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October 15, 2015

The Director
Operations 1
Anti-Dumping Commission
G P O Box 1632
Melbourne Vic 3001

Via email: operations1@adcommission.gov.au

Dear Director,

Anti-Dumping Notice No. 2015/95
Rod in Coils ex China
(Public Record Version)

This submission is on behalf of 'Vicmesh' and is in relation to the Commissions (ADC) current investigation Case No 301. Being an importer and end user of the WRIC 'Vicmesh' is an interested and affected party in relation to the Commission's investigation and has cooperated with the ADC in both this, and the previous investigation of Case No 240.

BACKGROUND:

On the 7th October 2015 the Commission posted a note on its website advising that only two importers, namely 'Vicmesh', an end user of WRIC, and 'Stemcor', a Trading company supplying end users, had responded to its importer questionnaires.

At the time of writing, the Commission had not yet provided 'Vicmesh' with a final version of its importer verification visit and as stated above, Vicmesh is fully cooperating with the Commission on this current investigation.

In relation to the Commission's final report No 240 intimating that 'Vicmesh' declined to provide a public record version of a verification visit report on its imports from Taiwan (Quintain) It needs to be stated that at no time did 'Vicmesh' intentionally advise the Commission that it would not provide a public record version and email exchanges between the Commission and 'Vicmesh' on this issue support this claim. In essence, the outcome could only have been a 'stuff up' but one that precluded the 'Vicmesh' information, market intelligence and experiences on issues relating to causality and injury not being taken into consideration by the Commission.

'Vicmesh' had never been a customer of Onesteel by virtue of Onesteel not being prepared to offer to supply 'Vicmesh', and as such 'Vicmesh' had no option but to historically source WRIC from other suppliers including PSNZ,(New Zealand Producer) which were non dumped imports.

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That arrangement has since changed following Bluescope Steels (BSL) acquisition of PSNZ, in that PSNZ subsequently informed 'Vicmesh' it no longer had the capacity to supply although it is evident from market intelligence that PSNZ continues to supply another Australian end user, Mesh & Bar, which also has related entities in Australia (and New Zealand) that have supply relationships with BSL including materials for their Australian roll forming operations (Metroll).

'Vicmesh' imports from China have therefore effectively replaced those non dumped imports from New Zealand for reasons including the commercial imperative of having to sustain its ongoing supply of manufacturing inputs (WRIC) and compete with Onesteel on finished product in the welded mesh market and especially in the major Victorian market.

Clearly, rather than have caused Onesteel any loss of sales, or other injury, 'Vicmesh' is now able to source part of its WRIC requirements from Onesteel, and this obviously represent increased sales for Onesteel which has increased both its volume and market share.

INTRODUCTION:

By way of introduction it needs to be clearly understood that this current investigation has simply flowed from the applicant's (Onesteel) initiation of Case No 240 which has resulted in the imposition of dumping duty measures from 16th June 2015 on certain imports from Indonesia and Taiwan (Vicmesh) comprising an approximate combined volume of 11,000 tonnes in a 'total' estimated market, according to the Commission, of 540,000 tonnes, and which equated to those imports having a 'total' combined market share of 2.04% .(Our Table No 1 refers)

What the ADC's final report on Case No 240 did not determine however is that the 11,000 tonnes, comprising approximately 5,000 tonnes from 'Quintain' of Taiwan, and thus an approximate 6,000 tonnes from 'Gunung' of Indonesia, entered two very separate market sectors in that the imports from 'Gunung' entered what the Commission has since described to the ADRP as being the 'trade exposed' market, meaning the imports from 'Quintain' could only have entered the 'non trade exposed market' for WRIC. In other words there are two separate markets for WRIC, namely a competitive market, in our opinion the 'Relevant' market and a 'Captive' market.

Logically, the Commission's so termed 'trade exposed market' can only be the 'competitive' market sector being the relevant market sector supplied by the applicants external sales, (which the Commission in Case No 240 claims represent one third of Onesteel's domestic sales,) and third party imports via local trading companies including the deemed , dumped, 'Gunung' imports of around 6,000 tonnes which were the only 'dumped' imports that competed for sales of WRIC with Onesteel in the relevant market sector which in our opinion should have been the basis for determining any injury caused by 'dumped' imports.

Whilst we are not privy to the 'Gunung' export pricing or normal value determinations, the clear distinction is that 'Vicmesh' imports from Taiwan did not compete for sales with Onesteel's external sales and as such they needed to have been excluded from the separate trade exposed or competitive market.

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The Taiwan/Vicmesh imports needed to have been treated as being in the non-competitive, captive consumption market sector that included the estimated two thirds of Onesteel’s domestic ‘sales’. More importantly, and as previously stated, ‘Vicmesh’ was not then a customer of Onesteel and as such, the imports from Quintain of Taiwan could not have caused any loss of sales by Onesteel in that the only competition ‘Vicmesh’ has ever posed to the dominant market leader and price setter, Onesteel, is in the finished goods market of welded mesh. On this basis, and given the claimed demonstrated relevance of the previous case No 240 to this current investigation, we have constructed relevant, being the separate markets, for year 2013 which are outlined in Table No 1 of below.

The Commission is considered to have also erred in applying the cumulative provision to the imports from Gunung and Quintain in that we claim the Quintain imports were clearly non injurious. In Case No 240, the Commission clearly stated that an estimated two thirds of the applicants domestic ‘sales’ of WRIC were ‘internal’ but what the final report neglected to state was that those internal sales were (according to Onesteel and its parent company Arrium) directed to its two separate, independent and competing operations, namely Onesteel Reinforcing and Australian Reinforcing Company (ARC).

Given this Onesteel internal structure of competing, independent operations, and the claim by Onesteel that one of its value propositions is that its facilities and market positions allow it to tailor offers to service all customers, we now need to seriously question if Onesteel’s pricing of its internal ‘sales’ to Onesteel Reinforcing and ARC are in fact ‘arms- length’ transactions being sales that the Commission has, to date, accepted and determined to be the case.

TABLE NO. 1

Constructed Combined & Separate Australian Markets –Year 2013. Tonnes (rounded)

Source	COMBINED	% SHARE	Trade exposed market	Captive consumption market	Comments
Onesteel	448,200	83%	147,910	300,290	
New Zealand	33,000	6.1%		33,000	Not Dumped
Indonesia-Ispat	34,800	6.4%	34,800		Not Dumped
Turkey-all	12,000	2.2%	12,000		Not Dumped
Other than below	1,000	0.2%	1,000		Not Dumped
Local + Non Dumped Imports	529,000	97.96%	195,710	333,290	
Indonesia-Gunung	5,900	1.09%	5,900		2.53% of relevant market
Taiwan-Quintain	5,100	0.95%		5,100	Non injurious
TOTAL SUPPLY	540,000	100%	201,610	338390	

Conclusions:

- 1. Onesteel and New Zealand supplies dominated all three market sectors @ 89.1% of the combined markets.**

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2. Imports from New Zealand are legally non-dumped regardless of any claimed price affect caused from other country imports.
3. Non-dumped imports and the Onesteel internal and external sales accounted for 97.96% of the combined estimated market supply.
4. The only 'dumped' imports factually competing with Onesteel on its external sales are those from 'Gunung' being 2.53% of the relevant trade exposed market supply.
5. It would seem unreasonable that the (approx.) 5,900 tonnes from 'Gunung' caused the claimed injury to Onesteel in that they obviously needed to compete in 'that single' trade exposed market comprising around 47,000 tonnes of non-dumped imports. It really creates a new dimension to the old saying of 'one bad apple' etc.
6. There was no basis for 'cumulating' as the Vicmesh Imports from Quintain of Taiwan did not enter the relevant trade exposed market and were clearly non injurious regardless of the ADC's 2.7% dumping margin.

Sources: Report No 240, Vicmesh data, 'Gunung' application to ADRP for Review, ADC response to ADRP on Case No 240.

CURRENT CASE No 301:

This current application by Onesteel pertaining to the one Country exports from China was lodged on the 23rd June 2015 in relation to imports from China during the financial year 2014/2015 but due to its initial deficiencies the Onesteel application was not accepted by the Commission until 5th August 2015. Since then the parent company has published its 2015 Annual Report.

The Commission's consideration report includes the estimated Australian market sales for financial years from 2011/12 to 2014/2015 at Figures 1 and 2 whereas the previous case (No 240) provided estimated market sales on a calendar year basis from year 2010.

'Vicmesh' submits that for injury and causation considerations the Commission should provide affected interests with a more reasonable understanding of the two market segments for WRIC sales, namely the relevant market described by the Commission as being the 'trade exposed' market, and the non-relevant market being the market comprising Onesteel's internal 'sales' and direct imports by independent end users such as 'Vicmesh' and Mesh & Bar etc.

However despite the Commission's apparent, current, lack of transparency on actual sales detail, the graphics at Figures 1 and 2 in the consideration report on Case No 301 clearly indicate that the applicant has increased its domestic sales in terms of both volume and market share, being at the expense of imports from the previous investigation period, the majority of which had to have been non dumped. (-refer our Table No 1.)

It would appear from the Case No 301 consideration report that the total combined market sales for this investigation period were circa 600,000 tonnes, being the equivalent volume to calendar year 2010, and that Onesteel's total market share appears to have been 92% compared to 83% in the previous investigation period(-refer Table No 1.)

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Import volumes appear to have declined from our estimate of 91,800 tonnes in year 2013 to an apparent 48,000 tonnes for this investigation period, and based on our market participation, the volume of those imports for this case were most likely from New Zealand (Mesh & Bar) and which, being from NZ, have to be the lowest non dumped import supply in both the non- competitive market, and the combined market.

Given that this applicant is involving taxpayer funds in utilising the anti-dumping system, independent Australian manufacturers such as 'Vicmesh' consider it disappointing, but not surprising, that crucial market detail is not being disclosed to affected interests by either the Commission or the Australian Bureau of Statistics but more specifically the Commission's 'black box' treatment on this market data, being contained in its Confidential Attachment No 2, is considered unacceptable in that the lack of transparency on relevant sales etc., by an applicant whose business model is based on resorting to the tax payer funded anti-dumping system not only impairs 'Vicmesh' entitlement to due process but in our opinion it also imposes an obligation on the Commission to ensure greater transparency and certainty in the process.

However, given what has been provided by the Commission, namely the apparent increased sales of the applicant, this improved circumstance for the applicant is clearly consistent with its parent company's (Arrium) 2015 Annual report, which, inter alia, made the following statements relative to the WRIC goods in question:

- **"The Rod Bar Wire** business produces a wide range of products and services for a diverse range of markets including the construction, rural, mining, and manufacturing segments. Products include bar and rod for the reinforcing market, merchant bar, and rod feed for the wire industry."
- "Sales volumes of reinforcing bar increased during the year, driven by increased demand from construction in New South Wales and Victoria."
- "Wire sales volumes increased compared to the prior year, supported by stronger demand in the construction and rural sectors."
- **"Reinforcing:** Reinforcing steel is used for concrete reinforcement, mining strata control, agriculture and industrial mesh products, as well as reinforcing steel fibres. It is supplied to large and small builders, concreters, form workers. Pre-casters and mining companies.
- "Reinforcing is represented by two separate and competing businesses. Onesteel Reinforcing offers a range of innovative reinforcing solutions to customers, particularly in the construction and mining sections."
- "ARC (the Australian Reinforcing Company) has leading market positions in most segments, complemented by strong customer relationships and flexible offers."
- **"Sales volumes increased in both ARC and Onesteel Reinforcing compared to the previous year, underpinned by increased residential and non-residential construction activity and the commencement of infrastructure projects" (emphasis added)**
- References- pages 32. 33 of Arrium Limited Annual Report 2015

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CONCLUSION:

Clearly this current application by Onesteel may have ticked the boxes in order for the Commission to accept it but the reality is it can only be viewed as being a capricious attempt to further cement its market dominance at the expense of its competitors in the finished goods market of welded mesh etc.

Accordingly, on the basis there can be no injury, and thus no causation and no dumping, and given there is no evidence of any threat of dumping, the Commission, on undertaking a verification visit to Onesteel, should terminate the investigation.

Arrium Outlook:

Our conclusion is further supported by the following statement on page 33 of the Arrium Limited 2015 Annual Report:-

“In steel, we expect domestic construction activity to continue to improve mainly through stronger activity levels in New South Wales. In addition to increased construction of high rise residential apartments and large commercial projects, sales volumes are expected to benefit from increasing activity in government funded infrastructure projects.

Earnings in FY 16 are expected to benefit from increased volumes, lower scrap prices, further cost reductions, anti-dumping measures and a sustained lower Australian dollar. However lower South East Asian prices and margins at the end of FY 15 are expected to impact first half earnings, particularly in the first quarter.” (Emphasis added)

COMMENTS:

Over the four year ‘injury period’ of this investigation the reality is:-

- the Australian dollar has depreciated by 34% against the US\$;(refer Reserve Bank of Australia data)
- Onesteel has captive steel scrap supplies and as Onesteel acknowledge, scrap prices have fallen that should result in lower input costs for EAF produced steel billets such as at its Laverton operation;
- Whyalla’s Blast Furnace production of billets will benefit from having captive iron ore and lower cost coking coal costs (refer pages 18, 19 of the Arrium limited Annual 2015 Report re lower input costs)

CONSIDERATIONS:

Whilst the ‘Vicmesh’ imports from Valin of China obviously enter domestic consumption they only do so in the completely transformed and value added state of welded mesh and on the basis that ‘Vicmesh’ imports of WRIC from Valin of China do not compete for sales with Onesteel on WRIC in the so termed ‘trade exposed’ market, there can be no injury to Onesteel’s sales of WRIC.

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There is no basis for cumulating in this investigation and given the primary issues therefore are whether the imports from China by 'Vicmesh' have been at dumped prices, and if so whether those dumped imports have, by themselves, been the cause of Onesteel's claimed material injury, 'Vicmesh' submits that for Onesteel to have a case, the Commission has to demonstrate sufficiency, being more than the reasonable basis provided thus far, before proceeding with this investigation in that there must be an evidential basis for their case on claimed injury and causation.

The fundamental consideration therefore has to be the demonstrated veracity of Onesteel's claimed injury and causation which in our opinion is increasingly being treated as a 'tick a box' exercise by the applicant and since these two factors are the crucial factors which the Commission is obligated to consider simultaneously with the issue of dumping, we respectfully submit that until the Commission has undertaken a verification visit to the applicant there is simply no positive evidence to support Onesteel's claims in order to satisfy the Commission's sufficiency test required for publishing a PAD. Both the application and the Commission's Consideration report appear 'short' on providing affected interests with any actual supply details on the relevant markets and market shares but comparatively 'long' on the issue of the Chinese market being a PMS.

The Commission's importer verification visit to 'Vicmesh' has already demonstrated the Onesteel information on export pricing to be wrong and the Commission's requirement to verify Onesteel's data especially needs to be satisfied in relation to this investigation because of the applicant's reliance on extrapolated 'data' and its assertions on market and pricing etc., which not only appear contrary to the parent company's 2015 Annual Report but also, and most importantly, because of the Commission's own response to the ADRP on 'Gunung's' application for a review of the Parliamentary Secretary's decision on Case No 240.

In this investigation the Commission is requested to undertake a completely objective, real world analysis of the relevant market situations on WRIC and not to justify any pre-emptive actions solely on apparent price differentials asserted by the applicant. As requested, the Commission needs to undertake an objective and exhaustive verification of Onesteel's data and claims and if the alleged dumped imports are found not to have, by themselves, caused the claimed injury to Onesteel, there is obviously no need for the Commission to undertake any verification visits to China and the investigation should be terminated.

We do recognise that the decision on Case No 240 is currently being reviewed by the ADRP but in our opinion the fact that the 'Vicmesh' report was never taken into consideration means the Commission's final report on Case No 240, was not only deficient, but in our opinion open to being discriminatory in regard to the 'Vicmesh' imports.

In any event the current outcome from that case is considered to be contrary to the intention of Australia's anti-dumping system, in that it effectively enabled the applicant being accorded unintended protection and had the Commission undertaken its analysis and considerations on what we submit are the market realities there may have been a very different recommendation to the Parliamentary Secretary.

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REQUESTS:

The Commission needs to undertake the verification visit to Onesteel and provide affected interests with its public record version of that visit at the earliest opportunity so as to mitigate the intended CHILL factor by Onesteel on the supply of manufacturing inputs for Onesteel's market competitors.

The Commission needs to undertake its market analysis on the basis of our Table No 1 outline, with imports entering the non-trade exposed market sector being treated as non-injurious.

The Commission needs to provide affected interests with a more reasonable understanding of the applicant's factual situation by a more transparent treatment of market sales etc.

The Commission needs to clearly demonstrate if any of this applicants injury claims are more than the tick a box exercise that it appears to be exercising to utilise the anti-dumping system.

If there is no injury, and no evidence of any threat of injury, then as we submit, the Commission should terminate this investigation and not proceed with any overseas verification visits.

Finally, our clear understanding is that Australia's anti-dumping system is intended to prevent injury caused by factually dumped imports and not to provide market protection for a single business interest, and especially not a monopoly upstream producer that is in competition with its own customer base.

CONTACT:

Please contact the writer for any clarification or further information relating to this submission.

Regards



M J Howard