over time, other countries' emissions reduce as they introduce similar technologies therefore decreasing the risk of carbon leakage in the longer term.
  - (c) Considering any other decarbonisation subsidies given to the same recipient for similar purposes.<sup>25</sup>

## Design of subsidy to minimise negative effects on competition and investment

- 3.35 The Assessment provides, at a high level, a description of how elements of the subsidy design may minimise negative effects on competition or investment within

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<sup>24</sup> Further information about the Principles B and F can be found in the [Statutory Guidance](#) (paragraphs 3.72 to 3.108) and the [SAU Guidance](#) (paragraphs 4.15 to 4.19).

<sup>25</sup> [Statutory Guidance](#), paragraphs 3.91 and 3.92.

the UK. This section of the Assessment also covers the nature of the instrument, the one-off nature of costs covered, the breadth of beneficiaries and the selection process, performance criteria, ringfencing and monitoring and evaluation. The timespan over which the grant will be given is also clearly set out.

- 3.36 The Assessment would be improved by providing a more in-depth description of these elements of the subsidy including, as noted in paragraph 3.34(a), more detail on the clawback mechanism.

### **Assessment of effects on competition or investment**

- 3.37 The Assessment sets out the products that Tata Steel UK and other primary UK steel producers manufacture, their end uses, their primary customers, and their respective production shares. The Assessment notes that Tata Steel UK accounts for [x%] of the UK's steel production and that no other UK steel producer manufactures flat steel and, hence, there is minimal overlap with Tata Steel UK's output. The Assessment also notes that as the only UK producer of flat steel, most of Tata Steel UK's competitors are outside the UK, such as in the EU, and that Tata Steel UK's output only represents 0.2% of global steel production.
- 3.38 The Assessment suggests that there will therefore be limited impact on competition in the UK and on international competitors as a result of the subsidy. However, elsewhere in the Assessment, it notes that [x%] of Tata Steel UK's domestic sales are from products tailored to specific customer requirements and that these are unavailable from most other European manufacturers. The Assessment also notes that many overseas competitors are being provided with subsidies that enhance their competitiveness and incentivise them to decarbonise. It argues that this subsidy will level the playing field by incentivising Tata Steel UK to undertake this transformation project to produce low-emission steel.
- 3.39 The Assessment also considers barriers to entry and exit and the impacts on related input markets.
- 3.40 In our view, the Assessment would be improved by more clearly identifying the product and geographic markets affected by the subsidy and more systematically (and in greater detail) engaging with the potential competitive effects in the relevant markets. In particular:<sup>26</sup>
- (a) Domestic production activities and Tata Steel UK's shares in them are unlikely to reflect actual markets and Tata Steel's competitive position in them where there is considerable international trade, varying degrees of

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<sup>26</sup> [Statutory Guidance](#), paragraphs 17.31-17.32



product differentiation and potential non-steel alternatives available for particular end uses.

- (b) The market for flat steel (for example) might be usefully sub-divided into markets depending on the type of processing undertaken (such as hot versus cold rolled steel). As part of that, DBT could identify Tata Steel UK's international competitors drawing on material in the supporting evidence. The Assessment would also be improved by providing data on actual market shares. Evidence on market concentration would help DBT assess the potential competition impacts in the markets where Tata Steel may have few domestic and international competitors.<sup>27</sup>

3.41 Decisions in antitrust and merger control that have considered the products in question, and have assessed the relevant markets and likely relative market positions, include the European Commission's consideration of a 2018 merger involving ArcelorMittal and Ilva.<sup>28</sup>

3.42 The Assessment would be improved with a more thorough consideration of why this subsidy would only have a minimal impact on competition and why it could have the effect of levelling the playing field with competitors in other countries.

### **Assessment of impact on international trade**

3.43 The Assessment considers the impact on international trade and investment. It notes that most of Tata Steel UK's competitors are in Europe. As noted in paragraph 3.40, the Assessment would be improved by identifying who Tata Steel UK's principal competitors are in each market in which it operates. In addition, the Assessment could also explain how industry and regulatory developments in relation to green steel production will impact international trade in the future.

3.44 Under Principle G, the Assessment notes that [~~x~~] % of Tata Steel UK's sales in the UK are for tailored products unavailable from most other European manufacturers. Elsewhere, it suggests that steel is a commodity and any reduction in Tata Steel UK's output would be replaced by European and/or international competitors. As noted in paragraph 3.40, the Assessment would be improved by clearly setting out which product markets Tata Steel UK operates in and the nature of competition in those markets, including the degree of product differentiation (or otherwise) to understand how the subsidy might impact the extent of competition in those markets.<sup>29</sup>

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<sup>27</sup> [Statutory Guidance](#), paragraphs 17.52-17.54

<sup>28</sup> Case [m8444\\_6740\\_3.pdf \(europa.eu\)](#)

<sup>29</sup> [Statutory Guidance](#), paragraph 17.35

## Step 4: Carrying out the balancing exercise

- 3.45 The fourth step involves an evaluation of the Assessment against subsidy control Principle G: subsidies' beneficial effects (in terms of achieving their specific policy objective) should outweigh any negative effects, including in particular negative effects on: (a) competition or investment within the United Kingdom; (b) international trade or investment.<sup>30</sup>
- 3.46 The Assessment lists several positive effects of achieving the policy objectives, including decreasing the level of carbon emissions in the UK, with the project reducing 85% of Tata Steel's current emissions and realising an overall reduction of 1.5% of UK carbon emissions. The Assessment explains the basis for this calculation, using Tata Steel UK's published statement,<sup>31</sup> the current level of carbon emissions generated by Tata Steel UK in Port Talbot,<sup>32</sup> and the expected production capacity at the site, and also explains that these numbers have been cross-checked against OECD sustainability indicators. Using carbon values from the Green Book Appraisal Guidance,<sup>33</sup> DBT has also provided an estimated equivalent monetary value for these benefits.
- 3.47 The Assessment sets out some additional benefits including:
- (a) Reducing air pollutants.
  - (b) Security of supply for tailored products. The Assessment explains that Tata Steel is the UK's only flat steel producer. A significant proportion of its production relates to steel tailored to specific customer requirements, which is unavailable from most non-UK European manufacturers.
  - (c) Retaining jobs in an economically deprived region as compared to closure. The Assessment also notes that steel sector wages tend to be higher than the average wages in the relevant local areas.
- 3.48 The Assessment lists a number of negative impacts:
- (a) Impact on international competitors. The subsidy could impact competition and trade with the European Union because it reduces the competitive disadvantage for Tata Steel compared to competitors that receive subsidies in EU countries. Without the subsidy, there could be an increase in imports from competitors. The Assessment sets out that, however, (i) there is a predicted undersupply of green flat steel by 2030, (ii) Europe is a net importer of steel, and (iii) a significant proportion of Tata Steel's products are tailored to specific customers' needs. Furthermore, the Assessment explains that the

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<sup>30</sup> See [Statutory Guidance](#) (paragraphs 3.109 to 3.117) and [SAU Guidance](#) (paragraphs 4.20 to 4.22) for further detail.

<sup>31</sup> [Green Steel Future | Tata Steel UK \(tatasteel.com\)](#)

<sup>32</sup> [UK Emissions Trading Registry - GOV.UK \(view-emissions-trading-registry.service.gov.uk\)](#)

<sup>33</sup> [The Green Book \(2022\) - GOV.UK \(www.gov.uk\)](#)

subsidy is not designed to improve Tata Steel's competitive position in the international market.

- (b) Increased energy usage, since EAFs require a significant increase in electricity use, that could lead to some additional costs to the electricity grid. DBT explained that these costs are likely to be minimal for energy infrastructure and when compared to overall industrial demand.
- (c) The suspension of certain product lines because EAFs cannot produce the required grade of steel for specific usages. The Assessment explains that downstream sectors are unlikely to be significantly affected by Tata Steel UK no longer supplying these products because the relevant downstream customers are 'interconnected with global suppliers' for these specific types of product.

3.49 The Assessment concludes that, on balance, the positive effects outweigh any potential distortion of competition and trade domestically or internationally.

3.50 In our view, DBT helpfully quantifies the impact of the subsidy on achieving the policy objective to reduce the UK's carbon emissions from steel, with supporting evidence for its calculation. Other benefits listed under Principle G (for example, security of supply or job retention) have not been expressed as policy objectives under Principle A, creating a possible tension between the description of the benefits in Principle G and the policy objective as expressed under Principle A.

3.51 Moreover, the Assessment could have considered in more detail the possible negative impact on competition and international trade by conducting a more thorough competitive impact assessment, as set out under Principle F.

## **Energy and Environment Principles**

3.52 This step involves an evaluation of the Assessment with regard to compliance with the energy and environment principles, where these are applicable to the subsidy/scheme.<sup>34</sup>

3.53 The Statutory Guidance summarises the scope of the different energy and environment principles that apply to different types of subsidies.<sup>35</sup> DBT has conducted an assessment of the subsidy against Principles A, B and H. We are

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<sup>34</sup> See Schedule 2 to the Act.

<sup>35</sup> Principles A and B apply to all subsidies in relation to energy and environment. Principle C applies for subsidies for electricity generation adequacy, renewable energy or cogeneration. Principle D applies to subsidies for electricity generation only. Principle E applies to subsidies for renewable energy or cogeneration. Principle F applies to subsidies in the form of partial exemptions from energy related taxes and levies. Principle G applies to subsidies that compensate electricity intensive users for increases in electricity costs, Principle H relates to subsidies for decarbonisation of industrial emissions. Principle I relates to subsidies for improving energy efficiency of industrial activities.

satisfied that the other energy and environment principles are not applicable to this subsidy.

### **Principle A: Aim of subsidies in relation to energy and environment**

- 3.54 The assessment against Principle A should show how the subsidy is consistent with delivering a secure, affordable and sustainable energy system and a well-functioning and competitive energy market, or increasing the level of environmental protection compared to the level that would be achieved in the absence of the subsidy. If a subsidy is in relation to both energy and environment, it should meet both of these limbs.<sup>36</sup>
- 3.55 The Assessment sets out that the subsidy will support the Government's Net Zero targets. It explains that the subsidy is the minimum necessary to ensure the low carbon investment into an EAF for greener steel production at Port Talbot.
- 3.56 The Assessment also explains that the project includes a commitment from the company to free up 385 acres of surplus land at Port Talbot, subject to the final investment decision. Finally, explicit conditions of the subsidy include discussions between Tata Steel and Natural Resource Wales regarding any permit changes that would allow for a permanent and long-term solution to the existing ferrous stockpile in Port Talbot, and for remediation solutions for any assets to be decommissioned as part of the project.
- 3.57 In our view, whilst the factors described in the Assessment are relevant to show that the subsidy increases the level of environmental protection, the Assessment could have been clearer in concluding and demonstrating that this principle is met. For instance, it could have compared the level of environmental protection with the subsidy compared to the counterfactual in a more systematic way (in this case by setting out the reduction in carbon emissions) or explained how DBT aimed to rely on paragraph 4.27 of the [Statutory Guidance](#) that set out that subsidies with a specific policy objective of promoting net zero will tend to be consistent with Principle A.

### **Principle B: Subsidies not to relieve beneficiaries from liabilities as a polluter**

- 3.58 The assessment against Principle B should explain clearly how the proposed subsidy or scheme does not relieve a polluter from having to bear the full costs of the pollution caused.<sup>37</sup>
- 3.59 The Assessment sets out that the terms agreed with Tata Steel UK do not relieve it from any liabilities arising from its responsibilities as a polluter under the relevant

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<sup>36</sup> [Statutory Guidance](#), paragraphs 4.19-4.28.

<sup>37</sup> [Statutory Guidance](#), paragraphs 4.29-4.35.

law of England and Wales, Scotland and Northern Ireland, and there is no expectation that HMG will pay for the costs of environmental damage caused by Tata Steel UK. It adds that the subsidy will only go towards capital expenditure to build the EAF and not towards remediation of land that will be freed up as part of the project.

3.60 We are satisfied that the Assessment shows how Principle B is met.

### **Principle H: Subsidies for the decarbonisation of emissions linked to industrial activities**

3.61 Under Principle H, subsidies for decarbonising emissions linked to industrial activities in the United Kingdom should achieve an overall reduction in greenhouse gas emissions and reduce the emissions directly resulting from the industrial activities concerned. The assessment should clearly identify the relevant greenhouse gases (regarding those identified as such in the Climate Change Act 2008) and the industrial activities (as described in that Act) responsible for those gases and show that such emissions would be reduced compared to the situation absent the subsidy or scheme.

3.62 The Assessment sets out that the replacement of the blast furnaces by the EAF will reduce carbon emissions at the Port Talbot site, which is expected to reduce the UK's business and industry emissions by 7% and Wales' overall emissions by 22% and site emissions by 85%.

3.63 We are satisfied that the Assessment explains how this principle is met. Whilst this section of the Assessment does not refer to supporting evidence, other sections of the Assessment provide such evidence. The Assessment could have referred back to these other sections, for instance, mapping out the expected reduction in emissions.

### **Other requirements of the Act**

3.64 This step in the evaluation relates to the requirements and prohibitions set out in Chapter 2 of Part 2 of the Act, where these are applicable.<sup>38</sup> DBT confirmed that none of these prohibitions or other requirements applied to the subsidy.

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<sup>38</sup> [Statutory Guidance](#), chapter 5.