Canberra
6/2 Brindabella Circuit
Brindabella Business Park
Canberra International Airport
Australian Capital Territory 2609

Brisbane
Level 4, Kings Row Two
235 Coronation Drive
Milton, Brisbane
Queensland 4064

Melbourne
Level 39, 385 Bourke Street
Melbourne
Victoria 3000

Australia

Canberra +61 2 6163 1000
Brisbane +61 7 3367 6900
Melbourne +61 3 8459 2276

www.moulislegal.com

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9 January 2018

The Director
Anti Dumping Commission
Investigations 2
Industry House
10 Binara Street
Canberra
Australian Capital Territory 2600

By email

Dear Director

Nervacero S.A. - alleged dumping of steel reinforcing bar
Comments with respect to Liberty OneSteel submissions

As you know we represent Nervacero S.A. ("Nervacero") in this investigation.

We note that the applicant to this investigation, Liberty OneSteel ("the Applicant" or "LOS"), has made a number of submissions well after the expiry of the 20 day post-SEF interested party submission period. In so far as those submissions intend to provide new and substantive information or claims, we respectfully request the Commission to disregard those submissions, as they would have the effect of preventing the Commission's timely preparation of the report to the Minister. In particular, we refer to the following claims in those submissions:

- claims regarding the determination of the "date of sale" for Nervacero's Australian and domestic sales of the goods under consideration ("the GUC");
- the type of coil product that LOS claims it did produce/was capable of producing in the period of investigation;
- claimed differences, or the lack of difference, between the kind of coil product LOS produces and the hot-spooled coil produced by Nervacero; and
- comments concerning the injury and causation analysis in the SEF.

These issues were known to LOS or made known to LOS either prior to or in the SEF. We submit that LOS had ample time to provide its comments on these issues, either before the SEF or within the 20 day period thereafter.

In any case, we wish to make the following comments concerning these submissions by LOS:

1 Date of sale - we object to and categorically reject LOS's accusation that Nervacero's explanation of the date of sale of its products was somehow "fabricated" or represented an attempt to "game" the procedure. Such accusations are groundless and untruthful. Contrary to LOS's accusation, the documents it refers to from an investigation by the United States Department of Commerce demonstrate consistency in Nervacero's claims. Submissions from another interested party who, like LOS, is also one of Nervacero's Australian customers, also support Nervacero's claim. Furthermore, LOS has attempted

to introduce new evidence to suggest that Nervacero did revise a sales agreement, when that circumstance has nothing to do with a change to the date of sale in any relevant sense at all. LOS refers to a new *pro forma* invoice with respect to *"additional volume"* requested by the customer, and *'to ensure delivery to the correct discharge port'*. The fact that a revised and new *pro forma* invoice was issued in such circumstances actually *proves* that the *pro forma* invoice is the contract, and the date of sales. If that were not the case, there would have been no need for a revised *pro forma* invoice with respect to the contract that was already in place. In either case, the date of sale still is not the commercial invoice date as issued at the time of shipping. The only thing the Commission has to decide in the scenario that has been put forward by LOS is whether only the *additional volume* should have a date of sale as at the date of the revised *pro forma* invoice, or whether the entire volume (the originally contracted volume and the additional volume) should have a date of sale as at the date of the revised *pro forma* invoice. LOS's argument proves exactly what Nervacero has been arguing for, which is that the material terms of Nervacero's contracts for the sales of the GUC to Australia were formed on the date of contract, when the *pro forma* invoices were issued, and not on the date of shipping. Further, we remind the Commission that there is nothing "illusory" or non-committal about the *pro forma* invoices issued by Nervacero to LOS, in that LOS was required to [CONFIDENTIAL TEXT DELETED – payment terms implemented in accordance with the *pro forma* invoice]. Lastly, in relation to LOS's accusation that Nervacero somehow "gamed" the procedures of this investigation, we would wish to point out that the additional quarter's worth of sales data *was* provided on the first date of the on-site verification, and therefore is entitled to be treated as reliably as any other aspect of the data.

2 Spooled coil - LOS' submissions have numerous shortcomings:

a. LOS does not respond to a key aspect of Nervacero's submission, namely that the spooled coil exported from Nervacero should not have been cumulated with straight products exported from other sources for the purpose of injury and causation assessment.

b. LOS does not acknowledge the differences between the hot-spooled coil produced by Nervacero and the cold-spooled coil LOS claims to produce. Indeed we are curious – if LOS indeed has a commercially viable product which it claims to be the same or equivalent to Nervacero's product, why is the information with respect to the product redacted by LOS? Furthermore, if LOS's claims are true, and it is capable of competing with Nervacero's hot-spooled coil and can satisfy the demand of the Australian market for that product, then why has it bought, and why does it continue to buy, hot-spooled coil from Nervacero in not only 20mm diameter size but also in all of the other major diameters? The logical conclusion is that there is a market for hot-spooled coil in Australia, and that LOS does not make the form of hot-spooled coil exported to Australia by Nervacero, and therefore sees it necessary to itself import the product which it claims is causing it injury.

3 Injury causation analysis - lastly, in response to LOS's comments concerning the injury causation analysis in the SEF, we respectfully submit that such comments do not add any value to the analysis that the Commission is required to carry out. Critically, we note that LOS has not addressed the causation analysis raised by Nervacero's submission from the perspective of how LOS's commercial pricing decisions were made – which should be the only relevant aspect. Rather, LOS focuses on defending the preliminary analysis in the SEF from a methodological and technical perspective only. In our view, these omissions are particularly critical:

a. Firstly, the LOS submission acknowledges Nervacero's submission that there is a discrepancy between:

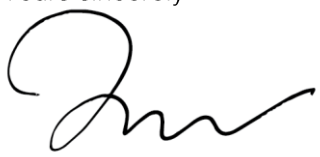
- the FIS based pricing method which is used by LOS to draw a connection between its injury and the exports from Nervacero and Greece;

- the FIS price comparison based on the actual export price data as collected by the Commission.

To be clear, Nervacero does not "make light of" this discrepancy. Rather, we say that this discrepancy is fatal to LOS's allegation that there is a connection between any material injury and the pricing of Nervacero's exports. If LOS based the connection on incorrect or false market intelligence, then its injury cannot have been connected to the actual prices of Nervacero's exports.

b. Secondly, LOS's submission does not answer a key question raised by Nervacero in its submission – how could the alleged material injury be attributed materially to exports from Nervacero's exports and to Greek exporters, when there were abundant lower priced exports in the market from other sources not under investigation?

Yours sincerely



Charles Zhan
Senior Associate