

**sanwa**

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11 February 2016

Director of Operations 1  
Anti Dumping Commission  
GPO Box 1632  
Melbourne VIC 3001

Dear Director,

Re Dumping Investigation No 301 - Rod in coils exported from the Peoples Republic of China.

I write in reference and response to the presentation put to the Anti Dumping Commission by Onesteel Manufacturing on the 20<sup>th</sup> of January 2016.

The submission put to the ADC was titled "The relationship between the form of duties and price-based and non-price based circumvention."

In particular I would like to address the submissions being made to the ADC that the only effective and appropriate form of AD measure is a duty which includes both an ad valorem duty and in addition a floor price.

Sanwa's concern is that if the submissions raised by Arrium are be treated with any seriousness and could influence the ADC in cases generally, perhaps by establishing precedent, then substantial harm could be done to the long term health and vitality of Australian industry, including the Australian steel manufacturers.

In the first instance and because it directly relates to the submission made by Arrium to the ADC as above, I have quoted from my submissions made to the Standing Committee on Agriculture and Industry in April last year.

**The double whammy of floor price plus ad valorem dumping duties.**

*The following comments are in the context of your term of reference relating to the "effectiveness of anti-dumping measures".*

*One issue that the domestic steel producers are pushing very hard for is the "combination" method of Anti dumping Duty imposition. It is maintained that this is somehow necessary to make sure anti-dumping measures are effective and are not circumvented. That is that in the event that AD duties are imposed they must be imposed in a double whammy form being an Ad Valorem (percentage type) duty plus a floor price. Imposing the AD duty on an Ad Valorem basis does not adequately protect them is their argument and they say they need a floor price to protect them. So, if there was a 10% dumping margin and a 100 floor price, and the actual price of a transaction was 90, the duty payable would be 10% of \$90 (\$9) plus \$10, being the difference between the floor price and the lower actual price.*

*They say that looking at recent prices in various products has meant that real prices have fallen in Australian dollar terms in spite of the fall in the Australian dollar and the imposition of additional AD percentage type duties. They say the only way to rationalise this is because producers from overseas aim to dominate our Australian market and are prepared to make less money in their pursuit of this aim But that is not the reason at all. The reality is that import prices for steel have fallen because the world market price for steel has come down in concert with the fall in the price of iron ore and scrap. Indeed world steel prices in various cases have fallen by more than the combined effect of the Australian dollar and additional AD duties.*

*World Steel Market prices move up and down. Iron Ore prices move up and down. Scrap prices move up and down. Onesteel/Bluescope would have you believe that pricing is static and a floor price current at a particular date being the date of imposition will continue to retain relevance into the future. But a static floor price is not relevant at all. If coal, iron ore and scrap prices fall, being the largest cost components of the manufactured steel pricing, then the market price for the finished product is likely to fall also.*

*Keeping domestic pricing in Australia artificially high when the cost components of steel making might have collapsed (as Iron ore and scrap has) makes no sense, in competitive terms or economic efficiency terms. Floor prices used as a measure of anti-dumping duties keep the finished product pricing at the old high levels. It is a protective mechanism par excellence. It insulates the Australian industry from the need to compete, the need to stay efficient, the need to deliver a good product at a fair price to the wider steel industry in Australia that depends on well-priced supply for its own profitability and livelihood. When costs come down, a floor price means that prices stay the same and profits for the Australian industry go up. It is a government-backed rent seeking behaviour of the worst type. Your costs can go down but you are not required to pass on any of the general markets movement downwards.*

*The reality is that floor prices have relevance only when the market is completely static. If the market price moves up then the floor price is too low to be relevant and it serves absolutely no purpose. If the market price moves down a floor price allows for price gouging or profiteering, an unhappy downstream industry and a deluded set of Arrium/Bluescope executives and shareholders who think their business is intrinsically valuable – when really it is only making money because of a fixed price set by the government.*

*Very fortunately the Anti Dumping Commission recognised much of the above in its independent report of November 2013 titled "Guidelines on the Application of forms of dumping duty". This detailed and unbiased document provides guidelines to the Customs Tariff Anti Dumping Regulation 2013 replacing the mandatory imposition of a combination (double whammy) dumping duties. This report states that the Ad Valorem duty (Only) "suits a situation where a commodity's prices vary significantly over time" and noted that it had been favoured in the US and Europe "in commodities such as steel". It notes that it is "one of the simplest forms of duty and*



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*it is easy to administer” Whilst recognising that a potential disadvantage of this form of AD duty is that the duty can be artificially compensated for by lowering prices (to the detriment of the producer) it notes that “price manipulation under ad valorem duties is not a widespread problem”*

*The more relevant question is “If an ad valorem (percentage type) dumping duty re-establishes a level playing field once a company has been found duty of dumping, why then is more needed”. The answer that seems to exist is that the local steel industry wants a new playing field tilted heavily in its favour.*

The only additional comments I make are related to the current internationality of the measures Arrium are proposing.

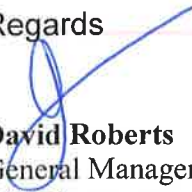
Whilst I concede that Australia did have, for an extended period, a preference if not requirement for combination type anti dumping duties, this period ended around the time the ADC released their detailed independent report on the subject.

We have been hard-pressed to find an equivalent to the Combination method of dumping duty imposition in other anti-dumping user jurisdictions. From our research we would have to say that it is only extremely rarely implemented on the international stage by countries other than Australia, if at all. If Australia does not desist from its adoption then one might expect to see it tested in the WTO.

For products without a high degree of added manufactured value and subject to regular variations in international market price, almost without exception the form of dumping duty imposed is a singular ad valorem duty. This is the only method of dumping duty imposition which moves fairly, allowing for increases and decreases in price in alignment with the international markets, whilst still imposing a penalty at the assessed level, thereby “evening the playing field” against those who have broken the rules.

The evening of the playing field is a euphemism which is oft quoted. The local producers are very quick to suggest that they are not playing on a level field at the moment and that the AD duties are needed to compensate for this. I do not disagree that there are times and instances where corrective AD action is required. However what is equally clear to me is that by taking over corrective action, as exists when a combination AD duty implementation (duty plus floor price) is implemented, then what happens is merely a tilt of the field in their favour. This can sustain parts of the industry which in a normal competitive world perhaps should not be. Coming up with a healthy sustainable working model is in the best interests of the Australian steel industry in both the short and the long term.

Regards

  
**David Roberts**  
General Manager / Trading Director  
SANWA Pty Ltd