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23 April 2015

**Mr R McGovern**  
**A/g Assistant Director**  
**Anti-Dumping Commission**  
**55 Collins Street**  
**Melbourne**  
**Victoria 3000**

**By email**

Dear Reuben

## **PT Ispat Indo**

### **Alleged dumping of rod-in-coil – further information request**

We refer to the following explanation and request set out in your email dated 14 April 2015:

*OneSteel contends that the information provided to the Commission by Ispat contradicts the findings of the Indonesian Safeguards Committee and should therefore be rejected for the purposes of determining a normal value for Ispat.*

*After considering OneSteel's submissions and your own submission on behalf of Ispat, the Commission is of the view that additional information may assist in reconciling the inconsistency between the information submitted by Ispat to the Commission and that submitted to the Indonesian authorities. As such, the Commissions would invite Ispat to supply it with the information provided to the Indonesian authorities detailing the nature of the injury it had allegedly suffered.*

We are instructed to convey our client's concern about OneSteel's demands and about the Commission's acquiescence to them.

OneSteel claims that statements made in the Indonesian Government's *Notification Under Article 12.1(B) of the Agreement on Safeguards on Finding a Serious Injury or Threat Thereof Caused by Increased Imports* ("the WTO Notification") are opposed to the finding in this investigation that our client's sales of rod-in-wire were profitable. This, it is further suggested, should lead to rejection of Ispat Indo's data in this investigation.

We are at a loss as to how this could be achieved or seriously countenanced by the Commission.

Ispat Indo has been consistently engaged and responsive to the Commission's requests since the investigation process was initiated over a year ago. Ispat Indo provided the Commission with a 49 page response to the exporter questionnaire. That response also included 24 detailed attachments. Our client further provided a 16 page "remote exporter verification" with an additional 26 attachments. This was followed by an additional 18 attachments prior to the remote verification. The remote verification took place over five days. During that process Ispat Indo allowed the Commission unfettered access to its system, responded to numerous specific inquiries, and provided numerous other files and computer screenshots. After the verification, Ispat Indo provided still further information to the Commission to assist it in clarifying certain matters and drafting the verification report.

As a result of these inquiries, the Commission:

- confirmed that Ispat Indo's records are kept in accordance with the generally accepted accounting principles of Indonesia;
- found that the costs in those records reasonably reflect the competitive market costs associated with the production of rod in coil; and
- successfully verified the information that Ispat Indo submitted.

As per Regulation 180(2) of the Customs Regulations, having met the first two requirements the Minister *must* work out the cost of production by using the information set out in Ispat Indo's records. The use of our client's verified information in this way has led to the finding that there are no grounds to impose dumping measures against our client's exports.

We can assure you that there is no conflict between the Indonesian Government's findings in its safeguards investigation as expressed in the WTO Notification and the specific findings made by the Commission in relation to Ispat Indo in this investigation. In that regard we note that the Indonesian safeguards investigation related:

- to a different scope of goods than those which are the subject of the current anti-dumping investigation;
- to the entire Indonesian industry involved in that investigation, which at a minimum was the two applicants for those safeguards measures only one of which was Ispat Indo.

In any event, the source and the detail of the information provided by our client to the Indonesian Government for the purposes of its safeguards investigation was no different to that provided to the Commission, other than as may have been related to the different scope of goods, as we now explain.

Please find attached the following files:

- *11.1 Seluruh barang Diproduksi Pemohon* [**CONFIDENTIAL ATTACHMENT**] – which provides an overview of the performance of Ispat Indo's sales of rod and billet between 2009 and June 2013, and was supplied to the Indonesian Government as part of Ispat Indo's questionnaire response in the safeguards investigation;
- *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan* [**CONFIDENTIAL ATTACHMENT**] – which provides an overview of the performance of the goods (being the goods in respect of which safeguards measures were sought) between 2009 and 2013, as submitted as part of Ispat Indo's questionnaire response in the safeguards investigation;
- *11 12 13 ISPAT* [**CONFIDENTIAL ATTACHMENT**] – which shows how the above two tables were calculated. We have also provided an interpretation, which you may find useful in understanding both *11.1 Seluruh barang Diproduksi Pemohon* and *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan*;
- *X PENJELASAN KLAIM KERUGIAN* [**CONFIDENTIAL ATTACHMENT**] – which narrates the injury claim for the purposes of Ispat's questionnaire response, based upon an analysis of *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan*;
- *Statement of Essential Facts for Safeguards Investigation* – which is the Indonesian Government's SEF from the investigation, together with a translation of the "like goods" discussion, for reasons that will become relevant below;

- *2014 06 04 11.1 11.2* [CONFIDENTIAL ATTACHMENT] – which are updated versions of tables 11.1 and 11.2 which were provided to the Indonesian authorities for the purpose of the verification; and
- *2014 06 04 11.1 11.2 – calculation and interpretation*, which details the calculation of the *2014 06 04 11.1 11.2* file [CONFIDENTIAL ATTACHMENT] – the interpretation should be of assistance in deciphering *2014 06 04 11.1 11.2*.

The files named *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan* and *X PENJELASAN KLAIM KERUGIAN* were provided to the Indonesian Government on 5 March 2014, as part of our client's response to the safeguards questionnaire. The file, *11 12 13 Ispat* is an internal document that shows how the *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan* was calculated.

As mentioned above, the goods covered by the safeguards investigation were different to those that are presently covered by the Commission's dumping investigation. As per the SEF, the scope of the safeguards investigation was:

*The products that have been produced by the Petitioners are low carbon steel wire rod Wire Rod [sic.] in the form bars and rods, hot-rolled, in irregularly wound coils (non-alloy wire rod), of circular cross-section measuring from 5.5 mm - 20 mm in diameter, used for drawing wire, producing nails, wire mesh and welding electrode. [our emphasis]*

Your anti-dumping investigation is concerned only with rod, irrespective of its carbon content, up to a diameter of 14mm. It can be seen that the scope of the investigations differ substantially.

*11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan* focuses only on the products for which safeguards measures were sought. Because of the difference in scope between the goods involved in the two separate investigations, this means it only has limited connection to this dumping investigation. However *11.1 Kinerja Perusahaan Untuk Seluruh Produk* relates to the performance of all products, as ascertained at the time the questionnaire response was lodged in the safeguards investigation. The attached file *11 12 13 Ispat* breaks this down between rod and billet.

We have attached a document headed *Comparison of Ispat Indo information provided to Indonesian Government in safeguards investigation and to Anti-Dumping Commission in dumping investigation – 1* [CONFIDENTIAL ATTACHMENT]. This shows the linkages between the information provided in these documents, and the information that was provided to the Commission as *Attachment 9 – Turnover*. The Commission verified *Attachment 9 – Turnover* and confirmed that it could be reconciled back to Ispat Indo's audited accounts. On review of that reconciliation between the two the Commission will see that Ispat Indo's response to the safeguards questionnaire was based on the same source data as its response to the exporter questionnaire in the present investigation.

The safeguards investigation is concerned only with injury suffered in relation to the goods for which safeguard protection is sought. The performance of the relevant products was addressed in the safeguards questionnaire by the file named *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan*. On the basis of that analysis, Ispat Indo's legal representatives drafted *X PENJELASAN KLAIM KERUGIAN*. With regard to profitability, which seems to be the major bone of contention for OneSteel, *X PENJELASAN KLAIM KERUGIAN* provides:

[CONFIDENTIAL TEXT DELETED – statement about financial performance of Ispat Indo]

[CONFIDENTIAL TEXT DELETED – statement about financial performance of Ispat Indo] This is borne out on the basis of the information in *11.2 Kinerja Perusahaan Untuk Barang Yang Dimintakan Perlindungan*:

Year	Operative profit/loss	Indexed
2009	[CONFIDENTIAL TEXT DELETED – information showing deterioration of financial performance of Ispat Indo over period concerned]	
2010		
2011		
2012		
2013 (Jan- Jun)		

Finally, as per the WTO Notification, the period of investigation, as opposed to the period of injury determination, was 2013. So, for the purpose of the verification, Ispat Indo was required to update its performance data for the entire 2013 period. On 4 June 2014, Ispat Indo submitted the attached 2014 04 06 – 11.1 & 11.2 file to the Indonesian Government, which provided for the performance of billet and wire over 2013 (at the table entitled 11.1. *Seluruh Barang Yang Diproduksi Pemohon*), as well as the performance of the low carbon wire subject to the safeguards investigation over 2013 (at the table entitled 11.2 *Barang Yang Dimintakan Perlindungan*).

Again, this can be linked to information that the Commission has verified. Please refer to the attached document headed *Comparison of Ispat Indo information provided to Indonesian Government in safeguards investigation and to Anti-Dumping Commission in dumping investigation – 2* [CONFIDENTIAL ATTACHMENT].

The performance of the goods for which safeguards protection was being sought is set out in 2014 04 06 – 11.1 & 11.2 at the table entitled 11.2 *Barang Yang Dimintakan Perlindungan*. [CONFIDENTIAL TEXT DELETED – statement about financial performance of Ispat Indo]:

Year	Operative profit/loss (IDR)	Indexed
2010	[CONFIDENTIAL TEXT DELETED – information showing deterioration of financial performance of Ispat Indo over period concerned]	
2011		
2012		
2013		

You will recall that the finding in the WTO Notification was that the applicants had suffered “*financial losses*” during the relevant period. [CONFIDENTIAL TEXT DELETED – statement about financial performance of Ispat Indo] Furthermore, Ispat Indo once again wishes to emphasise that it is not privy to the information of its co-applicant, or of any other members of the Indonesian industry, and

that it was not involved in the Indonesian Government's consideration of the information pertaining to the entire industry.

In summary, it is abundantly clear that Ispat Indo has provided information to the Indonesian investigating authority and to the Commission in the respective investigations which was relevantly the same and which was from the same financial accounts.

Our client considers OneSteel's submissions in this matter to be insulting of both Ispat Indo and of the Commission itself.

We again request that the investigation be terminated insofar as it relates to Ispat Indo.

Yours sincerely

A handwritten signature in black ink that reads "Bridges". The signature is written in a cursive style and is positioned above the printed name and title.

**Alistair Bridges**  
Senior Lawyer