

10 August 2017

The Director Investigations 4
Anti-Dumping Commission
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CANBERRA ACT 2601

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Dear Director,

PUBLIC FILE

ADC 419 Review of Measures - Hollow Structural Sections Exported from the People's Republic of China, the Republic of Korea, Malaysia and Taiwan.

Further to the previous submission of Australian Tube Mills Pty Ltd (**Austube Mills**) regarding the effective date for the revised dumping duty notice, specifically 14 July 2017 – the date of initiation of the review inquiry - Austube Mills would now like to provide additional *prima facie* evidence of the resumption of dumping of exports from Korea.

In the Final Report for *Continuation Inquiry No. 379* the Commission made observations regarding Kukje Steel Co. Ltd (**Kukje**) which indicated that exporter's propensity to recommence dumping. The Commission stated it:

*..... discovered evidence during the onsite verification of Kukje's only Australian customer's import data, which indicated that this importer has relied on achieving favourable duty assessments in order to cover a majority of its costs to import and sell. **The evidence suggests that the relationship between Kukje and its customer extends beyond that of simply seller and buyer into a relationship where jointly they have constructed a pricing methodology in order to remain competitive without dumping.***¹

*The Commission considers that **Kukje pricing at or close to the ascertained export price indicates that its ability to expand its Australian customer base is being constrained by the imposition of the measures and due to the risks faced by importers potentially having to rely on favourable duty assessments to recover their costs to import and sell should they import from Kukje.** This pricing evidence is significant due to the recent rapid increases in the global prices of raw material inputs for HSS that began occurring during the inquiry period that the Commission believes will have a significant impact on Kukje's current export methodology.*²
[emphasis added]

¹ EPR 379/70 p.56

² EPR 379/70 p.56

Unfortunately, the Commission's projection that Kukje may adjust the "current export methodology" has been realised with a surge in exports of the goods from Korea following the conclusion of the continuation inquiry period (refer CONFIDENTIAL FIGURE 1) and specifically, there has been a sharp reduction of Kukje's export price relative to international HRC price increases (refer CONFIDENTIAL FIGURE 2)

[CONFIDENTIAL FIGURE 1 is considered confidential in its entirety, due to its inclusion of proprietary data]

CONFIDENTIAL FIGURE 1 - Graph showing substantial increase in exports of goods from Korea (Kukje) following the Continuation inquiry period.

Austube Mills contends that this increase in volume coincides with a return to dumping by Kukje particularly in the December 2016 to June 2017 period. This is substantiated by a sharp decline in export price margin over [REDACTED] HRC price following the continuation inquiry period (refer CONFIDENTIAL FIGURES 2 and 3).

[CONFIDENTIAL FIGURE 2 is considered confidential in its entirety, due to its inclusion of proprietary data]

CONFIDENTIAL FIGURE 2 - Graph showing Korean (Kukje) **Export Price** margin over [REDACTED] during and after the continuation inquiry period. For Painted RHS the Export price margin reduced by [REDACTED] and the Galvanised RHS export margin reduced by [REDACTED]

[CONFIDENTIAL FIGURE 3 is considered confidential in its entirety, due to its inclusion of proprietary data]

CONFIDENTIAL FIGURE 3 - Graph showing in AUD Korean (Kukje) **Export Price** relative to their prevailing **AEP** from Review 266 (effective floor price) and [REDACTED]. In late 2016 when HRC Coil prices increased, the floor price was no longer effective and the data indicates that Kukje recommenced dumping.

As shown in CONFIDENTIAL FIGURE 3 in November 2016 the Kukje export price for Hollow Structural Section (**HSS**) prices reached and then exceeded Kukje's prevailing Ascertained Export Price (**AEP**)³ from Review 266. This sharp increase in steel prices above the AEP (upon which a floor price was based) combined with a 0% fixed rate of duty created a situation where no interim duty liability is collected. Without an interim duty liability, and therefore no requirement for a duty assessment, it is apparent the importer Stemcor and exporter Kukje, who during the continuation inquiry period were found to have "**jointly... have constructed a pricing methodology in order to remain competitive without dumping**", changed this strategy and commenced dumping in order to increase market share. CONFIDENTIAL FIGURE 1 shows a corresponding sharp increase in export volume from November 2016.

Presumably the driver for the resumption of dumping was to increase volumes to Australia as an offset to reducing exports to the USA, again foreshadowed by the Commission in the following excerpt:

Commission is of the view that the measures recently imposed on HSS in the US market will make it difficult for Kukje to maintain its export volumes to the US market, and as a consequence Kukje is likely to increase its

³ Note the AEP for Kukje during this period was established in Review 266 with a review period of 1 July 2013 to 30 June 2014.

reliance on Australia as an export market. This will place further pressure on its current pricing strategy into the Australian HSS market.⁴

Austube Mills further highlights that the calculated decision not to dump during the anticipated continuation inquiry period coincided with a floor price being calculated at the bottom of the price cycle. In the absence of effective dumping measures there is strong *prima facie* evidence to show that Kukje and Stemcor recommenced dumping. As international prices have risen above an out-dated floor price Kukje has further increased its level of dumping allowing Stemcor to severely undercut Australian Industry prices and significantly increase the export volumes at the expense of Australian industry.

The above analysis highlights that Stemcor and Kukje, in the post-inquiry period have embarked on a deliberate strategy to attempt to exploit Australia's prospective dumping duty collection system in a rising market. It is for this reason that, at a minimum, the Commissioner must recommend to the Assistant Minister that the revised measures apply from the date of notification of the review inquiry (i.e. 14 July 2017), in order to deter Kukje and other exporters from continuing to export at dumped prices.

Austube Mills underscores the apparent behaviour of the importer and exporter in immediately returning to significant and injurious dumping in the absence of effective measures. It is unfortunate that rather than using the close relationship to continue to "***remain competitive without dumping***", it appears that Kukje and Stemcor only exhibited this behaviour for a short time during the continuation inquiry period with the intention of setting the measures by reference to the Ascertained Normal Value at a time of low steel prices. Then in an environment of rising steel prices (with an ineffective floor price) and domestic overcapacity, they consciously returned to a practice of injurious dumping.

Accordingly, Austube Mills asks that the Commissioner consider the behaviour of the exporter, in concert with the importer, and to exercise all statutory means available to address this issue and deter other exporters and importers from attempting to exploit and frustrate the continuation inquiry process.

FOR AND ON BEHALF OF AUSTRALIAN PRODUCER AUSTUBE MILLS PTY LTD

⁴ EPR379/70 p. 56