



**ALLEGATIONS OF THE SPANISH GOVERNMENT ON THE INITIATION OF THE ANTI-DUMPING
INVESTIGATION AGAINST IMPORTS INTO AUSTRALIA OF STEEL REINFORCING BAR
EXPORTED FROM THE REPUBLIC OF KOREA, MALAYSIA, SINGAPORE, SPAIN, TAIWAN, THE
KINGDOM OF THAILAND AND THE REPUBLIC OF TURKEY**

The Trade Commission of the Embassy of Spain to Australia welcomes the opportunity to provide submissions to the Antidumping Commission of Australia with regards to the Case 264 AND 2014/100

Our contribution complements the submission lodged by the European Commission on behalf of the European Union and the information to be provided by the Spanish companies which have been denounced in the notice and have

After having analysed the application lodged by the local industry and the Australian Anti-Dumping Commission's Consideration Report ("Report"), the Government of Spain wishes to comment on the following four aspects,

- Inappropriate application of confidential protection clause
- Evolution of imports
- Determination of injury
- Causal link

1. Inappropriate application of confidential protection clause

Both the application lodged by the local industry and the Report make excessive use of information deemed to be of a confidential nature, making it difficult to assess it.

As the local industry is formed by a sole manufacturer, we understand that certain information deemed to be sensitive shall be considered as commercial-in-confidence however, some data could have been provided in an indexed manner.

It is surprising that information obtained from public sources is also considered to be of confidential nature. As an example, when estimating the dumping margins, domestic and international prices have been obtained from unspecified international bulletins or reports.



Furthermore, most of the annexed information is also considered confidential. Such is the case of the dumping margins that appear in Appendix 3 as they have been obtained from public prices.

In view of the above, we respectfully request the disclosure of as much information as possible by interpreting the confidential nature of the information in a not-so-strict manner, so as to allow us to adequately interpret it.

2. Evolution of imports

As per the applicable WTO law and jurisprudence,

“the investigating authorities shall consider whether there has been a significant increase in dumped imports, either in absolute terms or relative to production or consumption in the importing Member”

It is difficult to assess whether these requirements are being met, due to the scarce information provided.

There are neither data on the volume of imports in absolute terms nor in relation to the production or consumption in Australia. The only data provided in Appendix 2 is confidential. It is therefore impossible to assess the real magnitude of the increase in imports.

However, as per Graph 1 in page 19, the increase in imports from the countries involved cannot be considered as significant. Even though between periods 2010/2011 and 2011/12, an increase in imports is perceived, the volume has been more or less constant in the following years. A slight rise takes place in 2013/14, although apparently much smaller than the 20% cited in the Report considering that, in the Graph, the quantities for 2013/14 are very similar to the period 2010/11.

Finally, on page 19, it is stated that there are discrepancies between data supplied by the plaintiff and the investigating authority on the volume of imports. These discrepancies should be clarified and specific information should be provided regarding this matter.

3. Determination of injury

As per the information supplied, it should be pointed out that the manufacturer seems to keep significant levels of captive production.



Under the circumstances, we deem it necessary to undertake a separate assessment for both segments of the production (captive and non-captive) in order to ascertain whether the domestic sales are undertaken in market conditions; and to analyse whether these could be detrimental to the local industry itself.

It is also worth pointing out an important feature specific to the steel billet manufacturer either made out of their own raw materials (in their manufacturing plant in Whyalla); or out of purchased scrap (at their Laverton and Sydney plants). Taking into account that the cost of manufacturing the steel billet represents a substantial part the total manufacturing costs of the product under investigation, a thorough study of the manufacturing process is crucial, including data of percentages of the self-manufactured and bought steel billet.

In the event that the cost of the steel billet in international market was inferior to the manufacturing cost of the local producer (the plaintiff), OneSteel would be incurring an extra-cost, higher to its competitors'. This could entail a lack of competitiveness for the local industry.

In light of the information contained in the Complaint and the Report, it is difficult to assess to what extent the Australian industry faces a clear situation of material injury as per the WTO requirements, as the above-mentioned documents lack the relevant information.

With a view to determine the existence of injury, Article 3.4 of the WTO Anti-Dumping Agreement states that,

"The examination of the impact of the dumped imports on the domestic industry concerned shall include an evaluation of all relevant economic factors and indices having a bearing on the state of the industry, including actual and potential decline in sales, profits, output, market share, productivity, return on investments, or utilization of capacity; factors affecting domestic prices; the magnitude of the margin of dumping; actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital or investments."

This analysis needs to be undertaken within a representative period of time.

However, many of these factors don't appear to have been considered, since this information was not included in the Report. We would therefore request that this information is made available to us and that it is analysed during the investigation.

In any event and taking into account the incomplete information contained in the Complaint and the Report, the conclusion that there is a situation of material injury to local industry can't be reached for the following reasons:



Based on graph 3 included in the Report, sales of the local industry grow throughout all the investigated period, except for the year 2013/14 (but still above the 2010/11 level). However, as neither absolute nor indexed values are provided, it is difficult to have a clear idea of the magnitude of these variations.

On the other hand, and as it has been stated previously, given that the manufacturer has a substantial captive production, it is essential to clarify whether the information relating to the sales provided in the Report refers to internal or external sales, as this differentiation is important when evaluating the presumed damages.

As far as OneSteel's market share, it has been on the rise in accordance to the evolution of the Australian market. Taking only the period 2013/14 into account, we can observe a 2% decrease in the participation of the local industry which under no circumstances, we believe, could be deemed significant.

As far as the market share of the imports, even though we perceive a growth in the period 2013/14, it merely reached the levels of 2010/11.

Regarding the prices of the local//domestic industry, there doesn't seem to be any indication that we find ourselves in a situation where damages have been incurred. As per the partial information received in the Complaint (page 24) these have been almost stable since 2012/13. In graph 4 of the Report (page 33) we can observe a slight decrease in the period from 2010 to 2013, while the unit price grew in 2013/14. That is the year when, according to the plaintiff, the imports have grown most.

Even though in the Report there is mention of the undervaluation of the domestic product compared to imports; and that it was precisely these that have put pressure on the local industry; given that no information has been provided about the evolution of said import prices, or that the tendency of the prices on an international level hasn't been taken into account, it is difficult to determine that this effect has indeed been produced. It would be important to note that within the analysed period there was a strong volatility of the price of steel not only on the Australian market but also on the international markets.

To the contrary, and based on graph 4 on page 33 of the Report, what can be observed is that the prices of the domestic industry follow the same tendencies as the costs, even though the costs have been, throughout the analysed period, much higher than the sale price. This, however, seems to have happened independently to the evolution of imports.



Given the erratic behaviour of the costs of the plaintiff and the high level of said costs, we consider it necessary that a more in-depth analysis is undertaken of this matter, as their evolution could explain in large measure the situation of damages that is alleged by the company.

In relation to the information provided about benefits and profitability, graph 5 of the Report shows that OneSteel is incurring loss since the beginning of the investigated period, that is to say, before the increase in the imports of the countries accused of dumping. In our opinion, these losses are explained by the difference between their costs and sale price and what should be questioned is why the Australian manufacturer is incurring in loss in a continuous manner over a prolonged period in time.

In the part related to the analysis of other factors that should be considered when determining whether there have been damages, the Report references information provided by the plaintiff about their assets, their capital investment, their I+D costs and to the number of employees.

This information cannot be analysed as no data has been provided that would support it. Nevertheless, we can deduce that the industry presents a more favourable situation in the assets corresponding to the investigated product than in the rest of the products of said industry. Besides, a coincidence in the time period can be observed, between the invested capital and the financial situation of the investigated assets. It would be interesting to clarify what the said investment corresponds to.

We would appreciate it if the investigating authorities were to examine the afore-mentioned elements in depth, as they have stated they would in the Report, as well as any other factor that could have contributed to the alleged damages.

4. Causal link

As per OneSteel, the behaviour of their economic indicators in the year 2013/14, a period when presumably the imports have grown the most, clearly demonstrates a causal link between these and the alleged damages, there existing no other factor, according to them, that breaks this causal link. OneSteel points out, amongst other elements, that while their market share has decreased by 5% that year, the share of imports of the countries involved has grown by 4%. Furthermore, it alleges that the existence of significant levels of undercutting by the imports would have provoked a decrease in their sales, that has resulted in a decrease in production, simultaneously causing an increase of their fixed costs which couldn't be transferred to their clients which resulted in a significant loss.



Nevertheless, even though this information is to some extent correct, one would have to consider the following factors. First, and assuming that in 2013/14 their market share has decreased, the domestic industry sales still take up the largest part of the Australian market. On the contrary, even though the importation quota has increased in 2013/14, it has only recovered very similar levels reached in 2010/11. As far as the increase of their costs in 2013/14, as we have already mentioned, these levels are inferior to the year 2011/12, the year when apparently imports haven't increased as much as in 2013/14. Therefore, there doesn't seem to be any relation between the introduction of the imports in the Australian market and the costs of the Australian company.

Due to all the afore mentioned, we do not agree with the plaintiff's analysis, something that, at least in part, the Australian authorities seem to corroborate, about the existence of a clear connection between the deterioration of their economic indicators and the evolution of the imports of the countries being accused of dumping.

To the contrary, in our opinion, there are other factors not related to the imports that could explain in great measure OneSteel's situation. For example, and as we have mentioned previously, there is need of an in-depth analysis of their costs and why these are so elevated, as well as their level of competitiveness.

On the other hand, the continuing situation of loss incurred by the plaintiff, could perhaps be more related to the fact that the holding to which it belongs (Arrium Steel) has been going through a restructuring process since 2010, probably due to the acquisition in 2007 of Smorgon Steel, one of the main Australian manufacturers of rebars, at a time when the Australian market for such products was contracting.

Equally, there needs to be an in-depth analysis of the impact of their captive production.

We trust that throughout the investigation, the Australian authorities will undertake an in-depth evaluation of all these factors so that they could decide if there a clear causal link really exists.

Conclusions

Given all of the above mentioned, the Government of Spain would like to respectfully request that the investigative authorities would, first of all provide the information needed in order to undertake an analysis of the requirements established by the WTO for initiating a procedure of this type, and so as to also be able to determine if there are elements which would justify the imposition of such measures.



EMBASSY
OF SPAIN

TRADE COMMISSION
OF SPAIN
SYDNEY

We trust that the Australian Anti-dumping Commission will take into account the facts we have raised and that they will have a detailed analysis of all elements requested by the WTO throughout the process, clarifying any matters or questions we have raised.

We would like to take this opportunity to offer our complete collaboration to the investigating authorities, facilitating all information that they deem necessary throughout the process.