



11 April 2014

NON-CONFIDENTIAL

Ms Candy Caballero
Director Operations
Australian Anti-Dumping Commission
Customs House
1010 La Trobe St
Docklands Vic 3008

Dear Ms Caballero,

**HOT ROLLED STRUCTURAL STEEL SECTIONS FROM JAPAN, KOREA,
TAIWAN AND THAILAND**

This submission, made on behalf of Siam Yamoto Steel Co Ltd (“SYS”) and ThyssenKrupp Mannex Pty Ltd (“TKM”), should be read in conjunction with our submission of 19 March 2014 as it relates to OneSteel’s future outlook of the Australian steel market.

At attachment 1 is a graph demonstrating –

- a) the cyclical nature of the Australian market for HRS;
- b) Australian market prices at their lowest level for at least 6 years during the investigation period (“the IP”); and
- c) the vast improvement of the market since mid-2013.

In the circumstances demonstrated by the said graph, it would be unreasonable, illogical and irrational to impose anti-dumping measures on future imports of HRS based on outdated export and market prices and an outdated economic performance by the domestic industry. It would also be contrary to Australia’s national interest if this were to happen, with future building and construction costs being substantially increased by the unwarranted imposition of anti-dumping measures based on outdated export and market prices.

The increase in Australian market prices of HRS since mid-2013 is consistent with the statement of Arrium’s Chairman. Mr Peter Smedley’s 2013 AGM that *we have put a number of price increases through early in the second quarter* as cited in our submission of 19 March 2014.

Because OneSteel’s injury case is totally dependent on the effect of market prices during the IP on its economic performance during the IP, it is reasonable to assume that its economic performance in the period since the IP has improved substantially due to the substantial increases in market prices since mid-2013.

In addition to the positive effect of increased market prices on OneSteel’s economic performance since the IP, there are a number of other factors which will have impacted positively on OneSteel’s economic performance since the IP. These factors are reported in its

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FY 2013 Annual Report and 2013AGM as outlined in our submission of 19 March 2014 and are reiterated hereunder:

- *Domestic construction markets are expected to slowly recover in FY14 after experiencing the impact of weaker activity in the resource and non-residential construction sectors in the prior half;*
- *Earnings in FY14 for Steel and Recycling are expected to benefit from further cost reductions and operational improvements, as well as from the impact of a sustained lower Australian dollar. We expect the full benefit of a sustained lower Australian dollar from the second quarter; and*
- *Arrium Steel has significant leverage to improved demand, particularly from domestic construction.*
- *A further significant strategic initiative in Steel was announced late May. This was the formation of a single steel business through combining the steel Manufacturing and Distribution businesses. This is expected to reduce complexity and cost and help to further improve the earnings and cash performance of the Steel business;*
- *Going forward, we are encouraged by a recent lift in market confidence and quote activity in key construction markets, and expect our second half Steel earnings to benefit from an increase in volumes associated with a recommencement of the slow recovery in domestic construction markets, as well as from the full impact of our cost savings; and*
- *We do expect underlying net profit after tax for the second half to benefit from delivering the expanded rate of iron ore sales, from continued growth in Mining Consumables, increased sales volumes in Steel, as well as the full impact of the Steel cost reductions.*

Because of increasing Australian market prices since mid-2013, SYS has been able to achieve significantly higher prices for its exports to Australia. Hereunder are verifiable prices of its export sales of the GUC to Australia since June 2013:

Month	AUD/mt
June '13	100
July '13	104
August '13	109
September '13	114
October '13	98
November '13	—
December '13	135
January '14	—
February '14	144
March '14	142

During the same period, SYS' domestic sales of the goods under consideration ("GUC") have been quite stable – verifiable details hereunder:

Month	THB/mt
June '13	100
July '13	100
August '13	100
September '13	100
October '13	100
November '13	–
December '13	100
January '14	–
February '14	100
March '14	101

The substantial increase in Australian market prices of the GUC since mid-2013 has the following serious impacts on this investigation:

1. Any material injury experienced by OneSteel during the IP because of depressed/suppressed prices has been removed by the increasing market price trend and is unlikely to recur in the foreseeable future; and
2. Any dumping of the GUC by SYS during the IP has been remedied by the increasing export prices and stable domestic price and cost trends and is unlikely to recur in the foreseeable future. It is of important note in this regard that with █% Australian market share SYS is a price taker and its export prices follow the Australian market trend.

Consequent upon the foregoing, to impose anti-dumping measures in relation to SYS' future exports of the GUC will be inconsistent with s269TG(2) of the Act.

If, however, for some reason the Commission does recommend the imposition of dumping duties of SYS' future exports, it would be inappropriate in the circumstances outlined above to recommend the imposition in any form of duty other than the floor price method based on SYS' normal value during the IP.

It is important in this context that the Commission understands that any dumping by SYS during the IP was a result of the weak Australian market, ie SYS had to reduce its export prices during the IP to **maintain** its Australian market (**not** to increase it) and because the Australian market has improved, SYS' export prices have increased to undumped levels and will continue as such in the foreseeable future. It is also important that the improving Australian market cannot be attributed to this dumping investigation as the improvement commenced several months before its initiation.

It is paramount that in determining variable factors, ie export price and normal value, it is open to the Commission to have regard to prices outside the IP. In this regard we refer the Commission to the following finding in Report to the Minister No. 209 in relation to the Reinvestigation of Certain Findings in Report No. 188 concerning Hot Rolled Coil (HRC) from Japan, Korea, Malaysia and Taiwan:

The reinvestigation considers that it was appropriate to have regard to the data available for six months after the investigation period, as that period appears to be closer to the longer term average trends than that found during the investigation period.¹

In reaching this consideration, Customs had regard to the following findings of the TMRO in his review of the original finding in relation to HRC from Japan, Korea, Malaysia and Taiwan which confirmed Customs' finding in the original investigation that ***the volatility in raw material and HRC prices resulted in export prices and normal values found during the investigation period being outdated.***²

- *I do not consider that the Customs Act provides an express or implied prohibition on the CEO having regard to information concerning prices outside the investigation period;*³
- *It is legitimate and proper to consider whether reliance solely on prices within the investigation period would over-(or under) redress the level of dumping going forward;*⁴
- *(The TMRO) agreed that Customs and Border Protection had acted appropriately in considering whether regard could be had to prices outside the investigation period;*⁵ and
- *An appropriate case could exist where it was apparent that prices after the investigation period would differ from those within the investigation period on a sustained basis so that it was apparent that ignoring the later prices would mean that anti-dumping measures were set at a level that either under- or over-redressed the dumping that has been found to exist historically and likely to continue prospectively.*⁶

The above findings in relation to the said HRC reinvestigation provide strong precedent for having regard to SYS' export prices after the IP in determining the dumping status of its exports and the likelihood of dumping in the foreseeable future.

In summary, it is the low level of the cyclical Australian market during the IP which caused OneSteel's downturn in its economic performance during the IP and it was SYS' natural reaction to the weak Australian market during the IP which caused a downturn in its export prices to Australia during the IP. The increasing price trend in the Australian HRS market since mid-2013, which cannot be attributed to this investigation, has resulted in a substantial improvement in OneSteel's economic performance and substantial increases in SYS' export prices to Australia since the IP, leading to the following conclusions:

- Any material injury experienced by OneSteel during the IP no longer exists and is unlikely to recur in the foreseeable future, meaning that to impose anti-dumping measures on future exports will be contrary to s269TG(2) of the Act;
- Export prices and consequent dumping margins determined for SYS' exports to Australia during the IP are outdated and to impose anti-dumping measures on SYS' future exports on the basis of them will be contrary to s269TG(2) of the Act;

¹ Report No. 209, section 4.5.2.

² Ibid, section 4.2.

³ Ibid, section 4.3

⁴ Ibid.

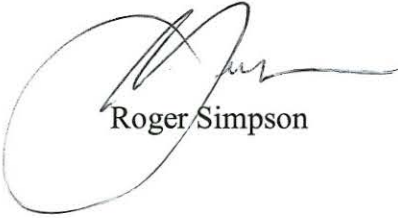
⁵ Ibid, section 4.5.

⁶ Ibid, section 4.5.1.

- Imposition of anti-dumping measures on future exports based on outdated material injury and dumping findings will be contrary to Australia's national interests with building and construction industries being subjected to unwarranted increases in major material costs; and
- If, despite the foregoing conclusions, the Commission decides to recommend the imposition of anti-dumping duty, it will be inappropriate to apply any form of duty other than the floor price duty method.

We trust that the Commission will take the content of this submission into account in its future conduct of this investigation.

Yours sincerely,



Roger Simpson