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26 May 2015

Ms Joanne Reid
Director Operations 2
Industry House
10 Binara Street
Canberra ACT 2601

**REVIEW OF MEASURES – HOLLOW STRUCTURAL SECTIONS EXPORTED FROM
THE PEOPLES REPUBLIC OF CHINA BY DALIAN STEELFORCE**

Dear Ms Reid,

This submission is made by Dalian Steelforce Hi-Tech Co., Ltd. (Dalian Steelforce) in response to the submissions by Austube Mills Pty Ltd (ATM) of 15 May 2015 and Orrcon Operations Pty Ltd of 18 May 2015 to the current review of certain hollow structural sections (HSS) exported by Dalian Steelforce (Case 285).

Scope of review

Firstly, it would appear that the two industry members have misunderstood the views outlined and presented by Dalian Steelforce in its earlier submission, by suggesting that Dalian Steelforce has proposed that the review of measures should be extended to include a reconsideration of the market situation finding from the original investigation. This is contrary to the view submitted by Dalian Steelforce.

To reiterate, Dalian Steelforce accepts that it would be difficult for the Anti-Dumping Commission (Commission) to revisit the issues of market situation and competitive market costs in a single exporter variable factor review, as both of these issues require a broader analysis and examination of market factors affecting a particular sector, industry or market. Further, Dalian Steelforce agrees with the industry members that the review should be limited to a review of the variable factors only.

However, Dalian Steelforce disagrees with the view submitted by ATM that:

A review of the variable factors applicable to HSS exported by Dalian Steelforce is therefore limited to the following:

- (i) a change in the constructed normal value applicable to Dalian Steelforce from the original investigation period of 2010/11 to the investigation period in 2014;
- (ii) a change in Dalian Steelforce's export prices from the original investigation period to 2014; and
- (iii) any change in the non-injurious price from 2010/11 to the investigation period of 2014.

Dalian Steelforce contends that a review of the variable factors must also include the amount of countervailable subsidy received in respect of the goods pursuant to ss.269T(4D)(b) of the *Customs Act 1901* (the Act).

ATM further adds that in 'this instance the Commission will seek to review the quantum of the benefits received by Dalian Steelforce under each of the subsidy programs identified as applying to the exporter in Investigation No. 177.' Respectfully, Dalian Steelforce once again disagrees with ATM's position.

The Act refers to 'the amount of countervailable subsidy received' and not 'the amount of benefit received'. This is a critical distinction that is noted by the ruling of the Appellate Body of the World Trade Organization referenced in our earlier submission. To highlight by example, an exporter can purchase hot-rolled coil (HRC) from a private entity at prices substantially below the determined prevailing HRC benchmark and receive significant benefits as a result. However, that amount of benefit may not be countervailed unless the Commission establishes that those purchases stemmed from a financial contribution as defined.

Therefore, the Commission is under an obligation to establish the amount of countervailable subsidy received by Dalian Steelforce in respect of the goods, and not simply the amount of benefit.

Relevance of anti-circumvention inquiry

The industry members also request the Commission to take into account the findings of the recently initiated anti-circumvention inquiry into slightly modified goods (Case 291). It is noted that neither party outlines the legal basis on which it considers the Commission would be entitled and empowered to draw upon the findings of the anti-circumvention inquiry in its review of variable factors.

It is apparent to Dalian Steelforce that the current review of measures relates only to goods the subject of the current dumping and countervailing duty notices. The description of the goods is the same in the original application by ATM in case 177, the findings of the original investigation in Report 177, the reinvestigation findings in Report 203, the current dumping commodity register and the public notice to this review.

Those documents define the goods as:

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections. [Emphasis added]

Subsection 269T(4D) of the Act, which defines the variables factors, refers on numerous occasions to the particular goods the subject of the dumping duty notice and countervailing duty notice and the goods. It is abundantly clear then that this review of variable factors is limited to the export of HSS made of carbon steel by Dalian Steelforce.

The anti-circumvention inquiry on the other hand, will examine whether products other than HSS made of carbon steel meet the definition of a circumvention activity by way of slight modification. In the unlikely event that the Commission finds that the claimed circumvention activity has taken place, any alterations to the current notices, take effect on and after a day specified in the Minister's declaration. Subsection 269ZDBH(7) of the Act clearly states that the day specified in the declaration must not be earlier than the day of publication of the notice initiating the anti-circumvention inquiry.

The day of publication of the relevant notice relating to the current anti-circumvention inquiry is 11 May 2015. This means that the Minister may, following completion of the inquiry by the Commission, alter the notice effective from 11 May 2015 such that the goods the subject of the altered notices would extend to HSS of alloy steel. However, given that this effective date would be over four months after the end of nominated review period (1 January 2014 to 31 December 2014) in case 285, Dalian Steelforce contends that the future findings of the anti-circumvention inquiry are irrelevant and have no bearing on the determination of its export prices of the goods, normal values of like goods and countervailing subsidy received in respect of the goods during the review period.

Verification of Dalian Steelforce questionnaire response

Finally, the industry members request the Commission to undertake an on-site verification of the information provided in its questionnaire response to ensure that contemporary data is substantiated and verified. For the record, Dalian Steelforce would welcome any decision by the Commission to verify the accuracy of the information presented at its premises in China.

It is worth noting that since the commencement of its operations in 2005, Dalian Steelforce has fully cooperated with each and every dumping and countervailing investigation, review and duty assessment that it has been involved in. During this time, the Commission has conducted multiple on-site verification visits to Dalian Steelforce and was provided with complete access to its accounting records and all information requested of it. On each occasion, the Commission has concluded that the information presented was accurate and reliable.

Yours sincerely

John Bracic