



Received 5 December 2014

# TAY & PARTNERS

Advocates & Solicitors ■ Registered Trademark & Patent Agents ■ Registered Industrial Design Agents

6th Floor, Plaza See Hoy Chan, Jalan Raja Chulan, 50200 Kuala Lumpur, Malaysia  
Tel: 603 2050 1888 Fax: 603 2031 8618 mail@taypartners.com.my www.taypartners.com.my

Corporate, M&A & Banking Intellectual Property & Technology Litigation & Dispute Resolution  
Fax: 603 2031 8618 Fax: 603 2072 6354 Fax: 603 2026 0995

Your Ref : to be advised  
Our Ref : 2101 0144/TBC/NLW  
Date : 5 December 2014

DID : 603-2050 1881 & 1918 & 1892  
E-mail : [bengchai.tay@taypartners.com.my](mailto:bengchai.tay@taypartners.com.my)  
[nicole.leong@taypartners.com.my](mailto:nicole.leong@taypartners.com.my)  
[lynette.yee@taypartners.com.my](mailto:lynette.yee@taypartners.com.my)



**Director Operations 3**  
**Anti-Dumping Commission**  
Ground Floor, Customs House,  
1010 Latrobe Street  
DOCKLANDS VIC 3008  
AUSTRALIA

**Email & Fax (+61 3 9244 8902)**

**FOR PUBLIC RECORD**

**Attention: Mr. Tim King**

**Investigation into Alleged Dumping of Steel Reinforcing Bar Exported from the Republic Of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic Of Turkey (Case No. 264)**

We represent Amsteel Mills Sdn Bhd (“**Amsteel**”). We refer to the Australian Anti-Dumping Commission (“**Commission**”) investigation (“**Investigation**”) into the alleged dumping of steel reinforcing bar exported from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey (“**Nominated Countries**”), following the application lodged by OneSteel Manufacturing Pty Ltd (“**OneSteel**” or “**Applicant**”).

## **2. Background**

- 2.1 By an application dated 4 August 2014, OneSteel requested for the publication of a dumping duty notice in respect of the Steel Reinforcing Bar exported from the Nominated Countries (“**Application**”).
- 2.2 The Commission published the Consideration Report No. 264 dated 7 October 2014 (“**Consideration Report**”).
- 2.3 By an Anti-Dumping Notice No. 2014/100 dated 17 October 2014, the Commission initiated the Investigation.
- 2.4 Amsteel, as an identified exporter in both the Application and the Consideration Report, responded to the exporter questionnaire and makes this submission.

## **3. Purpose and scope**

- 3.1 The purpose of this submission is to demonstrate that:
  - 3.1.1 the Investigation ought to be terminated; and
  - 3.1.2 there is no cogent evidence that would satisfy or enable the Commission to make a preliminary affirmative determination and/or the imposition measures as requested by OneSteel.

### **Partners**

Tay Beng Chai ■ Lau Lee Jan ■ Chang Hong Yun ■ Leonard Yeoh ■  
Susan de Silva ■ Asmet Nasruddin ■ Cheah Soo Chuan ■ Lee Lin Li ■  
Teo Wai Sum ■ Lim Bee Yi ■

### **Kuala Lumpur Office**

Tay & Partners  
6th Floor, Plaza See Hoy Chan, Jalan Raja Chulan,  
50200 Kuala Lumpur, Malaysia  
Tel: +603 2050 1888 mail@taypartners.com.my

- 3.2 Amsteel has exported<sup>1</sup> to Australia during the period of investigation from 1 July 2013 to 30 June 2014 (“**POI**”) hot-rolled deformed steel reinforcing bar ribbed in straight length (“**Steel Bar**”) and hot-rolled deformed steel reinforcing bar in coil (“**DBIC**”). Amsteel however did not sell DBIC domestically in Malaysia during the POI.

#### 4. Overview of Amsteel’s submissions

- 4.1 Amsteel contends that the Application and its consideration by the Commission set out in the Consideration Report are incomplete and inadequate in the following respects:

4.1.1 With regards to alleged dumping, the Commission has erred in arriving at the dumping margin of 25.8%.

4.1.2 With regards to injury to the Australian Industry –

- (a) OneSteel experienced no material injury during the POI.
- (b) Even if OneSteel suffered material injury during the POI, such injury cannot be attributed to the dumped imports.
- (c) Even if OneSteel suffered material injury during the POI attributable to the dumped imports, there is no likelihood that this material injury will continue in the foreseeable future and therefore no justification for the imposition of anti-dumping measures.

#### 5. No dumping margin of 25.8% by Amsteel

##### 5.1 *Amsteel’s export price and normal value ought to be adjusted to enable fair comparison*

5.1.1 As mentioned in paragraph 3.2 above, Amsteel did not sell DBIC domestically. Accordingly, the subject matter of like goods mentioned in Amsteel’s submission in paragraph 5.1 herein refers to only Steel Bar.

5.1.2 The ADA stipulates<sup>2</sup> that, when determining dumping, a fair comparison be made between the export price and the normal value and this comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. It requires due allowance be made in each case, on its merits, for differences which “affect price comparability”.

5.1.3 Amsteel submits that both the Application and the Consideration Report do not identify or address a number of significant differences which affect price comparability between Amsteel’s export price and normal value as demonstrated below –

(a) Commission

Based on the Manual<sup>3</sup>, adjustment to the domestic sales price for the difference in commissions is allowed where the domestic sales commission is subtracted and the export sales commission is added. The data provided by Amsteel shows that –

<sup>1</sup> Exporter’s Questionnaire, Section C-1

<sup>2</sup> Article 2.4 of the ADA

<sup>3</sup> Manual, Section 14.3, “Commissions”



(i) [REDACTED]  
[Explanation on commissions for domestic sales]

(ii) [REDACTED] . [Explanation on  
commissions for export sales]

(b) Rebates

Based on the Manual<sup>6</sup>, prices may be adjusted in respect of rebates paid to customers by exporters that have achieved designated target volumes in a given period. The data provided by Amsteel shows that –

(i) [REDACTED] . [Explanation on rebates  
for domestic sales]

(ii) [REDACTED]  
[Explanation on rebates for export sales]

(c) Inventory carrying costs

Based on the Manual<sup>9</sup>, an adjustment may be considered if the costs associated with holding goods for sale are different in so far as they relate to relevant domestic sales and relevant export sales, and the differences are reflected in price. The data provided by Amsteel shows that –

(i) [REDACTED] . [Explanation on inventory  
carrying costs for domestic sales]

(ii) [REDACTED] . [Explanation on  
inventory carrying costs for export sales]

<sup>4</sup> Amsteel's spread sheets named "Australian Sales - Steel Bar", Column 36 and "Australian Sales – DBIC", Column 36.

<sup>5</sup> Amsteel's spread sheets named "Domestic Sales for Bar", Column 36, "Australian Sales - Steel Bar", Column 36 and "Australian Sales – DBIC", Column 36.

<sup>6</sup> Manual, Section 14.3, "other discounts and rebates"

<sup>7</sup> Amsteel's spread sheets named "Australian Sales - Steel Bar", Column 36 and "Australian Sales – DBIC", Column 22.

<sup>8</sup> Amsteel's spread sheets named "Australian Sales - Steel Bar", Column 22 and "Australian Sales – DBIC", Column 22

<sup>9</sup> Manual, Section 14.3, "Inventory carrying costs"

<sup>10</sup> Amsteel's spread sheet named "Domestic Sales for Bar", Column 37.

<sup>11</sup> Amsteel's spread sheet named "Domestic Sales for Bar", Column 37.

(d) Delivery costs

Based on the Manual<sup>12</sup>, selling price for domestic sales is adjusted down by the cost of delivery if domestic like goods are sold at a delivered price. Selling prices for export sales may be adjusted upwards to account for costs of delivery to the point of export and ancillary costs. The data provided by Amsteel shows that –

(i) [REDACTED] . [Explanation on delivery costs for domestic sales]

(ii) [REDACTED] . [Explanation on delivery costs for export sales]

(e) Credit

Based on the Manual<sup>13</sup>, an adjustment is warranted when credit terms for export sales differ from the credit terms for domestic sales. The data provided by Amsteel shows that –

(i) [REDACTED] .  
[Explanation on credit for domestic sales]

(ii) [REDACTED]<sup>16</sup> .  
[Explanation on credit for export sales]

5.1.4 Amsteel submits that the table below sets out its ex-factory normal value and ex-factory export price after making adjustments referred to in sub-paragraphs (a) to (e) above –

POI	Ex-factory normal value (USD\$/MT)	Ex-factory export price (USD\$/MT)	Margin <sup>17</sup> (%)
Jul – 13	[REDACTED]	[REDACTED]	[REDACTED]
Aug – 13	[REDACTED]	[REDACTED]	[REDACTED]
Sep – 13	[REDACTED]	[REDACTED]	[REDACTED]

<sup>12</sup> Manual, Section 14.3, “Delivery costs and ancillary charges”

<sup>13</sup> Manual, Section 14.3, “Credit”

<sup>14</sup> Amsteel’s spread sheet named “Domestic Sales for Bar”, Column 16.

<sup>15</sup> Exporter’s Questionnaire, E-2(4)(1)

<sup>16</sup> Amsteel’s spread sheets named “Australian Sales - Steel Bar”, Column 16 and “Australian Sales – DBIC”, Column 16

<sup>17</sup> Denominator is [REDACTED] [Explanation on the denominator of the margin]



Oct – 13			
Nov – 13			
Dec – 13			
Jan – 14			
Feb – 14			
Mar – 14			
Apr – 14			
May – 14			
Jun – 14			

## 5.2 The alleged dumping margin is not 25.8%

5.2.1 In determining whether dumping has occurred, the Minister will compare export prices with the normal values respectively established in accordance with sections 269TAB and 269 TAC of the Act<sup>18</sup>. In order to compare those export prices with those normal values, the Minister may compare the weighted average of export prices over the whole of the investigation period with the weighted average of corresponding normal values over the whole of that period<sup>19</sup>.

5.2.2. Below is a table setting out the weighted average ex-factory normal value, the weighted average ex-factory export prices and the difference between the two –

Throughout the POI	Weighted average of ex-factory normal values (USD\$/MT)	Weighted average of ex-factory export prices (USD\$/MT)	Margin (UD\$/MT)	Margin (%) <sup>20</sup>
Jul – 13 to Jun - 14				

5.2.3 Contrary to the Applicant's allegation, the dumping margin is not 25.8%. Accordingly, it is unjust for the Minister to impose a dumping duty of 25.8%.

5.2.4 With regards to the margin of [REDACTED] between Amsteel's domestic selling price and export price to Australia, Amsteel states that –

(a)

[REDACTED]

<sup>18</sup> Section 269TACB(1) of the Act

<sup>19</sup> Section 269TACB(2)(a) of the Act

<sup>20</sup> Denominator is the [REDACTED] [Explanation on the denominator of the margin]

[REDACTED]

(b) [REDACTED]

(c) [REDACTED]

*[Explanation on the difference between Amsteel's domestic selling price and export price to Australia.]*

5.2.5 As set out in the table in paragraph 5.1.4 above, [REDACTED]  
[REDACTED] *[Submission on the percentage of Amsteel's export volumes to the total rebar export volumes to Australia.]*

### 5.3 ***OneSteel's transportation charges***

5.3.1 It is also Amsteel's submission that a proper comparison of Amsteel's export price and OneSteel's selling price in the Australian market can only be achieved by removing the impact of transportation charges incurred by OneSteel –

- (a) Based on the Application<sup>23</sup>, OneSteel's rebar coil is rolled through Laverton Rod Mill and its rebar straights are produced through Laverton Bar Mill.
- (b) OneSteel also mentioned<sup>24</sup> that rebar is sold nationally with the majority of the volume sold in the eastern states of Queensland, New South Wales and Victoria.
- (c) Based on the average distances from OneSteel's production facilities in Laverton to Queensland, New South Wales and Victoria, it is estimated that OneSteel incurs substantial delivery expenses compared to Amsteel.

## 6. **No material injury during the investigation period**

### 6.1 ***The Applicant's injuries are mere ebb and flow of business***

6.1.1 The Ministerial Direction on Material Injury provides that the injury must be greater than that likely to occur in the normal ebb and flow of business. In the light of the

<sup>21</sup> Oct 2013, December 2013 and February 2014 to June 2014

<sup>22</sup> Application, Page 36, Table B-1.5 – Rebar export volumes to Australia (metric tonnes)

<sup>23</sup> Application, page 14

<sup>24</sup> Application, page 16



Applicant's Annual Report 2013, the ebb and flow of the business cycle is a better explanation for the Applicant's injuries than any alleged dumping.

6.1.2 Amsteel submits that the Applicant's alleged injuries are mere ebb and flow of business –

- (a) The Applicant provided 2013 annual report ("**2013 Annual Report**") issued by its parent company, Arrium Limited, as a non-confidential appendix to its Application. The 2013 Annual Report made repeated mention of the high Australian dollar as a key negative factor in the Applicant's performance. The Applicant claimed that it suffered injuries due to dumping since year 2010. However, the Applicant's 2013 Annual Reports does not make a single reference to dumping as being the cause of the Applicant's losses and instead blames "*the high Australian dollar and generally weak construction and manufacturing markets*". Despite this, the Applicant has not mentioned currency anywhere in its Application as being a potential causal factor for its asserted woes.
- (b) The Applicant's loss of market share was due to contraction of Australian rebar market, and not dumping or price undercutting as alleged by the Applicant. This is consistent with the Applicant's contention that the sizes of the Australian rebar market contracted by under 2% over the 2013/2014. This is also consistent with Applicant's 2013 Annual Report where it makes repeated reference to the "*challenging external environment*" caused by weak domestic demand and a high Australian dollar –

*"The Steel business continued to be challenged during the year by the difficult external environment, including the high Australian dollar and generally weak construction and manufacturing markets. Domestically, large infrastructure projects in the engineering construction sector continued to support strong demand for steel reinforcing products, but deterioration in commodity prices adversely affected demand from the resource sector (particularly coal, gas and iron ore) as companies reduced maintenance and some project expenditure. In the non-residential and residential construction sectors, activities levels remained generally weak due to credit availability issues and soft business and consumer sentiment..."*<sup>25</sup>

- (c) The 2013 Annual Report also said<sup>26</sup> –

*"We expect generally weak domestic and international steel markets to continue through international steel markets to continue through the first half. However, domestic construction markets are expected to slowly recover in FY14 after experiencing the impact of weaker activity in the resource and non-residential construction sectors in the prior half..."*

*Arrium Steel has significant leverage to improved demand, particularly from domestic construction.*

*Over the medium to longer term, we remain confident we will see improvements in the fundamentals for key domestic and international steel markets as economic conditions improve"*

<sup>25</sup> 2013 Annual Report, at p12

<sup>26</sup> 2013 Annual Report, at p13

If the dumped imports were responsible for the injury alleged by the Applicant, it would not believe that it would have “*significant leverage to improved demand*”. The Applicant’s emphasis on demand conditions rather than price undercutting belies its claims that the injuries it suffered were anything but the effects of an unfavourable business cycle.

**7.2     *The alleged injury suffered by the Applicant was due to business cycle***

7.2.1 We observed from the graph depicting the sales volumes trends between OneSteel’s sales to distributors and sales of imported and allegedly dumped goods that during the alleged dumping period from July 13 to June 14:

- (a) There is a direct correlation between the sales volumes between OneSteel’s sales and the sales of imported and allegedly dumped goods for Aug 13, Sep 13, Nov 13, Dec 13, Mar 14, Apr 14, i.e. when there is an increase or decrease in the sales of imported dumped goods, the same happened to OneSteel’s sales. This is consistent with our submission that the injury alleged by the Applicant was caused by the market cycle.
- (b) There are 3 occasions (July-Aug 13, January-Feb 14 and May-June 14) where OneSteel’s sales volumes have increased whilst imported goods have suffered reductions or no increase in sales.
- (c) There are only 2 occasions (Oct-Nov 13 and Apr-May 13) where OneSteel’s sales volumes have decreased whilst imported goods’ sales volumes have increased.

7.2.3 If the goods are indeed subjected to any price undercutting as claimed by the Applicant during the alleged dumping period from July 13 to June 14, the Applicant’s sales quantities would have decreased when there is an increase of the alleged dumped import’s sales quantities. However, the sales volume trends suggest otherwise.

**7.3     *No injuries suffered by the Applicant during the periods of 2010/11, 2011/12 and 2012/13***

7.3.1 The Applicant alleged that it has suffered material injury commenced prior to 2010/11. The data provided by the Applicant however show that its sales quantities<sup>27</sup>, production<sup>28</sup> and revenue<sup>29</sup> for rebar – straight are all in the rising trend from 2010/11, 2011/12 and 2012/13. If the goods are indeed subjected to any price undercutting as claimed, the Applicant’s sales quantities, production and revenue would have decreased.

---

<sup>27</sup> Application, p 18, A-4(6)

<sup>28</sup> Application, p 23, A-8(2)

<sup>29</sup> Application, p 25, A-8(2)



## 7.4 *Applicant's alleged reduced profits and profitability ought to be examined closely*

- 7.4.1 OneSteel's claimed<sup>30</sup> that its cost to make and sell for rebar – straight has increased for approximately 3% in 2013/14. This is inconsistent with its earlier announcement in May 2013<sup>31</sup> that it is expected to deliver additional annualised cost savings of \$40million (~\$30million in FY14) after combining its steel manufacturing and distribution steel businesses to form a single steel business.

## 7.5 *No price depression or price suppression*

- 7.5.1 Price depression is when the local producer is forced to reduce prices in order to compete with the imported goods<sup>32</sup>.
- 7.5.2 Based on the index of price variations<sup>33</sup> and costs variation<sup>34</sup> provided by the Applicant during the injury analysis period, there appears to be a direct correlation between the costs and the price for rebar straights –

Product	2010/11		2011/12		2012/13		2013/14	
Rebar Straight	Cost Variations	Price Variations	Cost Variations	Price Variations	Cost Variations	Price Variations	Cost Variations	Price Variations
	100	100	98.22	97.36	93.89	97.12	96.56	97.21
			↓	↓	↓	↓	↑	↑

- 7.5.3 It is submitted that the reduction in prices for rebar straight was not resulting from the alleged price undercutting or the Applicant wanting to remain competitive with the dumped goods. Instead, OneSteel determines its prices after taking into account its costs. In that circumstance, the fact that the prices of imports are lower than those of OneSteel cannot be considered price undercutting.
- 7.5.4 Contrary to OneSteel's contention that it is a price taker, Amsteel submits that OneSteel being a dominant player<sup>35</sup> in Australia market is a price setter. Amsteel submits that OneSteel deliberately reduces prices to a loss-making level when faced with competition from competitors in order to maintain its market position as the dominant player in the Australian market.

## 7.6 *Transfer pricing*

- 7.6.1 Section 4.2 of the Dumping and Subsidy Manual stated that –

*“the transaction values between related parties may be unreliable and inappropriate for assessing injury indicators associated with price effects. (Costs may also be unreliable for example where there are integrated production stages owned by related business divisions).”*

*Therefore, it is policy is to examine the degree to which related party transactions involving the producing Australian industry are suitable for the material injury*

<sup>30</sup> Application, p 23, A-8(2)

<sup>31</sup> 2013 Annual Report, p 12

<sup>32</sup> Dumping and Subsidy Manual, at page 15, para 4.3

<sup>33</sup> Application, p 24, A-8(2)

<sup>34</sup> Application, p 23, A-8(2)

<sup>35</sup> Application, p 15, para 9 *“OneSteel is the sole Australian manufacturer of rebar the subject of this application.”*

*assessment. The Commission will examine whether the association between the parties affects the transaction value.”*

7.6.2 Logically, the relative ratio between cost and revenue will depend on a number of internal variables related to the costs of production and manufacturing efficiencies. OneSteel’s production of steel reinforcing bar relies on the raw material feed (billet) sourced locally and account for the significant proportion of total raw material used in the rebar manufacturing process<sup>36</sup>. Accordingly, international prices for comparable steel billet would be appropriate for benchmarking purposes in these circumstances to ensure that OneSteel’s billet cost reflect reasonable market prices. In examining this issue, should the Commission find that OneSteel’s transfer price for billet significantly exceeds the equivalent international benchmark price, Amsteel submits that the Commission should either find that:

- (a) there is insufficient reliable information to make a finding that OneSteel suffers material injury in the form of reduced profits and profitability due to price suppression which linked to its production costs.
- (b) replace OneSteel’s billet cost with an international benchmark price for the purposes of isolating the impact of OneSteel’s integrated operations on its material injury claims.

#### **7.7 *Applicant’s alleged loss of market share is not decisive on dumping***

7.7.1 Section 4.2 of the Manual provides that a loss of market share alone cannot be decisive and loss of market share should be considered with a range of relevant indicators. Amsteel submits that loss of market share together with other indicators alleged by the Applicant (i.e. loss of sales volumes, price suppression and reduced profits and profitability) can no longer be considered as reliable indicators of material injury suffered by the Applicant.

#### **7.8 *Alleged dumped imports hold a small market share***

7.8.1 In order to justify imposing a dumping duty, the injury caused by dumping is material in degree, which is not immaterial, insubstantial or insignificant<sup>37</sup>. Section 4.2 of the Manual recognizes<sup>38</sup> that it may be difficult to demonstrate material injury in cases where dumped imports hold a small market share.

7.8.2 It is also questionable that OneSteel being the sole manufacturer of the like goods in Australia and enjoying 67% market share in Australia with significant economy market power will sustain any injury in material degree, considering that the market share of the dumped imports is merely 33%. This is especially true when Malaysia imports merely accounted for 3.76%<sup>39</sup> of the total market in Australia during the period of investigation.

---

<sup>36</sup> Application, p 15, para 7

<sup>37</sup> Manual, Section 4.2

<sup>38</sup> Manual, Section 4.2

<sup>39</sup> Based on the Consideration Report, page 22, Table 3 “Export quantity and prices – Korea, Malaysia, Singapore, Spain”, Malaysia merely exported 9,477 metric tonnes out of a total imports of 251,823 metric tonnes.



- 7.8.3. Amsteel further submits that, OneSteel, being the dominant player in the Australia market, attempts to raise the barrier to entry into the Australian market by inviting the Commission to impose dumping duty on the imports.

## 8. No causation

### 8.1 *Applicant's injuries were not caused by the alleged dumping*

- 8.1.1 Section 4.2 of the Dumping and Subsidy Manual provides that –  
*"It must be shown that the industry is suffering injury and that the injury caused by dumping or subsidisation is material in degree."*

Section 269TAE(2A) of the Act provides that –

*"In making a determination in relation to exportation of goods to Australia for the purposes referred to in subsection (10 or (2), the Minister must consider whether any injury to an industry, or hindrance to the establishment of an industry, is being caused or threatened by a factor other than the exportation of those goods such as:*

*...*

- (c) contractions in demand or changes in patterns of consumption; or*

*...*

- (f) the export performance and productivity of the Australian industry; and any such injury or hindrance must not be attributed to the exportation of those goods."*

- 8.1.2 Even if OneSteel is able to satisfy the Commission that its injury was caused by the dumped exports, we submit that the injury caused by dumping is not material in degree –
- (a) Contrary to the Applicant's allegation that the declines in its sales volumes and market share in 2013/14 are attributable to the price effect impact of the dumped exports that undercut its selling prices, the decline in its sales volumes and market shares were due to *"weak domestic and international steel markets"* as stated in its Annual Report 2013.
  - (b) The Applicant also claimed that decline of sales volumes contributed to increase of costs and thereby resulting in price suppression in 2013/14. There is however no reference being made to high Australian dollar in the Application
  - (c) The Applicant complained that it has not been able to pass on increased costs through higher selling prices. As mentioned by the Applicant, the market has contracted by 2%. It cannot therefore simply assume that in a contracting market, it is profitable for OneSteel to increase its prices to recover its costs. It is certainly unsafe to attribute the decline of 5% market shares solely to the alleged price undercutting, and ignoring the fact that the market has contracted by 2%.
  - (d) Logically, sales volumes are inextricably linked to the demand for the goods. As a matter of fact, the downward trend of the Applicant's sales volumes from 2012/13 to 2013/14 is consistent with its claim that the market has contracted by 2%



- (e) Contrary to OneSteel's allegation<sup>40</sup> that there is a fall in OneSteel's sales volumes when there is an increase in dumped imports, the graph<sup>41</sup> provided by the Applicant merely shows this is true for 2 months over the entire POI. Instead, the sales volumes movement trend<sup>42</sup> of both OneSteel and dumped imports are in fact consistent with each other, i.e. OneSteel's sales volumes will increase when there is an increase in dumped import's sales volumes, and *vice versa*.

- 8.1.3 It is clear from the foregoing that there are a number of factors other than dumped imports that have caused injury to OneSteel over the injury analysis period.
- 8.1.4 It is important to note that one of the key factors causing injury to OneSteel during the injury analysis period and incorrectly attributed to allegedly dumped imports is "*contractions in demand or changes in patterns of consumption*" However, OneSteel and the Commission failed to separate and distinguish the injuries caused by these factors.
- 8.1.5 In addition to contractions in demand, the Commission has failed to consider the impact of the value of the Australian dollar on OneSteel's selling prices. There is therefore no foundation for a conclusion that, in the absence of dumping, OneSteel would not have experienced material injury by reason of these other factors.
- 8.1.6 We note<sup>43</sup> that OneSteel seeks to attribute sole responsibility for reduced employment in its rebar production facilities due to dumped imports. We however also note that OneSteel has combined its steel manufacturing and distribution business to form a single steel business during the financial year of 2013. The Applicant ought to provide further evidence that correlates the reduction in employment to the corporate exercise and the alleged dumped imports.

## 9. **No justification for the imposition of anti-dumping measures**

### 9.1 ***OneSteel do not believe it will experience material injury going forward***

- 9.1.1 For anti-dumping measures to be imposed on future exports, the Minister must be satisfied that, besides those exports already made being dumped and the cause of material injury to the Australian industry, future exports are likely to be dumped and the cause of material injury to the Australian industry – *s 269TG(2) of the Act*
- 9.1.2 OneSteel expects<sup>44</sup> its economic performance to improve in the foreseeable future due to a sustained lower Australian dollar, improvement in demand, cost reductions and operational improvements. In view of that, the grounds for OneSteel's application for dumping duty (i.e. loss of market share market, sales volumes, price suppression and reduced profits and profitability) will no longer exist. Accordingly, OneSteel will no

<sup>40</sup> Application, p 28, "Rebar Straights – Rolling 3 Month Data"

<sup>41</sup> Application, p 28, "Rebar Straights – Rolling 3 Month Data"

<sup>42</sup> Application, p 28, "Rebar Straights – Rolling 3 Month Data" – Aug 13 to Sep 13, Sep 13 to Oct 13, Nov 13 – Dec 13, Dec 13 to Jan 14, Feb 14 to Mar 14, Mar 14 to Apr 14

<sup>43</sup> Application, p 25, "Index of Employment"

<sup>44</sup> 2013 Annual Report, at page 13 "*Earnings in FY14 for Steel and Recycling are expected to benefit from further cost reductions and operational improvements, as well as from the impact of a sustained lower Australian dollar. We expect the full benefit of a sustained lower Australian dollar from the second quarter. Arrium Steel has significant leverage to improved demand, particularly from domestic construction. Over the medium to longer term, we remain confident we will see improvements in the fundamentals for key domestic and international steel markets as economic conditions improve.*"



longer experiencing the material injury it claims to have experienced – as predicted in its 2013 Annual Report.

10. **Concluding remarks**

In conclusion, Amsteel submits that the treatment of issues of dumping, material injury and causation in both the Application and the Consideration Report were incomplete, inadequate, contrary to the Act and the Regulations. Accordingly, there are no sufficient grounds for a publication of a dumping duty notice. In view of this, Amsteel urge the Commission to terminate the Investigation against Amsteel and/or refrain from making a preliminary affirmative determination and/or the imposition measures as requested by the Applicant.

Yours faithfully

  
TAY & PARTNERS  
