

10 August 2015

Mr Tim King
Investigator
Anti-Dumping Commission
Level 35
55 Collins Street
MELBOURNE CITY VICTORIA 3000

Public File

Dear Mr King

Investigation into Steel Reinforcing Bar exported to Australia from the Republic of Korea, Malaysia, Singapore, Spain, Taiwan, the Kingdom of Thailand and the Republic of Turkey – Form of measures and proposed unsuppressed selling price

Executive Summary

OneSteel Manufacturing Pty Ltd (“OneSteel”) proposes that the Anti-Dumping Commission (“the Commission”) recommend to the Parliamentary Secretary that:

- (i) the form of anti-dumping measures to be applied to exporters of dumped rebar from the nominated countries be based upon the combination method; and
- (ii) the non-injurious price reflects the full margin of dumping applicable to each exporter.

Form of measures

The Australian market for rebar is a price-sensitive market with prices established on landed import prices. It is important that the measures applied are appropriate to remove the injurious impacts of dumping and that the Australian industry is not threatened with future material injury. With this in mind, OneSteel recalls the Commission’s comments that acknowledge *ad valorem* measures have the “*potential disadvantage that export prices might be lowered to avoid the intended effects of the this duty*”¹ and this type of measure is “*susceptible to circumvention*”.

OneSteel shares the Commission’s concerns associated with *ad valorem* measures, and considers that exporters are likely to be motivated to circumvent the intended effect of the measures by further reducing export prices in a price-sensitive market.

OneSteel notes the recommendations of the House of Representatives Agriculture and Industry Committee Inquiry into Anti-Circumvention Activities that when recommending the imposition of measures

..... that the Minister, in imposing any anti-dumping duties, should use a combination of duties in preference to a single duty. This should be the default

¹ Guidelines on the application of Forms of Dumping Duty, November 2013, P.11.

position in each case, unless it can be demonstrated by the Minister that a single duty is more suitable than a combination.²

OneSteel supports the House of Representatives Agriculture and Industry Committee recommendation as it appropriately addresses the objective of the measures – to ensure that the Australian industry is again not exposed to the injurious effects of dumping. The intended effect of the measures – either in a falling or rising market – is most effectively addressed by measures of the combination form. The Commission has acknowledged that in a declining market *ad valorem* measures are susceptible to circumvention, hence avoiding the intended effect of the measures.

OneSteel submits that in a static or declining market the combination method becomes more effective than the *ad valorem* method in preventing further dumping and injury. The floor price component of the combination method removes the incentive for the exporter to lower its export price to reduce the duty liability and avoid the intended effect of the duty. OneSteel contends that in a declining market demand is typically softer, excess capacity is evident and aggressive pricing occurs. In a market of reducing prices, dumping and circumvention are likely to prevail, as is the severity of the injury caused by the circumvention activity.

OneSteel acknowledges that in some limited circumstances the amount of interim duty may exceed the floor price in a declining market. The duty assessment process, however, permits the refund of any overpaid interim anti-dumping duties through an interim duty assessment. By contrast, duties short paid are not subject to any short-payment provision (and the Australian industry is again exposed to the injurious effects of the dumping). It is therefore essential that the form of measure applied is effective to remove the injury from dumping. In a declining market, *ad valorem* measures fall short in this regard. In order to reduce the level of measure applied, exporters can reduce export prices without regard to the normal value (and without penalty).

In a rising market the combination method (floor price + *ad valorem*) effectively becomes the *ad valorem* method once the floor price is exceeded. It should be noted that whilst circumvention remains a threat in a rising market it is typically reduced, as a rising market is indicative of increased demand and therefore reduced excess capacity. With a reduction in excess capacity, there is less incentive for exporters to dump their excess products into other countries domestic markets.

OneSteel submits that the intended effect of anti-dumping measures is to ensure export prices are non-injurious to the affected Australian industry. Measures applied that do not remove the injurious effect of dumping are ineffective and must be reviewed immediately. It is an important fundamental cornerstone of Australia's Anti-Dumping System that measures imposed are effective and adequately address the injury they are intended to prevent. OneSteel re-affirms its support for the combination form of measures to be the default position when considering the appropriate form of measure to apply as recommended by the House of Representatives Agriculture and Industry Committee as it is the most effective form of measure to prevent further injury.

² Circumvention: closing the loopholes Inquiry into Australia's anti-circumvention framework in relation to anti-dumping measures House of Representatives Standing Committee on Agriculture and Industry May 2015 p. xiii.

It is OneSteel's position that the Commission recommend to the Parliamentary Secretary that the appropriate form of measure to apply to exporters of dumped rebar be based upon the combination form, to ensure avoidance of the intended effect of the measures does not occur. Measures that include a combination of fixed and variable measures are the most effective form of measure in addressing any intended circumvention activities.

Non-injurious price

OneSteel notes the Commission's comments in Report No. 240 concerning the appropriate non-injurious price methodology for rod-in-coils exported from Indonesia and Taiwan. The Commission examined the preferred methodologies for establishing an unsuppressed selling price ("USP") from which the non-injurious price ("NIP") is determined, including market selling prices unaffected by dumping and the Australian industry's cost-to-make-and-sell ("CTM&S") plus an appropriate level of profit.

The Commission indicated in Report No. 240 that historic selling prices may have been affected by dumping, and it could not be satisfied whether the recommended level of profit to apply to the CTM&S could be reasonably "linked" to OneSteel's rod-in-coils business.

In the current rebar investigation, OneSteel is unlikely to be able satisfy the Commission :

- (i) that historic rebar prices are unaffected by dumping; or
- (ii) what is an appropriate level of profit to apply to OneSteel's 2013/14 CTM&S rebar.

OneSteel does not consider that the selling prices of non-dumped goods to be an appropriate basis for the NIP as they are also influenced by dumped prices.

OneSteel does acknowledge that it establishes pricing for rebar relative to landed import prices. Following the imposition of measures, OneSteel will continue to base prices on import prices. As in Investigation No. 240 *"the price of imports would be higher at least by the dumping margins found"* and *"it would be expected that OneSteel's prices would also be higher by at least the percentage of the dumping margins found"*.

OneSteel proposes that the Commission recommend to the Parliamentary Secretary that the NIP for each exporter be set at a level that is equal to the relevant exporter's normal value. On this basis, the NIP would not exceed a level of injury unaffected from dumping.

If you have any questions concerning this letter please do not hesitate to contact OneSteel's representative Mr John O'Connor on (07) 3342 1921 or Mr Matt Condon of OneSteel on (02) 8424 9880.

Yours sincerely



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OneSteel Manufacturing Pty Ltd