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17 May 2013

Mr Geoff Gleeson
Director, Operations 3
International Trade Remedies Branch
Australian Customs and Border Protection Service
Customs House
5 Constitution Avenue
CANBERRA ACT 2601

Dear Mr Gleeson,

Re Australian Customs Dumping Notice No. 2013/30 – Reinvestigation of certain findings in respect of Hot Rolled Coil Steel exported from Japan, Korea, Malaysia and Taiwan.

Please find attached for your consideration a submission by OneSteel Australian Tube Mills Pty Ltd ("OneSteel ATM") concerning the Re-investigation of certain findings in respect of Hot Rolled Coil Steel exported from Japan, Korea, Malaysia and Taiwan.

If you have any questions concerning this submission, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read "Matt Condon".

Matt Condon
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Introduction

1. On the 7th May 2013 Australian Customs and Border Protection Service published an Australian Customs Dumping Notice No. 2013/30 advising The Minister for Home Affairs (the Minister) has accepted recommendations made by the Trade Measures Review Officer (TMRO) and has requested the Chief Executive Officer (CEO) of the Australian Customs and Border Protection Service (Customs and Border Protection) to reinvestigate certain findings relating to Customs and Border Protection's investigation into alleged dumping of Hot Rolled Coil Steel (HRC) exported to Australia from Japan, the Republic of Korea (Korea), Malaysia and Taiwan as detailed in International Trade Remedies Report No. 188.
2. As a result of the TMRO's recommendations, the CEO has been directed to reinvestigate certain findings in relation to the decision to publish a dumping duty notice:
 - 1) the calculation of the dumping margin for Hyundai Steel, in order to correct apparent errors in it;
 - 2) whether there were in fact sufficient grounds to warrant setting the measures by reference to prices other than those in the investigation period and, if so, the preferable methodology for adjustment of those prices;
 - 3) whether it would be preferable to structure the conditions attaching to the imposition of dumping duties on imports for the automotive industry in such a way that imports that are acknowledged by Customs and Border Protection not to be causing or likely to cause injury to BlueScope are not liable to duty under the dumping duty notice in the first instance (and only exempt if subsequently exempted under section 8(7) of the Customs Tariff (Anti-dumping) Act 1975); and
 - 4) why pickled and oiled HRC from countries Korea, Malaysia and Taiwan sold to and used in the automotive sector should not be treated in the same manner as Japanese imports of pickled and oiled HRC for the automotive sector.
3. OneSteel provides this submission to comment on the TMRO findings in relation to point 2 of the reinvestigation, being

whether there were in fact sufficient grounds to warrant setting the measures by reference to prices other than those in the investigation period and, if so, the preferable methodology for adjustment of those prices;
4. The relevant paragraphs in the TMRO's report that consider this matter are from 78 – 88.

OneSteel's Submission

5. It is appropriate to consider Customs reinvestigation of the TMRO's second finding, in two separate parts, the first being

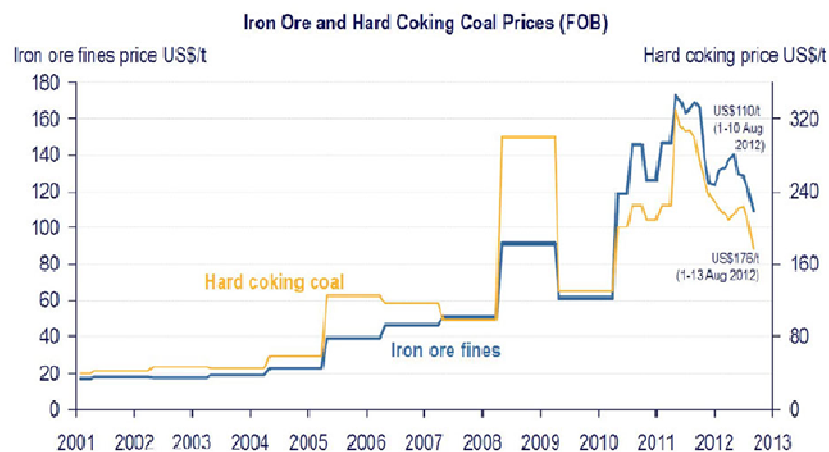
“whether there were sufficient grounds to warrant setting the measures by reference to prices other than those in the investigation period.”
6. The TMRO affirms Customs right to consider changing the measures,

I consider that Customs acted appropriately in considering whether regard should be had to movements in HRC, iron ore and coking coal prices after the investigation period in settling upon the extent of the measures that ought to have been put in place. It is legitimate and proper to consider whether reliance solely on prices within the investigation period would over- (or under-) redress the level of dumping going forward.¹

7. The main concern that the TMRO has expressed is that

“ in my view, the level of the consideration given to this issue was insufficient. Neither the Report nor the Customs brief to the Minister in relation to the Report contains any analysis of pricing volatility over an extended period of time. The latter refers only to volatility within and after the investigation period. This was, I believe, too short a period to allow a sound view to be formed about whether or not price levels as they existed in September/October 2012 were likely to be sustained or otherwise reflective of ongoing price levels.”²

8. OneSteel respectfully disagrees with the TMRO that Customs didn't conduct a pricing analysis over an extended period of time. There are clear examples within REP 188 that demonstrate a cost and pricing analysis over an extended period of time that justified Customs making a determination that the prices in the 6 months after the investigation period would be more reflective of ongoing levels than prices during the investigation period.
9. Section **8.10.3 Customs and Border Protection's assessment**³ (Increased raw material costs) contains the chart “Iron Ore and Hard Coking Coal Prices (FOB)” that shows the volatility of the key steel making raw material costs over a 12 year period from 2001 through to the 2nd half of 2012. It is clear from the inclusion of this chart by Customs that they had considered the relative volatility of raw material prices over more than a decade, not just the period within and after the investigation period as indicated by the TMRO.

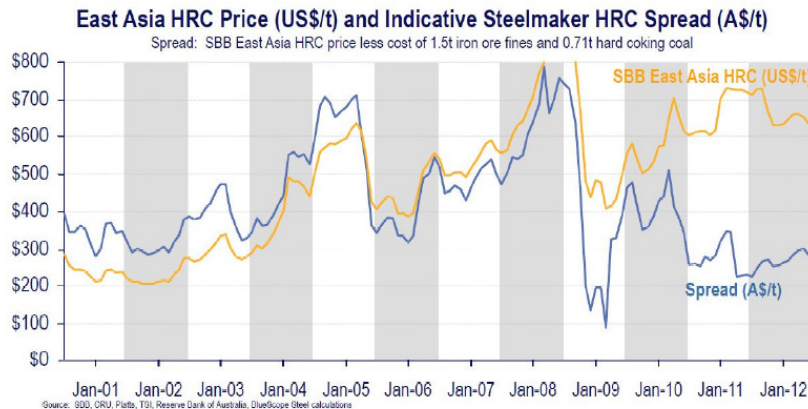


¹ TMRO para 83 , p17

² TMRO para 83 , p17

³ REP188 p63

10. In addition section **8.12.3 Customs and Border Protection's assessment**⁴ (Decrease in demand and low steel prices) contains the chart "East Asia HRC Price (US\$/t) and indicative Steelmaker HRC Spread" that further demonstrates Customs consideration and analysis of HRC steel prices over an extended period of time, not just within or after the investigation period.



11. Both charts clearly show peak prices occurring during the investigation period. At the time Customs would have been aware, (as it was widely publicised in the Australian media), that the Qld floods in the summer of 2010/11 had a significant impact on world coking coal production leading to a dramatic increase in costs due to shortages. These high coking coal prices then contributed to higher prices for steel products such as HRC, which were exacerbated by increases in iron ores prices caused by flooding in Brazil.
12. The TMRO acknowledges that such events are a valid reason for Customs to use measures outside the investigation period.⁵

An appropriate case could exist where it was apparent that prices after the investigation period would differ from those within the investigation period on a sustained basis so that it was apparent that ignoring the later prices would mean that anti-dumping measures were set at a level that either under- or over-redressed the dumping that has been found to exist historically and likely to continue prospectively. For example, where a major source of a raw material input was unavailable during the investigation period due to, say, a mine being subjected to unusual flood inundation, resulting in a raw material scarcity pushing up finished product prices, but came back on-stream post the investigation period allowing raw material and consequent finished product prices to revert to previous ongoing levels, it may well be appropriate to set ongoing measures by reference to post-investigation period prices.⁶

13. OneSteel submits that Customs consideration of data back as far as Jan 2001 demonstrates they had reviewed enough data to reach the conclusion that there were sufficient grounds to warrant setting the measures by reference to prices other than those in the investigation period and therefore strongly supports the finding by Customs that

due to the significant movements that have occurred in the raw material costs for HRC as reflected in the corresponding movement in prices, that to set measures

⁴ REP 188 p 67

⁵ REP 188 p 81

⁶ TMRO report p16 – para 79

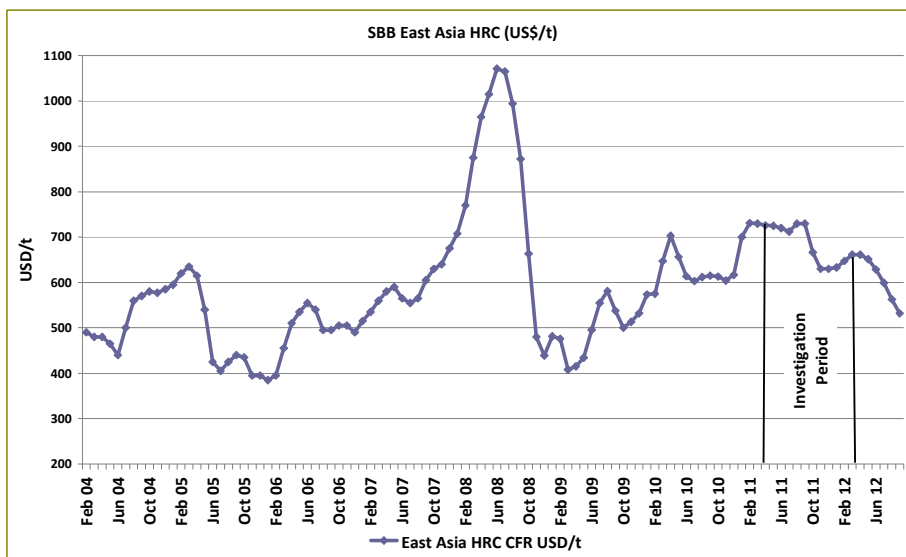


according to the export prices found during the investigation period would remedy more than the effects of dumping, as these prices are no longer relevant in the market. Accordingly, to set measures based on these out-dated export prices would unfairly impact the large number of downstream manufacturers who use HRC as an input.

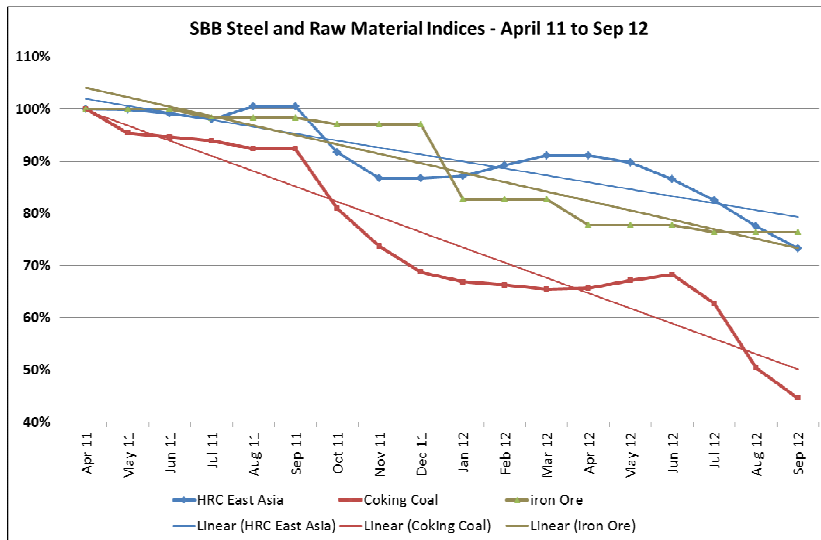
- Having established that Customs had justifiably determined that there were sufficient grounds to use later prices, OneSteel now addresses the TMRO's second question

“the preferable methodology for the adjustment of those prices”

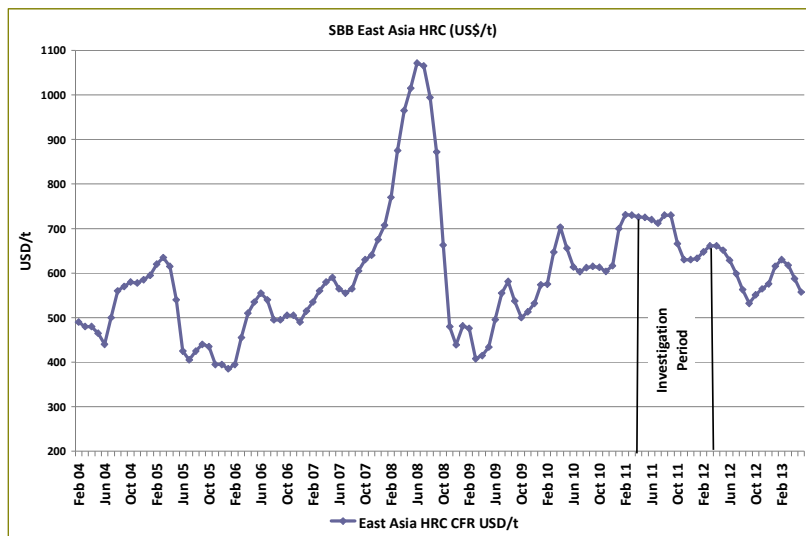
- As there is no statutory guidance in this matter, Customs adoption of a particular model is appropriately a decision that Customs makes at the time, based on the information that is available at the time. The only matter then becomes is whether it was a reasonable decision.
- In providing comment on this OneSteel provides the following SBB chart which is an extension of the chart included in REP 188 up until the end of Sept 2012.



- The data shows that HRC prices had reduced significantly and there would have been no reason, subject to further major one off events that such as floods, to anticipate that HRC prices would recover to levels greater than USD700/t in the near future. Customs would also have had access to similar data on Coking Coal and Iron Ore. The graph below is an index that shows the relative price movements of HRC, Coking Coal and Iron Ore at the beginning of the investigation period through to Sept 12. It demonstrates that it wasn't just the HRC prices that had fallen significantly but also the key commodity prices for coking coal and iron ore.



18. Based on the information that was available to Customs at the time of making its decision, OneSteel submits that it was patently reasonable that it had regard to the movement in the East Asian HRC price.
19. Finally although it is out of scope for the reinvestigation to look at prices applying after the date of the report to the Minister, OneSteel notes the TMRO has referenced comments in relation to this period. Accordingly OneSteel only includes the following information to comment on the assertion that prices of HRC had rebounded to levels during the investigation period.
20. The chart below is a further extension of SBB East Asian HRC prices and whilst it shows a temporary rebound in HRC prices they are clearly not to the same levels experienced during the investigation period. In addition they show HRC again falling and moving away from the peak pricing experienced during the investigation period.



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21. OneSteel submits that based on all the information that was available to Customs at the time they made their final recommendations to the Minister that they acted correctly in referencing prices applying after the investigation period and that indexing the movement of HRC prices was an appropriate method.