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1 January 2018

Mr R Piper
Director
Operations 1
Anti-Dumping Commission
Industry House
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Canberra
Australian Capital Territory 2600

By email

Dear Rhys

PT Ispat Indo – rod in coils
Response to Australian industry submission

As you know, we act on behalf of PT Ispat Indo ("Ispat Indo") in this investigation.

Ispat Indo is compelled to respond to the submission of OneSteel Manufacturing Pty Ltd ("OneSteel"), which was placed on the public record on 27 November 2017.

In particular, Ispat Indo wishes to make the following observations:

1 OneSteel is concerned about Ispat Indo's claim that a timing adjustment needed to be made to the normal value to ensure proper comparability between the export price and the normal value under Section 269TAC(8)(a) of the *Customs Act 1901* ("the Act"). This concern is answered simply - the Commission has not used such an adjustment in determining Ispat Indo's dumping margin. The *de minimis* margin was derived without this adjustment.

With this adjustment Ispat Indo would be strongly within no dumping territory. Indeed, Ispat Indo considers that there was ample evidence before the Commission to justify the making of the adjustment and fails to understand the reticence to do so. The date of contract is, as a matter of undisputable fact, the date of sale. This is clearly the case under the terms of the WTO Agreement Anti-Dumping Agreement, which provides that:

> *Normally, the date of sale would be the date of contract, purchase order, order confirmation, or invoice, whichever establishes the material terms of sale.*

The contract that is agreed to by the parties on the date it is entered into sets out all of the material terms of sale. Indeed, the contract opens with the statement:

> *We confirm having sold to you the under mentioned goods in accordance with the terms and conditions as follows…*

The contract then lists the material terms of the sale, [CONFIDENTIAL INFORMATION DELETED – terms of sale expressly agreed under contract]. Finally, as discussed in detail during the verification and as evidenced in the export bundles provided to the Commission, the unit price for the goods did not change between the date of contract and the date of invoice in any case, and the actual volume at the date of invoice was well within the tolerances agreed to by the parties in the sales contract.

The date of contract is therefore, indisputably, the date that best establishes the material terms of the sale of the exported goods. The Commission has not informed Ispat Indo of any objections to this position nor has OneSteel provided any evidence to suggest this is not the case. The fact that the date of contract is the date of sale also accords with the Commission's findings in the previous rod in coil investigation.

There is a clear link between the date of contract, the price negotiated for the purpose of that contract and the costs incurred by Ispat Indo. [CONFIDENTIAL INFORMATION DELETED – link between date of contract and production of goods under contract]. As these costs varied from month to month, failure to properly compare export sales and domestic sales which occurred conterminously will result in a less than accurate dumping margin.

In these circumstances, the correct approach is for the Commission to adjust the normal value to ensure that the dumping margin is based upon a comparison of domestic and export sales that have occurred at the same time, rather than a comparison of domestic and export sales which have had invoices issued at the same time.

2 Ispat Indo does not fully understand OneSteel's point regarding ocean freight. The reason why the ocean freight data was updated was because what was originally included in the exporter questionnaire were estimates from Ispat Indo's logistics system. Ispat Indo was able to extract the exact costs it incurred from its accounts. As the verification report notes, there were minor variances between these costs and those that were recorded on the freight invoices, due to the differences in the exchange rate when the freight was calculated and when it was booked. As the verification report indicates, these costs were considered to be reasonable, so the nature of OneSteel's complaint is elusive.

3 Ispat Indo notes OneSteel's complaint regarding model matching. Ispat Indo considers that it is preferable to match exact models, as these most closely match pricing considerations on the Australian and domestic market. The use of non-identical models would require specification-adjustments to ensure comparability. Ispat Indo understands that it is the Commission's preferred method to use identical models to determine the normal value under Section 269TAC(1) of the Act, as per the *Dumping and Subsidy Manual*.

4 Ispat Indo can confirm that the Commission did ascertain the sufficiency of the volume of domestic sales used to determine its normal values.

5 The Commission has correctly accepted Ispat Indo's bank charge claims.

6 With regard to domestic freight, the Commission has correctly adjusted the actual freight costs incurred on domestic sales when adjusting the normal value.

7 Finally, Ispat Indo confirms that containerisation was included in the export handling fees adjustment.

Accordingly, Ispat Indo does not consider that OneSteel has raised any issues that would dissuade the Commission from terminating the investigation in relation to Ispat Indo's exports of rod in coil.

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The simple fact is that Ispat Indo did not dump rod in coil on the Australian market. Ispat Indo requests that this investigation be terminated at the soonest possible opportunity, as per the recommendations in the SEF.

Yours sincerely

Alistair Bridges
Senior Associate