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The Director
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Anti-Dumping Commission
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INVESTIGATION BY THE AUSTRALIAN GOVERNMENT INTO IMPORTS OF STEEL REINFORCING BAR EXPORTED FROM GREECE, THE REPUBLIC OF INDONESIA, SPAIN (NERVACERO S.A), TAIWAN (POWER STEEL CO. LTD) AND THE KINGDOM OF THAILAND

Director -

We at Sidenor S.A. have taken note of the progress of your above-captioned investigation, since we advised of our inability to respond to your requests in the detailed manner expected. The reasons were explained in our message to your Commission of 28 July. There is now more information available to ourselves and to the other interested parties about this case from the website of your Commission.

On the basis of our consideration of that information and our own knowledge, we wish to provide this submission about the positions and arguments that Liberty OneSteel has adopted, and about the Sidenor rebar and other imported rebar in the Australian market. Our conclusions do not support the narrative that has been urged by Liberty OneSteel in its application for greater protection.[1] We find the claim that it has been caused material injury by imports under investigation not to be sustainable.

Introduction to our submission.

The Commissioner of the Anti-Dumping Commission caused the publication of a notice of initiation of an investigation into the alleged dumping of steel reinforcing bar ("referred to as "rebar") from various exporters in a number of countries on 27 June 2017.[2] This was because of the application by OneSteel Manufacturing Pty Limited and the resultant Consideration Report made by the Commission.[3]

As an interested party for the purposes of this investigation, we express our considered view that the basic facts alleged by the applicant in its application to the Anti-Dumping Commission were an insufficient basis for the initiation of the investigation, and that they cannot establish the grounds for any

[1] *Application for the publication of dumping and/or countervailing duty notices – Steel reinforcing bar exported from the Republic of Indonesia, the Kingdom of Thailand, Greece, Taiwan (Power Steel Co. Ltd.) and Spain (Nervacero S.A.)* http://www.adcommission.gov.au/cases/EPR%20351%20%20450/EPR%20418/001%20-%20Application%20-%20Australian%20Industry%20-%20OneSteel%20Manufacturing%20Pty%20Ltd.pdf

[2] http://www.adcommission.gov.au/cases/EPR%20351%20%20450/EPR%20418/005%20-%20Notice%20-%20ADN%202017-92%20Initiation%20of%20an%20Investigation%20into%20Alleged%20Dumping.pdf

[3] Consideration Report cite

positive finding against those exporters. Specifically, the application did not adequately demonstrate how it can be said that injury has been caused by the goods subject to investigation from all of the named sources. The domestic industry's injury claim seems to be inadequate, in the common sense of injury, of materiality, and of the "causal link" with any proven "dumping". We recognise there is no "going back" to prevent the investigation from being initiated. However, based on the contents of the more-lately disclosed Australian industry visit report, there appears to be even less substance to what has been put before the Commission by Liberty OneSteel. Thus, there is every reason for the investigation now to be terminated.

More particularly, and regardless of what is concluded with respect to other exporters under investigation, we say that dumping measures could not be imposed against our exports because:

i. An investigation against exports from a particular country – in our case, from Greece – must be terminated if negligible volumes of dumped goods are found to have been exported from the country. If it is concluded that Sidenor's exports were "dumped" in the investigation period, but the dumped exports from Greece were less than 3% of the volume of total imports into Australia in the same period, then the investigation must be terminated as against Greece. Our volumes have been so small, this we believe they must be around the *de minimis* level.

ii. In any case, the goods of the type exported by Sidenor cannot be said to have caused any material injury. This relates to the particular type of product manufactured by our company, and how it is used in the production chain.

iii. The circumstances of Sidenor's corporate and commercial arrangements with respect to the Australian market, in terms of product supply and fabrication, have been exemplary. It is highly unlikely that our exports were involved in any relevant "price undercutting" at the FIS level of exports not under investigation. Also, the circumstances in recent times and presently appear to be that the Australian industry cannot supply the total requirements of the market. Independent parties (importers, distributors and end users) have no reason to drive down price, but must maintain links with exporters –regardless of price – in their own best interests.

We believe that the facts provide an insufficient basis for the domestic industry to say it has been materially injured.

There are two basic forms of rebar that are cited in the description of the goods under consideration. They are rebar straights, and rebar in coil. The domestic industry applicant correctly indicates in the application that the goods that were exported by Sidenor were only of rebar in coil.[4] The reporting of the alleged injurious effects of the exports in the application is divided into the two categories, separately for rebar in coil on the one hand and rebar straights on the other hand.

The period of investigation determined by the Commission is 1 April 2016 to 31 March 2017. With regard to that period, with respect to rebar in coil, the Application shows that the Australian industry's sales quantities,[5] overall sales values[6] and production volumes[7] have increased since 2013. Revenue,[8] return on investment[9] and productivity[10] with respect to all rebar have all improved in the years leading up to the period of investigation. The Application also shows, in one set of charts that the Australian industry's

4 Application, page 36
5 *Ibid,* page 23.
6 *Ibid,* page 24.
7 *Ibid,* page 31.
8 *Ibid,* page 34.
9 *Ibid.*
10 *Ibid.*

ex-works prices[11] and unit net sales revenue[12] for rebar in coil have increased over the period of investigation itself.

These scenarios do not suggest that alleged dumping has caused material injury. Indeed we think they more truly suggest the opposite. Sidenor is concerned to ask why Liberty OneSteel ask the Australian investigating authority to decide to initiate such an investigation, in the terms of Article 5.3 of the WTO Anti-Dumping Agreement,[13] in the circumstances it explains in its application. In our opinion the facts present the picture of an industry whose performance has flourished over recent years.

Having said that, it appears that the key element of the Liberty OneSteel allegations is that even though its prices have increased, its costs have also increased, and at a higher rate than its prices.[14] Its allegation must be, therefore, that the exports under investigation, if dumped, have caused it material injury by suppressing its ability to further increase its prices. In response to that proposition, we take notice of these matters:

i. The Application shows that the applicant's prices have actually increased over the period of investigation itself.[15]

ii. If it is the case that this has happened at a slower rate than its prices have increased, then the Commission would need to consider, first, what had caused its prices not to increase to the extent the Liberty OneSteel wanted them to increase and, secondly, what was the relevant quantum of the injury arising thereby. The answers seem to be in the Application itself, which one would expect is Liberty OneSteel's best possible argumentation for its claim. Those answers do not resemble the outcome sought by Liberty OneSteel.

    a. The Application demonstrates, in respect of rebar in coils, that the same goods from the Republic of Korea were exported to Australia in the period of investigation in large quantities at FOB prices that were lower than the FOB prices of Greece.[16]

    b. The Application also demonstrates in respect of rebar in coils that the same goods from the Republic of Korea were offered for sale on an FIS basis at the same or at lower prices than the same goods exported from Greece except for in one month. We do not know about the scale of the vertical axis nor about the accuracy of the information. But whatever the case, given the Liberty OneSteel method of pricing, we do not see how there can be effects on Liberty OneSteel of imports from Greece that are independent of the effect of the lower priced or same priced Korean exports, or indeed the exports from any country not presently under investigation that are also offered for sale at or about that price level.[17]

    c. In so far as goods that are not under investigation, namely those from the Republic of Korea and elsewhere, are being sold to and offered in the Australian market at prices which are the same as or lower than the prices of exports from Sidenor at the same levels of trade, there can be no materially injurious effect.[18] If it were the case that volume and capacity utilisation are not at the levels that they are presently, this might be an issue that deserves further analysis. Liberty OneSteel cannot sell or produce more under the conditions it is presently enjoying in its production and marketing.

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11 *Ibid,* page 40.
12 *Ibid,* page 50.
13 *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.*
14 Application, pages 32 and 44.
15 *Ibid,* pages 32, 40 and 44.
16 *Ibid,* page 64.
17 *Ibid,* page 66.
18 Article 3.2 of the *Anti-Dumping Agreement* refers:

With regard to the effect of the dumped imports on prices, the investigating authorities shall consider whether there has been a significant price undercutting by the dumped imports as compared with the price of a like product of the importing Member, or whether the effect of such imports is otherwise to depress prices to a significant degree or prevent price increases, which otherwise would have occurred, to a significant degree. [underlining supplied]

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iii. It may be that the Australian industry is concerned as to the impacts of imports which are not subject to dumping measures in the future. In circumstances where the experience of Liberty OneSteel in the period of investigation is that it has not been caused material injury by the imports concerned, it could only succeed in its application if it were to establish that there was a threat of material injury. However this has not been alleged;[19] the investigation has not been initiated on that basis; and the requirements set out in Articles 3.7 and 3.8 of the Anti-Dumping Agreement have not been met.

Moving now to the Australian industry visit report, we note that the Commission has established that the sales volume of the Australian industry with respect to rebar has increased year on year since 2016. This increase appears to have taken place at its most rapid rate in the investigation period. This has been accompanied by greater revenue. With respect to "market shares" the report on the public record makes the observation that *"[Share of the Australian market by volume chart] appears to support OneSteel's claim that it has lost market share to imports from the subject countries"*. However this seems to be of no importance when we see from other submissions that:

i. Liberty OneSteel is operating at or near optimal capacity.[20]

ii. *"There is currently a shortage in the rebar market which is expected to continue. The shortage in the market has led OneSteel looking to source rebar internationally post the investigation period. OneSteel is now seeking to import rebar coils in a range of diameters"*; [21]

iii. *"Prices have dramatically increased in the local market and One Steel have quotas on their customers"*.[22]

Sidenor's exports were of small magnitude.

We ask the Commission to be mindful of the requirement that an investigation must be terminated if the volume of "dumped" imports is less than 3% of the total import volume of the goods under investigation. Of course Sidenor is aware of its own export volume – it considers this to be very small. We are concerned as to why the Commission would not publish what its opinion is of the total import volume, so that could be interrogated by interested parties. It is not something that is or should be confidential.

Presently Sidenor finds it hard to comprehend that its imports could be more than 3% of the total import volume. If that is the case, that would say less about Sidenor's export volumes than it says about the way in which the overall import supply of rebar has been limited by Liberty OneSteel. Our perception of what we have observed in the Australian market is that Liberty OneSteel is **the only producer in Australia**, which also is running **at full capacity** and as a result it might not be able to supply all its customers. By initiating these repetitive anti-dumping cases against all the other exporters the Australian industry, Liberty OneSteel, is placing all independent suppliers and fabricators in a perilous position.

We believe that Sidenor's exports cannot have caused material injury because of their particular type.

With respect to the type of product exported by Sidenor, it is not only of very low volume but also is of a type that is not produced by Liberty OneSteel. Sidenor's coil is spooled coil, whereas Liberty OneSteel does not have a spooler process within its facility. Spooled coil is of a much better type, and is in a much better form, for take-up into automated fabrication procedures.

19 Application, page 88.
20 EPR 418 Doc No 035, at page 4.
21 EPR 418 Doc No 032, at pages 1 and 2.
22 EPR 418 Doc No 022, page 1.

One of the diameters of spooled coil exported to Australia by Sidenor - that is, 20mm coil - is not made by the Australian industry at all. **[NUMBER HAS BEEN REMOVED]**% of Sidenor's exports to Australia were for 20mm coil, which Liberty OneSteel only imports. Accordingly these goods must be excluded from the scope of the investigation, thereby making the likelihood that exports from Greece do not exceed the 3% *de minimis* threshold even more likely.

The circumstances of Sidenor's corporate and commercial arrangements give useful insights into the dynamics of the Australian market.

Sidenor, in an international collaboration with A.W.M. SpA (Automatic Wire Machines), is an owner and investor in the intellectual property rights associated with Synthesis, a *"new technology for industrial prefabrication of reinforcing steel"*. The enclosed brochure explains this system. The Synthesis process automates the fabrication of rebar construction elements in accordance with computer aided design inputs that are loaded into the system on a job-by-job basis.

In Australia, this technology is exclusively employed by SmartReo Pty Limited (SmartReo) at its facility at Wacol, in Queensland. The Synthesis machine installed at SmartReo is a full-scale industrial machine. The feedstock is rebar in coil only – it does not process rebar straights.

[CORPORATE INFORMATION HAS BEEN REMOVED]

[SALES ROUTE INFORMATION HAS BEEN REMOVED]

[SUPPLIER INFORMATION HAS BEEN REMOVED]

[BUSINESS STRATEGY INFORMATION HAS BEEN REMOVED] The point of this explanation is to say in order to survive SmartReo has to have the option of obtaining steel from other sources as well and not only Liberty One Steel.

Concluding remarks

Sidenor's only interest in Australia is to service its Australian customers with quality rebar product, to deliver cutting edge fabricated products through its SmartReo Australian joint venture, and to make profits. Now that Liberty One Steel has achieved near optimal capacity, and with market conditions generally on an upswing, it will be most difficult - and should prove impossible - for it to establish that dumping has caused material injury.

On behalf of Sidenor S.A., I ask that the investigation be terminated. Then all concerned parties can return to their business of supplying and fabricating reinforced steel bar based on innovation, quality and service, motivated by profit, and guided by fair competition.

Yours sincerely,

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