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Non-confidential

To Ms Candy Caballero, Director, Operation 3, Anti-Dumping Commission
From Bulent R. Hacıoglu
Date 17 December 2014
Subject **Dumping Investigation – Steel Reinforcing Bar – Further submission on material Injury**

Dear Ms Caballero

Non-confidential

We refer to the submission, on behalf of the Steel Exporters' Association of Turkey (**ÇİB**), to the Anti-Dumping Commission (**Commission**) on 26 November 2014 (**Preliminary Submission**), in which we argued against OneSteel Manufacturing Pty Ltd's (**OneSteel**) allegation that:

- it has suffered material injury during the period from 1 July 2010 to 30 June 2014 (**Injury Period**); and
- that material injury was caused by allegedly dumped exports of steel reinforcing bar (**Rebar**) the subject goods from the countries concerned in the investigation (**Nominated Countries**).

It was submitted that there are significant deficiencies in both OneSteel's application (**Application**) and the Commission's Consideration Report No 264 (**Consideration Report**) in terms of evidence and analysis in support of OneSteel's allegation above. In particular, it was contended that

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- it is not evident from either the Application or the Consideration Report that the alleged dumping has caused any volume effect, price effect or profit or profitability effect to OneSteel during the Injury Period; and
- if there was any material injury caused to OneSteel, that injury was likely to have been caused by known factors (ie OneSteel's high cost of production).

On behalf of the ÇİB, we make further submissions in relation to the issue of “material injury” based on further information we have obtained since our Preliminary Submission. This information includes;

- import data obtained from the Australian Bureau of Statistics (**ABS Data**); and
- import data contained in an “Australian Steel Report” prepared by the ÇİB (**ÇİB Report**): see **non-confidential annexure A**.

1 Applicable Law

At the very outset, ÇİB highlights that the anti-dumping investigation should be conducted by the Commission in compliance with the relevant WTO Agreements and practice alongside with the Customs Act 1901. Additionally, ÇİB is of the view that the relevant practice of the Dispute Settlement Body of the WTO should be taken into account. As confirmed in several WTO jurisdiction, the Appellate Body stipulated that panel decisions are an integral part of the WTO system (*acquis*) and create legitimate expectations among WTO Members and therefore should be taken into account where they are relevant to any dispute¹. ÇİB is confident that the investigation will be conducted in line with the principals set out in the ADA and the relevant WTO jurisdiction.

2 Confidentially

Article 6.5.1 of the Agreement states that;

¹ PR, *US –Zeroing (Korea)*, para. 7.31; ABR, *United States Oil Country Tubular Goods*, para. 188.



“The authorities shall require interested parties providing confidential information to furnish non-confidential summaries thereof. These summaries shall be in sufficient detail to permit a reasonable understanding of the substance of the information submitted in confidence. In exceptional circumstances, such parties may indicate that such information is not susceptible of summary. In such exceptional circumstances, a statement of the reasons why summarization is not possible must be provided”

Unfortunately, neither the Application nor the Consideration Report have fulfilled the requirement set out in ADA 6.5.1. ÇİB submits that excessive use of confidentiality clause makes it impossible to analyse the facts of the investigation and to defend its interest. Fundamental components that form the basis of the initiation of an anti-dumping investigation are not disclosed to the interested parties.

Firstly, due to confidentiality restrictions, the ABS Data that we have obtained does not show

- imports of Rebar classified to 7214.20.00, statistical code 47 (**7214200047**) from China, Malaysia, Taiwan and Thailand during the Injury Period;
- imports of 7214200047 from India and New Zealand between 1 July 2010 and April 2011;
- imports of 7214200047 from Spain between May 2011 and 30 June 2014;
- imports of 7214200047 from Korea and Turkey between September 2012 and 30 June 2014;
- country of imports of Rebar classified to 7213.10.00, statistical code 42 (**7213100042**) between 1 July 2010 and August 2012; and
- imports of 7213100042 from Korea and Spain between September 2012 and 30 June 2014.



Accordingly, the ABS Data does not show the total volume of Rebar imports from the Nominated Countries or the total volume of Rebar imports from the other countries. There is also nothing on the market share information of the domestic producer in the Application and nothing in the Consideration Report, other than a chart which lacks numerical data.

Most of the data on injury factors are not disclosed to interested parties which makes any analysis impossible. This is especially noteworthy given the fact that OneSteel is a public company and the financial statements of the Company are widely available. Still, main injury factors are covered in Annex 7 of the Application and non-confidential version of this Annex 7 is not furnished. There cannot be any basis for confidential treatment of the data provided in Annex 7 for which the Complainants did not even bother to provide an indexed summary.

ÇİB refers to the Panel Report on *EC — Fasteners (China)* in which confidential treatment of publicly available data was found to be in violation of Article 6.5.1;

“information that is publicly available is not confidential within the meaning of Article 6.5” and found that by treating information that was available from the Eurostat website as confidential information, without good cause shown, the investigating authority had violated Article 6.5; the fact that the information was available in the public domain was not an excuse for disregarding the requirements of Article 6.5²”

Therefore, ÇİB is of the view that; failure to provide import statistics and OneSteel's publicly available data due to confidential treatment violates ADA 6.5.1.

As stated in last sentence of ADA 6.5.1, the requirement to furnish non-confidential summary of the data provided by interested parties can only be sustained in exceptional situations and on the condition that, a statement of the reasons why summarization is not possible must be provided. ÇİB is disappointed to see that, such explanation is also not provided to the interested parties.

² [Panel Report, EC — Fasteners \(China\)](#), para. 7.534.



ÇİB therefore urges the Commission to request that the data treated as confidential to be disclosed or otherwise the Complainant to provide reasoning why the data cannot be disclosed or a non-confidential summary cannot be provided.

3 Investigation Against Imports Originating in Turkey Must be Terminated

ADA 3.3. reads as follows;

“Where imports of a product from more than one country are simultaneously subject to anti-dumping investigations, the investigating authorities may cumulatively assess the effects of such imports only if they determine that (a) the margin of dumping established in relation to the imports from each country is more than *de minimis* as defined in paragraph 8 of Article 5 and the volume of imports from each country is not negligible and (b) a cumulative assessment of the effects of the imports is appropriate in light of the conditions of competition between the imported products and the conditions of competition between the imported products and the like domestic product.”

By the terms of Article 3.3, ‘only if’ the above conditions are established that an investigating authority ‘may’ make a cumulative assessment of the effects of dumped imports from several countries. Volume of Turkish imports, as will be elaborated below, is negligible and therefore cumulative assessment with other subject countries is not appropriate in light of ADA Article 3.3.

Moreover, Article 5.8 of the ADA requires that an anti-dumping investigation must be terminated promptly as soon as the investigating authorities determine the volume of imports is negligible. The volume of imports are considered as negligible if the volume of imports from particular country is found to account less than %3 of the imports of the like product in the importing member. The ADA however does not establish a period of time over which imports are to be counted in determining whether the volume of imports is negligible. Recommendation concerning the time-period to be considered in making a determination of negligible import volumes for purposes of Article 5.8 of the Agreement” issued by the Committee on Anti-



Dumping Practices sets the certain requirements as regards to the period of time over which imports are to be counted in determining whether the volume of imports is negligible. Customs Act 1901 - Sect 269 TDA, in line with this Recommendation, defines "*reasonable examination period*" as ;

- a) the whole or a substantial part of the investigation period; or
- (b) any period after the end of the investigation period that is taken into account for the purpose of considering possible future importations of goods the subject of the application.

ÇİB understands that 2013/2014 financial year is determined as "*reasonable examination period*" and volume of Turkish steel rebar imports have found more than 3% of the total imports in this period:

"Based on the information in the application and the ACBPS import database, the Commission determined that imports of rebar from each of the nominated countries represent more than 3% of the total import volume of rebar in the 2013/2014 financial year and are, therefore, not in negligible volumes as defined in section 269TDA³".

ÇİB, once more urges Commission to disclose imports volume information to the interested parties in order to ensure that exporters possess sufficient information as to defend themselves. ÇİB is of the view that, market shares of the subject countries as well as the domestic producer's market share is not and cannot be a confidential data. Exporters must have right to obtain official market share data in order to analyse "negligible imports volume" in this instance.

Based on the limited information available, ÇİB submits that; Turkish imports volume counts for %0,2 of the total imports according to import data taken from Trademap (Annex A). Turkish imports' volume is even negligible based on the data provided by the Applicant and the official ABS data disclosed to ÇİB. Total imports volume of nominated countries is 394,586 tonnes according to ABS data and volume of Turkish imports in 2013/14 July/jun is 10,179 tons

³ Consideration Report, p. 28.



according to data submitted by OneSteel⁴. Even this data is sufficient to conclude that share of Turkish import volume is around %2.5, below negligible rates, and therefore investigation must be terminated in line with the ADA 5.8.

ÇİB reserves it's right to submit further comments after receiving official import statistics.

4 General Comments on Injury Analysis

ÇİB submits that, both Application and the Consideration Report lacks sufficient information as to arrive the conclusion that Complainants suffer material injury. Basically, the Complainants address none of the substantive elements of injury. Injury factors that are briefly evaluated in the Application are; sales quantity, sales volume, production, price, profitability, revenue and employment. Consideration Report, in addition to these factors, contains a chart on market share which fails to provide numerical data, even on an indexed basis. Total assets, capital investment and R&D expenditures are factors that are merely stated as either decreased or increased without any supporting data. Consideration Report refers to Annex 7 for the remaining injury factors while not providing non-confidential summary of Annex 7.

Article 3.4 of the Agreement provides that;

“...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”

Panel and Appellate Body Reports touch upon this issue have clarified that, 3.4. sets a mandatory list of factors that must be evaluated in injury analysis;

⁴ Consideration Report, p. 23.



“The use of the phrase ‘shall include’ in Article 3.4 strongly suggests to us that the evaluation of the listed factors in that provision is properly interpreted as mandatory in all cases. That is, in our view, the ordinary meaning of the provision is that the examination of the impact of dumped imports must include an evaluation of all the listed factors in Article 3.4..... Based on the foregoing, we conclude that each of the fifteen factors listed in Article 3.4 of the *AD Agreement* must be evaluated by the investigating authorities in each case in examining the impact of the dumped imports on the domestic industry concerned.⁵”

Thus, ÇİB submits that failure to state and analyze certain injury factors (i.e. return on investments, capacity utilisation, market share, wages, growth, ability to raise capital or investments) constitutes clear violation of ADA 3.4.

5 Lack of Significant Increase In Imports

Absence of official import statistics makes it extremely difficult to comment on significant increase in imports requirement set in ADA Article 3.2. Still, limited available import data suggests that, there is no significant increase of imports from nominated countries in absolute or relative terms.

According to Panel Report on *Thailand-H Beams*; it must be apparent in the relevant documents in the record that the investigating authorities have given attention to and taken into account whether there has been a **significant increase** in dumped imports, in absolute or relative terms⁶. It is noted in the Consideration Report that, % 20 increase in volume of imports from subject countries considered to fulfill this requirement. It is not explained however, why this increase assumed as “significant”.

⁵ [Panel Report, EC — Bed Linen](#), paras. 6.154–6.159. See also [Panel Report, Mexico — Corn Syrup](#), para. 7.128; [Panel Report, Egypt — Steel Rebar](#), para. 7.36.

⁶ [Panel Report, Thailand — H-Beams](#), para. 7.161.



Additionally, Application and the Consideration Report do not offer any data on consumption and therefore it can not be evaluated whether there has been a significant increase in imports relative to consumption. However, Figure 3 at p. 32 of the Consideration Report proves that, market share of the nominated countries decreased in FY 2011/12 and FY 2012/13 compared to FY 2010/11 and slightly increased in FY 2013/14. This figure additionally illustrates that, imports have not increased in absolute or relative terms.

ÇİB reserves it's right to submit further comments after receiving official import statistics.

6 Further comments on volume effect

In the Preliminary Submission, we contended that during the Injury Period OneSteel's sales volume and market share increased steadily from FY2010/11 to FY2012/13 and decreased in FY2013/14 only, and that despite that decrease, it's sales volume and market share in FY2013/14 was higher than in FY2010/11.

Diagram 1.1 below, which is based on the first table on page 23 of the Application, shows that consistent with the variations of its sales volume and market share during the Injury Period, OneSteel's production of Rebar increased significantly between FY2010/11 and FY 2012/13 and that, despite a decrease in FY 2013/14, its production level at the end of the Injury Period was higher than its level of production at the beginning of the Injury Period.

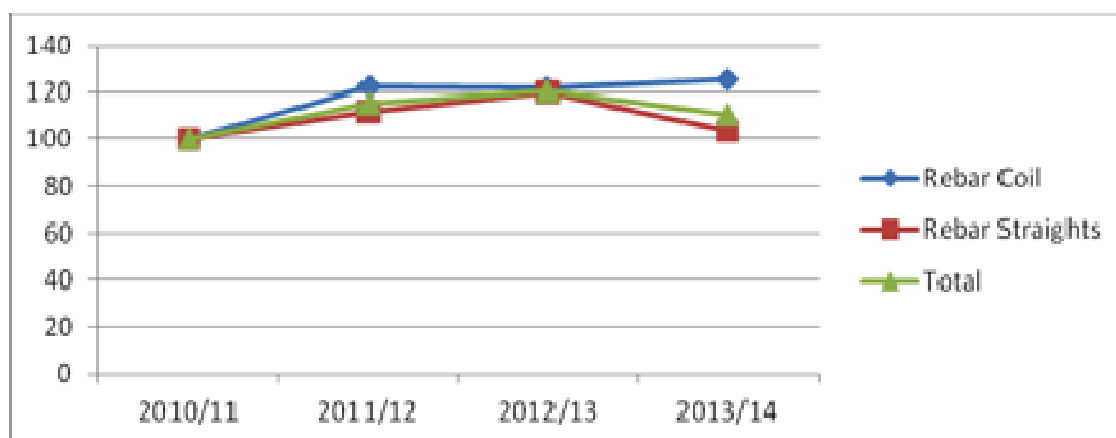


Diagram 1.1 OneSteel's production of Rebar



Accordingly, there is no evidence to show that OneSteel suffered material injury in terms of reduced volumes or market share.

With respect to Rebar imports, Diagram 1.2 below, which is based on the ABS Data, shows that the total volume of imports of Rebar decreased in FY2010/11 but increased from FY2011/12.

FY2010/11	FY2011/12	FY2012/13	FY2013/14
318,637 tonnes	298,572 tonnes	352,750 tonnes	394,586 tonnes

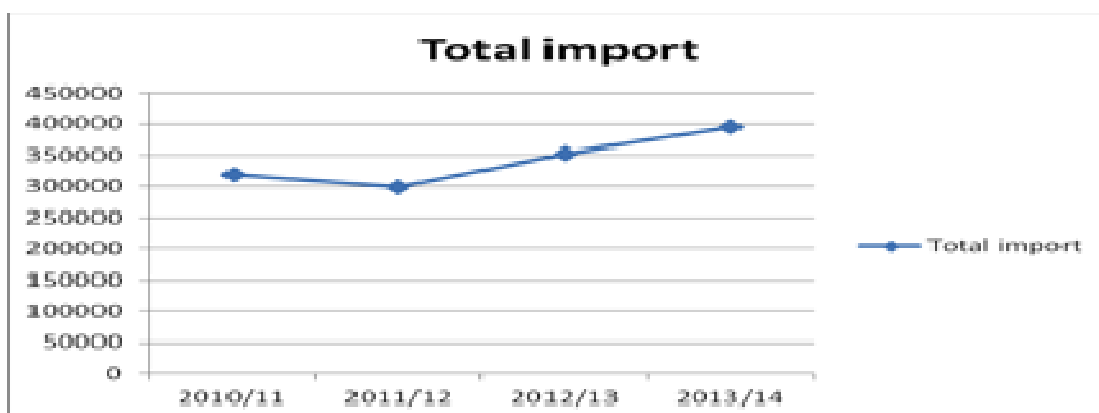


Diagram 1.2 Total volume of Rebar imports

According to Figure 1 and Figure 3 of the Consideration Report, it is submitted that

- the increase in the volume of Rebar imports from all sources was due to the continuing growth of the Australian Rebar market throughout the Injury Period;
- the volume of the allegedly dumped imports decreased between FY2010/11 and FY2012/13. During this period imports from the Nominated Countries lost market share to OneSteel and imports from other countries;
- imports from the Nominated Countries slightly increased only in FY2013/14; and
- market share of imported Rebar remained significantly smaller than OneSteel's market share. For example, in FY2013/14, the total volume of imports was only 394,586



tonnes or 39.4% of the market. Clearly, the market share of the allegedly dumped imports was even smaller.

Accordingly, it seems that the alleged dumping did not cause any injury to OneSteel during the majority of the Injury Period and certainly did not cause any injury that can be treated as “material”.

The import data contained in the ÇİB Report confirms the above conclusion.

Diagram 1.3 below is based on the data contained on page 13 of the ÇİB Report.

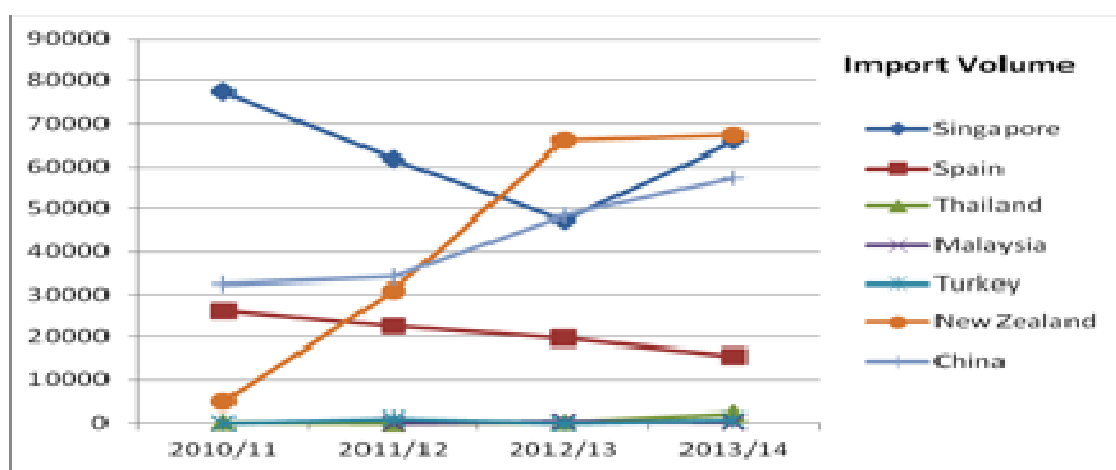


Diagram 1.3 Volume of Rebar imports from selected countries

Diagram 1.3 shows that during the Injury Period the volume of Rebar imports from some of the Nominated Countries, including Thailand, Turkey and Malaysia, were significantly smaller than the import volume from New Zealand and China. Page 10 of the ÇİB Report shows that the volume of Rebar imports from Korea also was insignificant during the Injury Period as compared to the volume of Rebar imports from China and New Zealand. This suggests that any alleged volume effect suffered by OneSteel was likely to be caused by Rebar imports from China and New Zealand. It is unlikely that the insignificant volume of imports from Turkey, Malaysia, Thailand and Korea could cause such volume effects.

Diagram 1.3 also shows that in FY2013/14 while OneSteel's sales volume decreased, both of China's and New Zealand's Rebar exports to Australia have substantially increased. New Zealand's imports have risen from 4,669 tons to 67,216 tons during the investigation period. Likewise, imports from China have doubled in the course of investigation period. This suggests



that in FY2013/14 it was the increased imports from China and New Zealand that took the market share of OneSteel and caused OneSteel's sales volume to fall. In this connection, it must be emphasized that in FY2013/14, the total Rebar imports from Turkey (0.2%), Malaysia (0.0%) and Thailand (0.5%) accounted for only 0.7% of the total Rebar imports into Australia. In contrast, the total Rebar imports from New Zealand (17%), Singapore (16.6) and China (14.5) accounted for as high as 48.1% of the total Rebar imports into Australia. (Page 13, ÇİB Report) Therefore, any allegation that Rebar imports from countries such as Turkey can cause material injury to OneSteel in so far as volume or market share is concerned is untenable and not supported by evidence.

7 Price effects

In the Preliminary Submission, we contended that the allegedly dumped imports did not cause any price effect to OneSteel. We submitted that the alleged price suppression did not exist on the grounds that;

- in two of the three periods of the Injury Period (ie between FY2010/11 and FY2012/13), OneSteel achieved a cost reduction at levels higher than its price decrease; and
- OneSteel's production cost increased in FY2013/14 only. That increase, however, is not sufficient evidence to show that price suppression has occurred during the entire Injury Period.

The above submission is supported by diagrams 1.4 and 1.5 below which are based on the tables showing OneSteel's cost variations and price variations during the Injury Period on pages 23 and 24 of the Application.

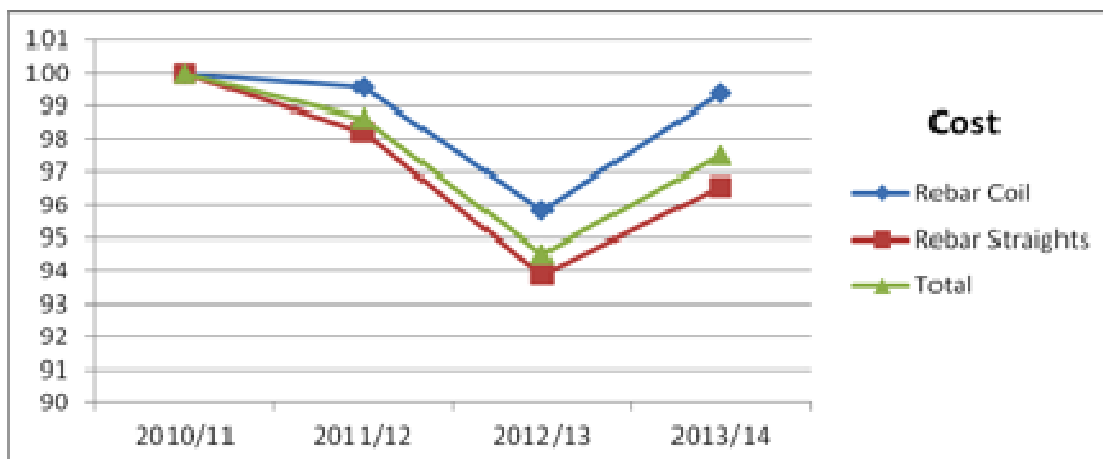


Diagram 1.4 OneSteel's CTMS of Rebar

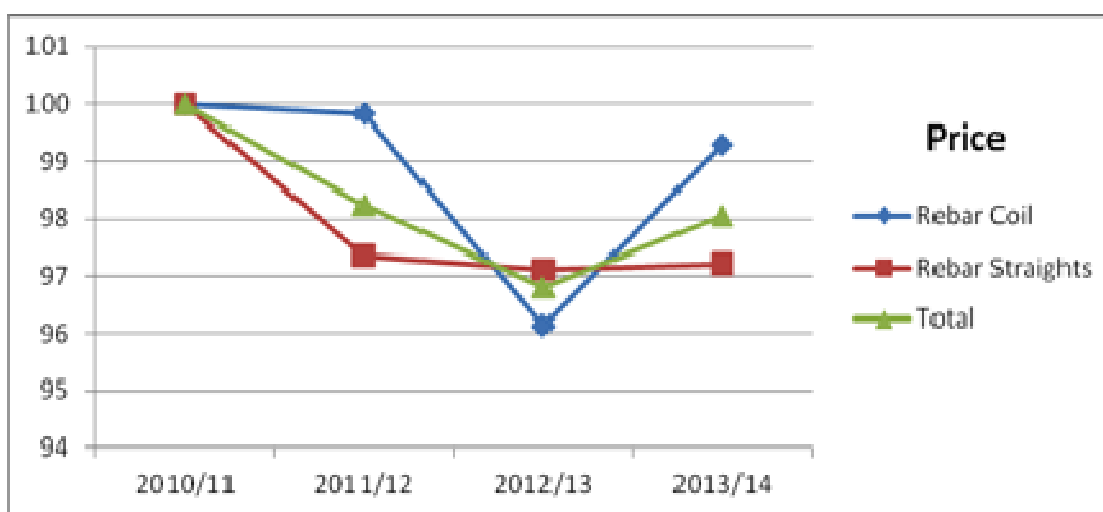


Diagram 1.5 OneSteel's selling price of Rebar

Further, compared to the degree of OneSteel's production decrease in FY2013/14 (as shown in diagram 1.1), its cost increase during the same period was much more significant. This suggests that the cost increase was not caused by OneSteel's production or sales volume decrease but was due to its high costs of production.



8 Profit and profitability effects

In the Preliminary Submission, we contended that the allegedly dumped imports did not cause OneSteel's loss of profits and profitability during the Injury Period on the ground that the variations of OneSteel's profits and profitability during the Injury Period were closely linked to the variations of its costs of production.

Diagrams 1.7 and 1.8 below are based on the tables showing OneSteel's profit variations and profitability variations on page 24 of the Application.

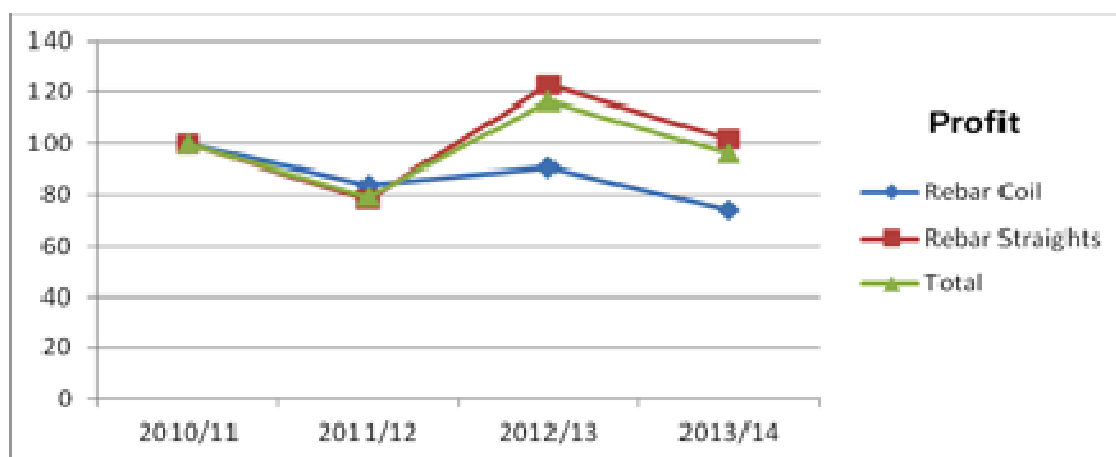


Diagram 1.7 OneSteel's profit

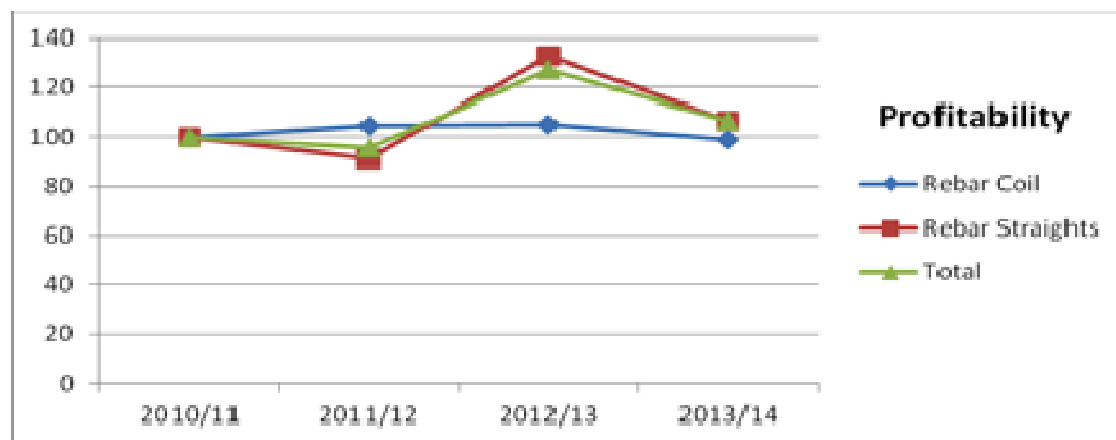


Diagram 1.8 OneSteel's profitability



The diagrams show that OneSteel's profits and profitability varied during the Injury Period and that its total profits and profitability remained at the same levels at the end of the Injury Period as the levels at the outset of the Injury Period. In particular, as pointed out in the Preliminary Submission, "in relation to straight rebar Turkey's main export of the subject goods, OneSteel's overall profit and profitability during the Injury Period increased slightly in FY2013/14 as compared to that in FY2010/11." Accordingly, the degree of the alleged loss of profits and profitability is not significant and cannot be regarded as having amounted to *material* injury.

Although not all of the economic indicators of the domestic industry must be in decline, there must be an overall impairment in order to mention from injury within the meaning of Article 3.4. OneSteel, contrary to this requirement, as explained in detail above, could manage to:

- increase its domestic and external sales,
- increase its profitability,
- increase its production,
- maintain high market share despite a slight decline in the FY 2013/14,
- increase its revenue.

In light of the above evidence, it is submitted that the Complainants have not suffered material injury from 2010 to 2014.



9 No Causal Link Between Any Injury and Imports from the Targeted Countries

As stated in Article 3.5. of the ADA, it must be demonstrated that allegedly dumped imports are causing material injury. Moreover it requires an examination of known factors, other than the allegedly dumped imports, which at the same time are injuring the domestic industry in order to ensure that the material injury caused by these other factors is not erroneously attributed to the allegedly dumped/subsidized imports. In this regard, ÇİB submits that, any alleged injury suffered by the domestic industry was not caused by imports from but by other factors.

a. Lack of Parallelism

ÇİB is of the view that, relationship between movements in imports (volume and market share) and movements in injury factors is the central means of analysis of a causation determination and that an absence of a coincidence between increases in imports and declines in injury factors creates a strong presumption against the existence of a strong causal link⁷. ÇİB has already submitted lack of parallelism among injury factors and allegedly dumped imports in the foregoing sections. In addition to these, following points supports CIB's lack of causal link argument;

- The Consideration Report notes that “OneSteel has recorded four consecutive years of selling at a loss” (page 34). This suggests that OneSteel’s loss of profits and profitability during the Injury Period was unlikely to be caused by the allegedly dumped imports. For example, between FY2010/11 and FY2011/12, OneSteel’s profit and profitability decreased significantly while in the same period the volume of the allegedly dumped imports decreased significantly. Between FY2011/12 and FY2012/13, OneSteel’s profit and profitability increased significantly because it managed to reduce its cost of production more significantly than its price decrease. Accordingly, OneSteel’s profits and profitability varied according to its own production costs and were not affected by the alleged dumping.
- Likewise, in 2013/2014, OneSteel’s profitability remained higher then 2010/11 level, despite allegedly dumped imports volume was higher in 2013/14 compared to 2010/11. Should the imports caused injury to the domestic producer, profitability would be at the

⁷ This analysis was stated in the Appellate Body Report, *Argentina-Footwear (EC) Safeguard*, paras. 144-145. in context of Safeguard Agreement, hence relevant in the injury analysis in the frame of ADA.



lowest level in 2013/14, when imports have reached to maximum level during the investigation period.

- OneSteel's domestic sales and production are increased in 2013/14 compared to 2010/11 despite increased imports volume in 2013/14 compared to 2010/11.
- OneSteel's revenue is also more than %13 higher in 2013/14 compared to base year, at the time that imports volume of nominated countries have picked, Accordingly, OneSteel could manage to increase it's sales values in 2013/14.

b. Non-attribution Requirement

Article 3.5 of the Agreement states the following:

*"It must be demonstrated that the dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. The demonstration of a causal relationship between the dumped imports and the injury to the domestic industry shall be based on an examination of all relevant evidence before the authorities. **The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports.**"*

Appellate Body Report on *US — Hot-Rolled Steel* lays down the requirements that Article 3.5 imposes on the investigating authorities when performing a causation analysis:

"This provision requires investigating authorities, as part of their causation analysis, first, to examine all 'known factors', 'other than dumped imports', which are causing injury to the domestic industry 'at the same time' as dumped imports. Second, investigating authorities must ensure that injuries which are caused to the domestic industry by known factors,



other than dumped imports, are not 'attributed to the dumped imports'⁸

In the view of foregoing, ÇİB considers that, alleged injury is, in fact, the result of weak domestic and external steel markets, exchange rates, high raw material cost, level of domestic growth. These factors are indeed listed as threat to OneSteel by the Complainant itself⁹. As disclosed in the Annual Report 2014¹⁰ of Arrium Limited, the holding company of OneSteel, Arrium's steel business was affected by a number of factors unrelated to allegedly dumped imports in FY2013/14 "including a high Australian dollar and generally weak construction and manufacturing markets". These other factors should also be considered by the Commission in reviewing whether allegedly dumped imports have caused any injury to the domestic producers;

- Energy Cost: According to Australian Steel Institute; massive increase in energy cost is hurting industry's competitiveness¹¹. Therefore, they suggest, Australia's abundant natural gas resources to be utilised to support local manufacturing.
- High Labour and Tax cost, competition with subsidised Chinese Imports: The Australian industry states that it cannot compete on price with Chinese suppliers due to Australia's high labour costs and taxes, China's undervalued yuan and the generous subsidies it provides to state-owned firms¹².
- Exchange Rate: The appreciation of the Australian dollar made the Australian manufacturing industry uncompetitive, according to domestic steel industry representatives¹³. The AUD indeed, remained in high levels through out the investigation period which directly impacted OneSteel's competitiveness. The 2014 Annual Report of the Arrium clearly states the problem as follows; "Steel continued to be challenged by

⁸ . [Appellate Body Report, US — Hot-Rolled Steel](#), para. 222.

⁹ Arrium Full Year Results for the year ended 30 June 2012, p.46;
<http://www.arrium.com/~media/Arrium%20Mining%20and%20Materials/Files/Annual%20Reports%20-%20Including%20Sustainability/2014%20Annual%20Report.pdf>, p.16

¹⁰ <http://www.arrium.com/~media/Arrium%20Mining%20and%20Materials/Files/Annual%20Reports%20-%20Including%20Sustainability/2014%20Annual%20Report.pdf>, p.16

¹¹ http://steel.org.au/media/File/ASI_LC_Priority_Issues17_03_14.pdf

¹² Australian Steel Institute's industry development manager, January 21, 2012, <http://www.theaustralian.com.au/national-affairs/steel-industry-cant-compete-with-china/story-fn59niix-1226249811880>

¹³ http://steel.org.au/media/File/Dennis_O'Neill_Steel_Supplier_Advocate.pdf



the difficult external environment, including a high Australian dollar and generally weak construction and manufacturing markets”¹⁴.

As shown above by the domestic industry representatives’ own words, the impact of appreciation of Australian dollar, high labour cost and tax burden, high energy costs, are among factors affecting Applicant’s profitability. Yet, the Applicant have failed to analyze and isolate the impacts of these factors, ignoring the clear provisions of the ADA. Applicant simply attribute all of its problems to imports.

Finally, ÇİB notes that, to the extent that imports are considered the primary factor that caused the alleged injury, the Commission cannot ignore non-subject imports which are substantially higher than imports from Turkey. In *Guatemala — Cement II*, the Panel concluded that Guatemala’s authority failed to take into account certain undumped imports, and accordingly, failed to assess other factors which were injuring the domestic industry at the same time, in violation of Article 3.5¹⁵. Neither the Application nor the Consideration Report contains an analysis of the prices of non-subject imports other than imports originated in the New Zealand.

Based on the foregoing, ÇİB submits that these other factors should also be considered by the Commission in reviewing whether allegedly dumped imports have caused any injury to the domestic producers.

10 Conclusion

In the light of the above, it is ÇİB’ s opinion that OneSteel did not suffer any material injury during the Injury Period as the alleged volume effect, price effect, or loss of profits and profitability did not occur, or even occurred, was not significant enough to amount to *material* injury.

If there was any material injury caused to OneSteel, that injury was likely to have been caused by

¹⁴ Arrium 2014 Annual Report, p. 28.

¹⁵ *Guatemala-Cement II*, Panel Report paras. 8.268–8.272.



- imports from the large Rebar exporters to Australia including the exporters not subject to the investigation, ie China, New Zealand and Indonesia, rather than the insignificant exporters such as Turkey; and
- known factors, such as OneSteel's high cost of production and weak demand for Rebar, other than the alleged dumping.

If you have any queries in relation to these submissions, please do not hesitate to contact us.

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