



12 November 2018

THE DIRECTOR – OPERATIONS 3

Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

Dear Director,

Review 465 - Hot Rolled Structural Steel Sections exported from Korea - Response to Hyundai Steel submission on form of measures

This submission is made by Liberty Steel (formerly OneSteel) in response to the submission by Moulis Legal on behalf of Hyundai Steel (**Hyundai**) dated 7 November 2018.

Hyundai's representative claims that

.....we would like to point out Hyundai Steel's consistent record of cooperation with Australian antidumping investigations, reviews and inquiries, which have concluded with either no-dumping/de minimis margins or with only very low dumping margins, over the last six years. Hyundai Steel has proven itself to be a long term and responsible supplier of quality product at fair prices to its customers in Australia...

The Australian Industry disputes the accuracy and legitimacy of this claim in relation to the goods concerned with this Review.

The Commission's Electronic Public Record (EPR) demonstrates that although Hyundai has been a long term supplier to the Australian market, it has a long history of dumping unfairly priced Hot Rolled Structural products in the Australian market.

- July 2002 - INI Steel Company (the former name for Hyundai Steel) were found to be dumping HRS by **18.25%**¹
- Nov 2014 – Hyundai Steel found to be dumping HRS by **2.52%**²
- July 2018 – Hyundai Steel preliminarily found to be dumping HRS by **9.9%**³

There is no information on the public record that substantiates Hyundai's claim that it has achieved de minimis margins in any reviews or enquires of Hot Rolled Structural products in the last 6 years. Further, there is no

¹ Australian Customs Service Trade Measures Report no. 55 Hot-Rolled Structural Sections from the Republic of Korea, the Republic of South Africa and Thailand at p30

² ANTI-DUMPING NOTICE NO. 2014/127 Hot Rolled Structural Steel Sections Exported from Japan, the Republic of Korea, Taiwan and the Kingdom of Thailand - Findings in relation to a dumping investigation

³ Statement of Essential Facts no. 465 Review of anti-dumping measures applying to certain hot rolled structural steel sections exported from the Republic of Korea p21

LIBERTY STEEL

Liberty (OneSteel) Newcastle Pty Ltd
Ingall Street, Mayfield NSW 2304
ABN: 50 623 285 718

libertygfg.com



information available on the public record to suggest that Hyundai Steel have applied for a Duty Assessment in which they would be eligible to claim back any excess duties inferred to have been paid.

The spurious claims made on behalf of Hyundai appear to be motivated by the desire to maintain a form of duty collection that Hyundai have successfully exploited, not only in continuing to dump, but more recently, dumping at increased rates.

The weakness of the *ad valorem* method in allowing potential exporter exploitation is identified in the Commission's Guidelines on the Application of Forms of Dumping Duty of November 2013.

It has a potential disadvantage in that export prices might be lowered to avoid the effects of this duty.

The Commission's November Guidelines lists some other key considerations in relation to the *ad valorem* form of measure which includes:

- *The simplest and easiest form of duty to administer when delivering the intended protective effect.*
- *It has an advantage where there are many models or types (it does not require an ascertained export price or ascertained floor which may not be meaningful where models show significant price variation).*
- *It has an advantage for goods which are subject to significant price variations over time because:*
 - a) *the ad valorem duty method does not show the same variability in the 'effective rate' of the duty – as export prices fluctuate - that arises under the other methods; and*
 - b) *the ad valorem duty method may require less frequent reviews than these other duty methods in this situation.*

The Australian industry considers it would be untenable for the Commission to continue applying a form of measure which has proven to be ineffective in preventing an exporter such as Hyundai from continuing to dump at an increased rate on the basis that is the simplest and easiest form of duty to administer. Similarly the proposition that the *ad valorem* method may require less frequent reviews than other duty methods cannot be considered reason enough to sustain the application of an ineffective measure for an exporter found to engage in recurrent dumping activity. To do so would undermine the intent and purpose of the legislation. Hot Rolled Structural steel sections has few models which do not show significant price variation rendering another of the *ad valorem's* potential advantages irrelevant in these circumstances.

If Hyundai have concerns that the imposition of the Combination form of duty becomes outdated over time, they need only seek their own representative's advice in relation to a remedy:

The legislation provides two ways of addressing the gap between a duty measure as imposed upon importation and the contemporary dumping margin. One of these is the duty assessment procedure, the other is the variable factors review procedure.⁴

Based on Hyundai's extensive history of dumping Hot Rolled Structural steel sections into the Australian market and the demonstrated ineffectiveness of the *ad valorem* form of duty method to prevent ongoing dumping, Liberty Steel again urges the Commission to impose the Combination form of duty method.

The Commission in recommending the Combination form of duty calculation method will align with the House of Representatives Standing Committee on Agriculture and Industry's primary recommendation:

⁴ EPR 465 Folio 023 Moulis Legal – Submission Hyundai Steel at p2

The Committee recommends that the Minister, in imposing any anti-dumping duties, should use a combination of duties in preference to a single duty. This should be the default position in each case, unless it can be demonstrated by the Minister that a single duty is more suitable than a combination.⁵

FOR AND ON BEHALF OF THE AUSTRALIAN INDUSTRY APPLICANT

⁵ Circumvention: closing the loopholes - Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures p xiii