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5 January 2018

The Director
Investigations 2
Anti-Dumping Commission
Industry House
10 Binara Street
Canberra
Australian Capital Territory 2601

By email

Dear Director

Sidenor Steel Industry S.A. ("Sidenor")
Comments in reply to recent submission of Liberty OneSteel

We have noticed a submission of Liberty OneSteel ("LOS") dated 22 December 2017, as placed on the public record of this investigation on 2 January 2018.

Sidenor relies upon and reiterates the things that were said in its submission of 4 December 2017. We see nothing in LOS's recent submission that would cause us to withdraw or correct any of those things.

Nonetheless our client wishes to make the following observations with respect to some of the points that were argued in LOS's latest submission.

1 LOS places great stock on the findings in the Statement of Essential Facts ("SEF") that its prices were undercut by imports from Greece and Nervacero S.A, of Spain. In so doing LOS misses the fact that Korean imports were present in the market at lower prices at almost all times. And lest LOS seeks to make something of our use of the word "almost", we respectfully refer the Commission to LOS's application for this investigation, which represents LOS's own appreciation of pricing in the period of investigation.[1] Korean price offers were benchmarked by LOS in every month of the POI, and were the lowest or equal lowest in 11 of those months. Thus, we say that it was Korean imports that caused LOS the "injury" of which LOS has chosen to complain. To attribute the injury to exports from Greece and Spain would be to defy the fact that LOS set its prices on the basis of the prices of exports not subject to this investigation, being exports that were present in the market at lower prices or at the same prices as those from Greece and Spain.

2 LOS states that the selling prices of the Korean exporter (which all interested parties assume to have been Daehan Steel Co., Ltd) would not provide a sound basis on which to establish a non-injurious price ("NIP"). This, argues LOS, is due to the recently initiated anti-circumvention inquiry concerning that exporter. There are two concerns we have with this argument. The first is that it does not stand up to legal scrutiny. According to Section

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1 http://www.adcommission.gov.au/cases/EPR%20351%20%20450/EPR%20418/001%20-%20Application%20-%20Australian%20Industry%20-%20OneSteel%20Manufacturing%20Pty%20Ltd.pdf at page 66.

269TACA of the *Customs Act* 1901, a NIP is *"the minimum price necessary... to prevent the injury, or a recurrence of the injury, referred to in paragraph 269TG(1)(b) or 2(b)"*. The injury referred to in those paragraphs is any injury found to have been caused by the exports subject to this investigation, and not any injury alleged to be caused by exports that are not subject to this investigation. Further, if it were necessary to go further, second concern we have with LOS's argument is that it presupposes what the findings might be in a separate and incomplete inquiry, namely the anti-circumvention inquiry to which LOS refers.

3 LOS disagrees with a proposition that was put in our client's submission of 4 December 2017 to the effect that the NIP for rebar coil be established at a level that is the level of the normal value of exports from Spain. This proposition was expressed in our client's submission in a shorthand manner. This was done on the basis that the meaning and intent would be understood by the Commission and by interested parties, and we regret any confusion which may have been caused thereby. To clarify:

- the imposition of measures is an outcome that is not accepted by Sidenor, based on everything it has said about the competitive conditions in the Australian market in the period of investigation; but
- for argument's sake, in a case in which measures were to be imposed, if exports of spooled coil were permitted to be imported into Australia at the level of the normal value for Spain, then there would be no basis for the NIP with respect to imports from Greece to result in a higher "correction" to the prices of Greek imports than the "correction" pertaining to those from Spain.

With regard to the assessment of a NIP for each exporter, the SEF states the following:

> *In this case, as the price of imports would be higher at least by the dumping margins found, it would be expected that OneSteel's prices would also be higher by at least the percentage of the dumping margins found. The Commissioner notes that this approach is consistent with the approach taken in Investigations 264 and 300.*

We have already expressed our concerns about the unreality of the 42.1% dumping margin determined for our client. Nonetheless, the simple truth is that LOS's prices would not be 42.1% higher if there was no dumping of the goods by Sidenor. They would, in technical terms, be 7.5% higher, being the degree of the preliminary dumping margin published in the SEF with respect to exports by Nervacero.

If the Commission recommends the imposition of measures, despite the very strong and cogent objections we have expressed, then it would need to consider the "lesser duty rule". In doing so, we submit that it would be both necessary and appropriate to limit any measures with respect to Sidenor so that they achieve the same price point in the market as that which will apply with respect to Nervacero's exports, being the other exporter of hot-spooled rebar coil subject to this investigation.

Yours sincerely

Daniel Moulis
Partner Director

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