

24 March 2015

Mr Geoff Gleeson  
Director Operations 1  
Anti-Dumping Commission  
Level 5, Customs House  
5 Constitution Avenue  
CANBERRA ACT 2601

Dear Mr Gleeson

### Public File Copy

#### **Review of Measures – Hollow Structural Sections exported from Korea by Kukje Steel Co Ltd – Statement of Essential Facts No 266**

##### Introduction

I refer to Statement of Essential Facts (“SEF”) No. 266 published on 4 March 2015 concerning the review of anti-dumping measures applicable to hollow structural sections (“HSS”) exported from the Republic of Korea (“Korea”) by Kukje Steel Co. Ltd (“Kukje”).

Australian Tube Mills Pty Ltd (“ATM”) is the largest Australian manufacturer of like goods to imported HSS. ATM manufactures approximately 60 per cent of total HSS production in Australia.

Anti-dumping measures were applied on exports of HSS from P R China, Korea (including Kukje), Malaysia and Taiwan in July 2012. The margin of dumping determined for Kukje was 3.2 per cent.

On 13 August 2014, the importer Stemcor Australia Pty Ltd (“Stemcor”) made an application for review of the anti-dumping measures applicable to Kukje. Following investigation, the Anti-Dumping Commission (“the Commission”) has published SEF No 266. ATM takes this opportunity to address the adequacy of the Commission’s preliminary findings contained in SEF No 266.

##### Conduct of review

The Kukje verification report indicates that the Commission “*elected not to undertake a verification of Kukje’s REQ and has relied on data submitted in Kukje’s REQ<sup>1</sup>*” in assessing normal values, export prices and non-injurious prices in the investigation period<sup>2</sup> for the current review.

The Commission’s decision not to conduct an on-site or even a remote exporter verification of the data contained in the EQR sets a dangerous precedent that undermines the credibility of the Anti-Dumping system. ATM does not consider that the acceptance of information contained in the EQR without verification should be adopted as future practice for review (or any) inquiries. The process is open to possible manipulation as it is often the case that verified data differs to what is included in an initial EQR (even in review inquiries).

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<sup>1</sup> REQ reflects Exporter Questionnaire Response.

<sup>2</sup> Investigation period for the purposes of this review is 1 July 2013 to 30 June 2014.

It is noted by ATM that the Commissioner has indicated that the Commission does not accept unverified data for the purposes of final recommendations to the Minister. ATM supports this policy position to minimize the possibility of information manipulation and circumvention of measures.

#### Kukje data

Where a review is based upon information contained in the EQR, ATM submits that the Commission should detail in the Exporter Report whether the normal values and export prices have increased/decreased from the levels originally determined. This would enable the affected Australian industry to understand whether the changes in the variable factors are consistent with the industry trends in the period since the measures were imposed (or last reviewed).

The Kukje “Verification Report” provides no indication as to whether the normal values and export prices increased or decreased. SEF No. 266 only indicates that Kukje’s export prices and normal values in the investigation period have “changed” since the original investigation.

ATM recognises that an exporter will likely raise export prices to non-dumped levels following the imposition of measures. It would appear from SEF No. 266 that Kukje has raised its export prices to Australia to levels above comparable normal values. It is unclear to ATM whether the Kukje domestic sales included in Kukje’s EQR are to similar customers as the original investigation or whether the domestic sales represent similar proportions for each category of HSS in the original investigation.

ATM would make the observation that in the absence of a verification visit by the Commission with the exporter, further additional information pertaining to the reliability of information supplied by the exporter in its EQR is required.

As it presently stands, ATM is unable to constructively comment on the preliminary findings contained in SEF No 266. The proposed recommendations do not provide guidance as to the trends in normal values and export prices following the original investigation, nor do the recommendations indicate whether the normal values and export prices determined for Kukje are higher or lower than the original variable factors.

#### Conclusions

The publication of SEF No 266 does not provide ATM with any reasonable understanding as to the reliability of the information accepted by the Commission for the purposes of determining new variable factors for exports of HSS by Kukje to Australia. The absence of sufficient, relevant information in SEF No 266 restricts ATM from constructively commenting on the preliminary findings in SEF No 266 and is inconsistent with the principles requiring verification of exporter data in anti-dumping investigations in both the WTO Anti-Dumping Agreement and the *Customs Act* 1901.

Austube Mills requests that the Commission prior to making its final recommendations to the Parliamentary Secretary;

- (i) Consider the Commissioner’s statement that the Commission does not accept unverified data in investigations for the purposes of recommendations to the Minister; and
- (ii) Without detracting from (i), publish further explanations as to the direction and the quantum of the movement of normal values and export prices.

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If you have any further questions concerning this letter please do not hesitate to contact me on (07) 3909 6130.

Yours sincerely

A handwritten signature in black ink, appearing to read "B Willcox", with a long, sweeping underline that extends to the right.

Brett Willcox  
Manager – Strategy and Business Planning