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8 February 2017

The Director – Operations 4
Anti-Dumping Commission
GPO Box 1632
MELBOURNE VIC 3001

Our ref: RXW

By email: operations4@adcommission.gov.au

Dear Sir/Madame

Response to Statement of Essential Facts

We refer to the Statement of Essential Facts dated 9 January 2017 (**SEF**) in relation to the Anti-Dumping Commission's (**ADC**) investigation into steel shelving units exported from China (**Investigation**) and the responses of Geelong Holdings Limited (**Geelong**) to the SEF dated 30 January 2017 (**Geelong Submission**) and the response of Summit Select Pty Ltd (**Summit**) also dated 30 January 2017 (**Summit Response**).

The purpose of this letter is to provide Geelong's views in relation to the issues raised in the Summit Submission.

1. Cold rolled coil and galvanised steel benchmark

1.1 ADC method

In the SEF, the ADC set out that it used a benchmark for hot rolled coil (**HRC**) and adjusted that benchmark price by expected processing costs associated with producing cold rolled coil (**CRC**) and galvanised steel (**GS**). These processing costs were said to have been obtained from previous investigations by the ADC. Summit has set out the view that instead of adopting this approach, the ADC should use a benchmark price for CRC and GS.

Geelong maintains that there is no justification for using a substitute steel price. If the ADC is to use a benchmark steel price Geelong summits that the approach adopted by the ADC is appropriate. We say this because the approach by the ADC addresses its concern that that distortion in the market may have impacted the steel costs in China but at the same time reflects the goal of the *Customs Act 1901* that the constructed value be based on the cost of construction or manufacture in the country of export.

The ADC method addresses the alleged market distortion issue by substituting the Chinese HRC price with an external benchmark. The cost of producing HRC is the greatest cost associated with producing CRC and GS.

However, by adjusting the benchmark HRC by known Chinese manufacturing costs the ADC is producing a CRC and GS price that can be referenced to the Chinese production costs of those goods. The information is likely to be much more accurate than benchmark CRC and GS prices as the ADC method is based on actual known Chinese costs from past investigations.

The ADC method produces a price that is a hybrid between third country steel production costs and actual Chinese production costs. It is contended that this approach best balances the ADC's competing desires of removing perceived Chinese market distortion, yet at the same time ensuring that the substituted price reflects Chinese production costs.

If the entire CRC or GS price was based on an external benchmark it is very unlikely that the benchmark would in any way reflect the lower costs of producing HRC and GS in China that are related to labour and infrastructure costs and not any market distortion.

For the above reasons Geelong maintains that if benchmark CRC and GS prices are to be used, the approach adopted by the ADC in the SEF should be maintained.

1.2 Amount of uplift of HRC price

Summit has requested that the ADC ensure that an amount for profit has been included when uplifting the HRC price to arrive at CRC and GS prices.

The benchmark HRC price used by the ADC includes a profit margin. The ADC should be slow to add any additional profit without evidence that additional profit is usually earned in respect of CRC and GS. It should not be assumed that integrated mills that produce each of HRC, CRC and GS achieve the profit margin on each type of product. It may be the case that such mills make the same actual amount of profit per tonne of each type of steel.

If an additional amount is to be added to account for profit, this profit amount should only be calculated as a percentage of the processing cost associated with converting from HRC to either CRC or GS. This is because the ADC is already using a base HRC price that includes a profit margin. Adding profit to the entire existing CRC or GS price would mean that the steel manufacturer is achieving double profit on the HRC component of the product. This would not be a reasonable method of determining Geelong's costs of production.

1.3 Impact of raising steel prices further

The use of a benchmark steel price instead of actual costs paid by Geelong when calculating a constructed normal value is not appropriate. It results in a situation where a fictional normal value is compared to an actual export price. The approach is much more likely to result in a finding of dumping even where export prices are higher than domestic prices.

If the ADC elects to adopt this approach and increases the current substitute steel prices it is important that appropriate adjustments also be made to the benchmark profit used in the constructed value. That profit is based on Chinese manufacturers using actual Chinese steel prices and not artificially inflated prices.

Those same Chinese manufacturers would have achieved a lower profit had their cost of steel been increased in the manner proposed by Summit. If the increased steel price is used, the profit margin used in the constructed value should be decreased accordingly.

2. Subsidy – Non-SIEs

Summit disagrees with the finding of the ADC that any benefit provided by the Government of China in relation to the manufacture of steel is not passed through to the shelving manufacturer where a non-SIE trader is involved. The support for this view is the assertion that the non-SIE's involvement in the transaction has not altered the price of steel.

As identified in the SEF, non-SIEs are independent bodies involved in arm's length transactions with manufacturers of steel shelving. The ADC has not produced any evidence that non-SIEs are receiving a benefit and if they are, that the benefit is reflected in lower steel prices. Rather, it has found that there is no passing through of the benefit.

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[redacted]

[Discusses Geelong's suppliers of steel]

It is presumed that the ADC will have information available to enable a comparison between SIE and non-SIE prices. It is contended that it is not sufficient to simply compare the sale price. It is also important to determine whether non-SIEs enjoy the same purchase price as SIEs. There needs to be actual evidence that the alleged benefit is provided to Non-SIEs. Other factors also need to be compared such as:

- the date the price was agreed;
- whether the entity is a fabricator or a trader;
- the volume of goods;
- the quality and specifications of the goods; and
- payment terms.
-

Geelong does not believe that it is appropriate to test whether there has been the passing through of a benefit by comparing the non-SIE price against the relevant benchmark used when constructing the normal value. Put simply, the Japanese HRC price has no relationship to whether a non-SIE in China has passed on a benefit allegedly provided by the Government of China.

The relevant benchmark is used by the ADC as a substitute steel price as the ADC considered that the Chinese market was subject to distortion. It should not be used to address alleged subsidies. Identifying and using a benchmark to address market distortion is not the same as determining that the benchmark is equal to the non-subsidised price of Chinese steel.

While market distortion is not accepted by Geelong, if such distortion exists, this does not equate to the provision of a subsidy. The two matters are separate and should be the subject of separate tests under the legislation. There could be market distortion without the provision of any subsidy.

The ADC is not permitted to calculate the amount of a subsidy simply by comparing a price paid by Geelong to the benchmark price used by the ADC for other purposes. This approach would not involve the identification of a benefit by reference to the criteria set out in the *Customs Act 1901*. It would not account for any cost reducing factors that were not countervailable benefits (such as lower wages costs).

If the allegation is that steel is being sold to traders at a cost that is less than adequate remuneration, the ADC needs to identify what is adequate remuneration for a Chinese manufacturer. In this respect we note that figure 2.10 on page 21 of the ADC's report entitled '*Analysis of Steel and Aluminium Markets Reports to the Commissioner of the Anti-Dumping Commission"* sets out that the cost of steel production in China is much less than Japan. It is clear that what is adequate remuneration for a Chinese manufacturer of steel is not the same as what would be adequate remuneration for a Japanese manufacturer of steel.

3. If a both a subsidy and dumping are found

As set out in the Geelong Response, if both positive countervailing and dumping margins are found, it is appropriate to offset one against the other. This is because the use of a benchmark steel price in calculating the dumping margin means that any benefit causing lower steel costs has already been accounted for in the dumping margin. A failure to reduce the dumping margin by the amount of the countervailing margin will mean that measures are being put in place twice for the same circumstances.

Please feel free to contact us regarding any of the issues raised in this submission.

Yours faithfully
Hunt & Hunt

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