

1st December 2017

PUBLIC RECORD

The Director Investigations 4
Anti-Dumping Commission
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CANBERRA ACT 2601

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Dear Director,

Review of Measure Case 419: Unsuppressed Selling Price and Non-Injurious Price submission

The following submission is in response to the verification team's invitation to Austube Mills to make a submission on its view on the most appropriate method to calculate the unsuppressed selling price.

Austube Mills does not support the dilution of dumping and countervailing duties by reference to an artificially derived method of what may constitute a "non-injurious market" price, and what its theoretically meant to resemble.

A reduction in the dumping and countervailing duty rates by any amount less than the full rate of dumping and or subsidies continues to impact both the Australian industry and legitimate exporters of un-dumped goods.

By permitting exporters of dumped and subsidised goods to continue to supply into the Australian market at less than un-dumped and un-subsidised values, continues to challenge the sustainability of legitimate imports and, in particular, the domestic Australian industry.

Market Situation and the non-mandatory application of the Lesser Duty Rule

With a particular market situation finding in respect of the domestic Chinese Hollow Structural Sections market, reference to subsection 8(5BAAA) of the Dumping Duty Act, should be made and the recommendation made to the Parliamentary Secretary that it is not desirable to consider a lesser rate of interim dumping duty under subsection 8(5BA) of the Dumping Duty Act.

Accordingly, subsection 8(5BAAA)(a) of the Dumping Duty Act should be applied because the normal value of the goods is not ascertained under subsection 269TAC(1) of the Act because of the operation of subparagraph 269TAC(2)(a)(ii) of the Act – constructed normal value methodology.

Consideration of the Lesser Duty Rule

To apply the "Lesser Duty Rule" the Commission first establishes a Non Injurious Price (NIP). The NIP is derived from the Unsuppressed Selling Price (USP). The USP are a price the industry may achieve in the market in the absence of dumped or subsidised imports. The USP is used as a basis for calculating a non-injurious price for exports to Australia.

It has been Anti-Dumping Commission's ("the Commission") practice to follow a pre-determined hierarchy in establishing a USP. The hierarchy is as follows:

1. Industry selling prices at a time unaffected by dumping;
2. Constructed industry prices – i.e. industry cost to make and sell plus a profit;

3. Selling prices of undumped imports.

Austube Mills’ considers that it is inappropriate to base a USP for the industry on historic market price data. There are two key reasons for this view, namely:

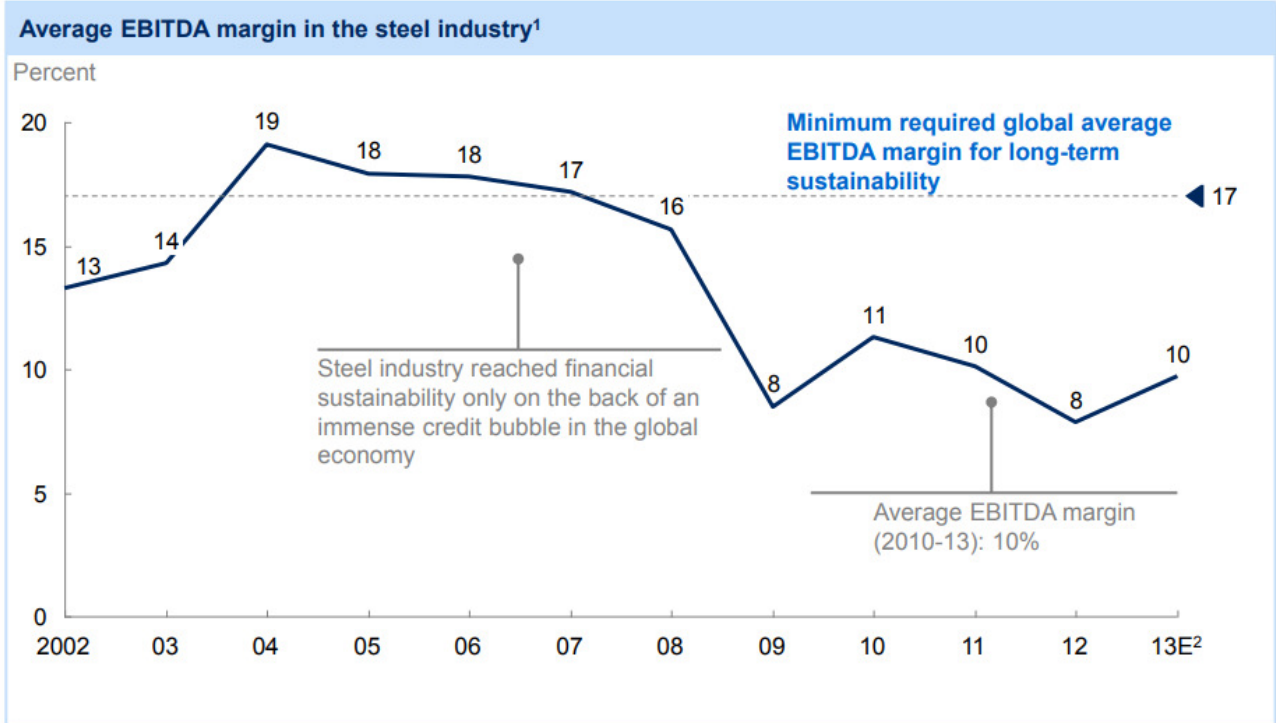
- the volatility of HRC prices; and
- the prevalence of dumped imports on the Australian market since 2001/02.

Austube Mills’ also considers that it is *inappropriate* to base a USP on non-dumped selling prices for imported Hollow Structural Sections (“HSS”) as it is difficult to determine whether imports from any one source over an extended period of time would be considered the price trigger on the Australian market. Further Austube Mills contends that China has affected global markets, due to its reach and overhang capacity, making it difficult to identify a source of imports not affected by dumping

Austube Mills’ preferred methodology is that of a constructed selling price. This methodology is considered reasonable as it provides a non-injurious selling price for the industry based upon costs-incurred during the twelve month period to September 2017. In applying a suitable level of profitability to the industry’s CTMS we encourage the Commission to use our verified CTMS data, plus an amount for profit which has been found to be at an EBITDA rate of [redacted] demonstrated by Austube Mills in a period less affected by dumping ([redacted])¹. This value is underpinned by research by McKinsey which found the minimum average EBITDA for long-term sustainability to be a rate of 17% a show in the following Graph extracted from “Laying the foundations for a financially sound industry - OECD”

EBITDA margins have deteriorated

PRELIMINARY



1 Considering sample of 65 companies
 2 Consensus forecast

SOURCE: Bloomberg

McKinsey & Company | 5

¹ Austube Mills’ Financial Appendix A6

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<https://www.oecd.org/sti/ind/Laying%20the%20foundations%20for%20a%20financially%20sound%20industry%20-%20OECD.pdf>

In the event that the Commission determines that the Non Injurious Price is lower than any of the exporter's normal values, Austube Mills reiterates that it does not support a reduction in the dumping and countervailing duty rates by any amount less than the full rate of dumping and or subsidies. Permitting exporters of dumped and subsidised goods to continue to supply into the Australian market at less than un-dumped and un-subsidised values, would continue to challenge the sustainability of the domestic Australian industry and legitimate un-dumped imports.

FOR AND ON BEHALF OF AUSTUBE MILLS PTY LTD