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Director Operations 4
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2600

**Review 419 – Hollow structural sections exported by
Kukje Steel Co. Ltd from Korea**

Dear Director,

This submission is made on behalf of Kukje Steel Co. Ltd (Kukje) to the review of measures (Case 419) applying to exports of hollow structural sections (HSS) exported from Korea. The purpose of the submission is to respond to the Anti-Dumping Commission's (the Commission) preliminary findings outlined in Statement of Essential Facts Report No. 419 (SEF 419).

Margin of dumping

It is noted that the Commission has established that Kukje's HSS exports to Australia during the nominated review period were not dumped, with a negative dumping margin of -3.6% being determined. Kukje supports and confirms that the Commission's dumping findings outlined in SEF 419 provide an accurate summary of the verification team's findings and established facts following detailed examination of Kukje's financial records.

It is also noted that Kukje's public record version of the verification report has been on the public record for five months prior to the publication of SEF 419, and no submission or information has been presented that would cause the Commission to overturn or reconsider its dumping finding as it relates to Kukje.

Uncooperative dumping margin

Kukje notes that the Commission has determined a negative dumping margin for all other exporters from Korea by relying on information verified information presented by Kukje, less favourable adjustments.

With respect, Kukje submits that transposing Kukje's cost and sales information for the purposes of preliminarily ascertaining export price and normal value relevant to all other exporters, to be flawed and insufficient to properly ensure that future exports by other exporters are not dumped and do not cause material injury to the Australian industry.

First, Kukje's weighted average dumping margin of -3.6% reflects a particular mix of models exported to Australia in corresponding quarterly volumes. As confirmed by the Commission's calculations, the variation in quarterly normal values across the different models ranged from ■% to ■%, with the quarterly weighted average normal values for all models showing a variation of approximately ■% across the whole review period. Therefore, a primary factor in the negative dumping margin determined for Kukje was the mix of models exported to Australia, and the corresponding quarterly volumes for each model.

By contrast, non-cooperative exporters have not presented the Commission with any information to establish the types of HSS exported and their corresponding volumes. In this circumstance it is unreasonable to simply assume that other exporters would have exported a similar mix of models to that of Kukje, and in similar volumes.

As the Commission is abundantly aware, the export mix of HSS models and their respective export volumes is an important element and determinant of the overall product dumping margin calculation. Therefore, exporters that did not cooperate with the Commission's request for information should not receive the benefit of a mere assumption that they exported a product mix similar to Kukje. This would encourage exporters to not cooperate with the Commission's investigation if they had indeed only exported higher priced pre-galvanised HSS products, as they would be aware of the benefits of receiving a floor price based on a mix of black, painted and pre-galvanised HSS products.

To highlight more clearly, if a non-cooperative exporter from Korea had only exported pre-galvanised HSS during the review period, they would be subject to a lower average floor price based on Kukje's mix of HSS products, rather than the higher non-dumped normal values actual determined for pre-galvanised HSS exported by Kukje. This scenario would understandably penalise a co-operative and non-dumped exporter such as Kukje, and impact its future exports of pre-galvanised HSS whilst unfairly benefitting exporters that opted not to participate.

Of more serious consequence is the possible injury to the Australian industry of relying on Kukje's export mix and its dumping margin for determining a dumping margin for non-cooperating exporters. If a non-cooperative exporter that intended only exporting pre-galvanised HSS to Australia in the future, was subject to a floor price based on Kukje's mix of black, painted and pre-galvanised HSS, they could conceivably export the pre-galvanised HSS at the substantially lower average floor price without incurring any additional dumping duties.

Whilst export prices for pre-galvanised HSS at the average floor price would instantly be dumped and likely to cause injury to the Australian industry, there would be no avenue to

have the measures reviewed and remedy the impact of dumping for another 12 months. This is clearly not the preferred scenario or intent of the review of measures, which is aimed at providing that future exports of HSS are subject to a reasonable measure that sufficiently remedies injury attributable to dumping.

Proposed method for determining dumping for all other exporters

As highlighted above, the Commission's preliminary methodology for calculating a dumping margin and ascertaining export price and normal value for non-cooperative exporters is flawed as it incorrectly attributes facts relating Kukje's actual product mix of HSS exports during the review period, to other exporters without any reasonable basis. For this reason, the Commission should use an alternative method for establishing a dumping margin for non-cooperative exporters on the basis of relevant facts available.

An alternative method proposed by Kukje is to ascertain export prices using the lowest export price determined for Kukje, and ascertain normal values using the highest normal value determined for Kukje. This method is commonly used by the Commission in ascertaining variable factors for non-cooperating exporters¹, and particularly relevant in these circumstances given the inherent risk in the Commission's preliminary findings.

If the proposed alternative method is not considered appropriate, and in the absence of relevant information available to the non-cooperative exporters which has not been furnished to the Commission, Kukje recommends that the Commission assume that these other exporters have instead exported the highest price HSS product exported by Kukje during the review period. This model was designated by the Commission as "██████████". This would ensure that non-cooperating exporters do not benefit from a lower average floor price which might allow them to immediately resume dumping HSS exports to Australia.

In either of these proposed methodologies, subsequent importers of the goods from affected exporters would be entitled to seek a refund of their dumping duties through a duty assessment inquiry.

Yours sincerely

John Bracic

¹ REP 341 – A4 Copy Paper, page 73; REP 392 – Aluminium extrusions, pages 27, 36; SEF 320 – HSS, page 36-37; REP 177 – HSS, pages 68-70; REP 354 – Tomatoes, pages 30-31; REP 264 – Steel Reinforcing Bar, page 57.