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Director Operations 2  
Anti-Dumping Commission  
Level 35, 55 Collins Street  
Melbourne VIC 3000

### **Review of hollow structural sections exported by Dalian Steelforce**

This submission is made on behalf of Dalian Steelforce Hi-Tech Co., Ltd. (Dalian Steelforce) in response to the submission by Austube Mills Pty Ltd (ATM) of 18 August 2015, to the review of certain hollow structural sections (HSS) exported by Dalian Steelforce.

#### **1. Goods coverage**

In its submission, ATM states that *'the alloyed HSS exported to Australia by Dalian Steelforce is the subject of the measures.'* It is noted that ATM provides no reasoning to support this statement.

What is clear at this point in time is that the current dumping and countervailing duty notices imposed by the then Minister for Home Affairs, define the goods subject to measures and this current review as:

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

Therefore, alloyed HSS products are clearly not currently subject to interim dumping and countervailing duties.

Further, there has been no finding by the Minister for Industry in the current anti-circumvention inquiry into HSS, that alloyed HSS products are either circumvented goods or like goods to carbon HSS products subject to duties.

#### **2. Selling, general and administrative costs**

ATM's views on the issue of SG&A expenses is confusing and lacks clarity. All indirect general and administrative expenses [REDACTED]

[REDACTED] [allocation method]

Direct selling expenses such as [REDACTED] [domestic and export selling costs], etc, which are able to be directly attributed to either domestic or export sales have been reasonably reported.

Therefore, in the event that the Commission had chosen to rely on Dalian Steelforce's domestic SG&A expenses, it would have been incumbent on the Commission to make due allowance for direct selling costs, in accordance with s.269TAC(9) of the *Customs Act 1901* (the Act), to ensure the normal value is properly comparable with the export price. Otherwise for example, it would result in an ex-works normal value being compared with a FOB export price which includes the cost of inland transport, handling and wharfage and export VAT, which are not included in the domestic sales.

### 3. Level of profit

ATM states that it disagrees with the Commission's finding that profit on sales of like goods were not able to be determined under subsection 45(2) of the Regulations. In particular, ATM states that it disagrees with the Commission's conclusion *'that it cannot work out an amount of profit for Dalian Steelforce as it is claimed that the only domestic sales of like goods in the ordinary course of trade are for "sub-prime or downgrade" goods.'*

It appears to Dalian Steelforce that ATM has misunderstood the Commission's findings in SEF 285 as they have ultimately concluded that sales of like goods were not sales made in the ordinary course of trade. As explained in SEF 285, this finding is consistent with the Commission's original findings in REP 177 and REP 2013.

Further, ATM appears to again be submitting a position inconsistent with its previous views. In the original investigation, OneSteel ATM commented on domestic sales of downgrade pipe by the Taiwanese exporter, Yieh Phui, and submitted that *'[a]s there are no export sales of downgrade pipe, OneSteel ATM does not consider that a fair comparison can be made if domestic sales of downgrade pipe are included in normal value calculations.'*<sup>1</sup>

Dalian Steelforce submits that the Commission's finding is supported by evidence provided by Dalian Steelforce and consistent with its practice of treating downgrade steel products as sales not in the ordinary course of trade and not relevant for the purposes of determining normal values.

ATM goes on to suggest that it is open to the Commission to rely on the profit of a single other exporter for the purposes of constructing normal values. It states that *'[s]ubsection 45(3)(b) of the Regulations does not limit the Minister from applying the level of profit to Dalian Steelforce's constructed normal value where only one additional Chinese exporter's profit is available.'*

In making this statement, it is noted that ATM provides no reasoning to support this view or makes any attempt to outline its interpretation of the 'weight average' concept reflect in the relevant regulation. Further, ATM provides no commentary in response to the Commission's and Appellate Body's interpretation and reasoning outlined in SEF 285.

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<sup>1</sup> EPR 177, Record no. 363, page 2.

Dalian Steelforce submits that that the reference to ‘weighted average’ in the Regulation and Article 2.2.2 the WTO Anti-Dumping Agreement does not allow for profit to be based a single exporter, as interpreted by the Appellate Body.

#### **4. Subsidies**

ATM’s views on public bodies continues to be based on the flawed principle that ownership in the broad sense is sufficient for an entity to meet the definition of a public body and to conclude that they possess, exercise or are vested with governmental authority. This view fails to recognise the interpretation of the WTO Appellate Body and the Anti-Dumping Review Panel, which required a higher evidentiary threshold for concluding that an entity met the definition of a public body, beyond mere ownership.

#### **5. Conclusion**

Dalian Steelforce considers ATM’s submission in response to SEF 285 to be a continuation of its earlier submissions to the review, which involve making broad and self-serving statements without supporting evidence or logical reasoning.

Yours sincerely

John Bracic