J.BRACIC & ASSOCIATES
TRADE REMEDY ADVISORS

12 November 2018

Anti-Dumping Commission
Director – Operations 2
GPO Box 2013
Canberra ACT 2601

REINVESTIGATION INTO STEEL REINFORCING BAR EXPORTED FROM TAIWAN BY POWER STEEL CO., LTD

Dear Director,

This submission is made on behalf of Power Steel Co., Ltd (Power Steel) in response to the Anti-Dumping Commission's (the Commission) preliminary report into the reinvestigation of certain findings contained in Report 418.

1. **The basis of Power Steel's claim for adjustment is not price comparability**

Power Steel strongly disagrees with the Commission's view that its appeal to the Anti-Dumping Review Panel (ADRP) was not based on price comparability, and was instead focused on the cost of billet used to produce domestically supplied 420 grade rebar. This is a flawed interpretation of Power Steel's claim, and clearly not consistent with the Panel member's understanding of the argument presented by Power Steel in its application and subsequent submission.

To ensure there is no confusion, Power Steel reiterates its position in this submission.

Power Steel uses two different raw material types of billet to manufacture rebar, with different associated purchase costs. The first is referred to normal grade billet which can be used to manufacture domestic 280 grade rebar or Australian export 500N grade rebar. The second is a high alloy billet which is used solely to produce domestic 420 grade rebar.

Power Steel contends that the higher costs associated with high alloy billet result in a higher domestic price of grade 420 rebar when compared to the prices of the 500N exported rebar which were produced from the lower cost standard billet. The impact on corresponding rebar prices from the conversion of standard and high alloy billet is a factor which affects price comparability of the export prices and normal values determined by the Commission, and therefore warrant adjustment to address such impact.

The Commission also incorrectly attempts to draw some link between the use of the term '*proper comparison*' in Power Steel's application and submissions with adjustments relevant to subsection 269TAC(9) of the Act. Proper comparison is intended to reflect the same meaning as '*fair comparison*' used in Article 2.4 of the Anti-Dumping Agreement, which covers adjustments for differences affecting price comparability between the export price and normal value (irrespective of whether the normal values were based on domestic sales or constructed prices).

The Commission unfairly submits that Power Steel '*offers no evidence that adding microalloys affects price comparability except to say, in effect, that this might be the assumed or hypothesised outcome of a different production method.*' This unfairly suggests that Power Steel has made little effort to demonstrate the impact on price of the different billet types. That is not the case. Instead, the facts are that:

- all domestic 420 grade rebar is manufactured from high alloyed grade billet and air-cooled;
- all domestic 280 grade rebar is manufactured from normal grade billet and air-cooled; and
- all export 500N grade rebar is manufactured from normal grade billet and water-cooled.

As there were no circumstances where the same grade of rebar was produced using two different production methods, there is no direct evidence available which would allow for selling prices to be compared and price impacts to be analysed. This scenario is envisaged by the Commission's own stated policy[1] which allows for alternative methods to be used:

> *However, there may be situations where direct evidence of price differences cannot be provided (e.g. models sold domestically and exported to Australia are different). In these situations, adjustments for differences in physical characteristics or quality, where it reasonably affects price comparability, may be based on production cost differences plus the addition of the gross margin (i.e. the administrative, selling and general costs and profit) to the production cost difference. This is a means for calculating an adjustment that reflects the market value of the production cost difference.*
>
> *Where neither of these methods may be utilised, the Commission may consider other reasonable methods to make adjustments for physical characteristics or quality.*

In the absence of direct price comparisons demonstrating the impact of a factor on prices, the Commission's policy allows for adjustment of characteristics that can reasonably be expected to affect price comparability. However, in the case of Power Steel's adjustment claim, the Commission appears to ignore its own policy and demand that evidence be presented showing a direct impact on prices caused by the different billet types used in production. In Power Steel's view, the Commission continues to set an evidentiary threshold that is unreasonable when assessed against its own published policy, and '*an unrealistic standard*' in the view of the ADRP.

As noted in the application to the ADRP, the unreasonableness of the Commission's decision to reject the claimed adjustment for billet cost differences is highlighted when contrasted

[1] Dumping and Subsidy Manual, November 2018, page 67.

against the upward adjustments made for cost differences associated with other miscellaneous materials and which were considered by the Commission to have affected price comparability. This includes a single metal tag and single label attached to each bundle of rebar exported, and which represented approximately US$[redacted]¢/mt. It is unsustainable for the Commission to hold the view that Power Steel would adjust its export prices to take account of the miniscule costs relating to the metal tag and label, which account for [redacted]% of the selling prices, but not adjust its export prices or domestic sales for the cost of billet which accounts for approximately [redacted]% of the corresponding rebar selling prices.

Instead there is sufficient reasonable and reliable evidence overlooked by the Commission which would support a view that billet costs do indeed impact on selling prices.

First, it is generally accepted by the steel industry and confirmed by the Commission in its numerous dumping inquiries into steel reinforcing bars that movements in rebar prices have a direct and positive correlation to the movements in the cost of the raw material billet. Being also a highly commoditised product, there is greater transparency of prices across markets by buyers and sellers.

This confirms that a lower cost of billet which would lead to lower corresponding production costs, would be known by the market and expected to be passed on in lower selling prices. This is precisely the case with standard versus high alloy billet, where it is widely accepted and understood that rebar produced from high alloyed billet will be more costly to manufacture than rebar produced from standard billet. For this reason, it is entirely reasonable to consider that lower billet costs would translate to lower rebar selling prices.

Second, the view outlined above is confirmed by statements made the local industry in its original application that high alloyed billet:

> *… will be more expensive to produce (due to the special alloy addition) than rebar that has been exposed to a thermo-mechanical (water quench) process in order to attain the strength required. This may affect a fair price comparison and require adjustment.*

In the previous dumping investigation into reinforcing bar, OneSteel stated:

> *It is OneSteel's view that grounds for applying adjustments may include the following:*
>
> - *A different method of production is employed for a given grade (G500N) of rebar when produced for the domestic market compared to the export market. An assessment of the different production methods for a given grade may show an additional cost of production (e.g. an expensive alloy addition such as vanadium) for one method which is not applicable to the other production method (for example water-quench). This difference in production cost may be factored into the sales prices of the goods. In this instance, an appropriate adjustment must be made to ensure a fair comparison between export price and normal value. An example of the differences in pricing for "V-added" versus "quench" rebar of the same strength is available in the attached (Confidential Attachment 3).*

Third, there is evidence gathered by the Commission which confirms that buyers expect a lower rebar price when standard billet is used in production. Power Steel's Australian customers [redacted]. That is, [redacted]. This confirms that buyers are aware of the production cost savings stemming from the use of standard billet and the associated quench and tempering method. **[confidential terms of sales]**

Therefore, Power Steel contends that a reasonable and objective assessment of the available information supports a finding that export prices and normal values are affected by the use of different grades of billet which affect fair/proper comparison.

2. **Evidence shows method of production does not affect price comparability**

In its preliminary report at section 3.4.2, the Commission confirms that it continues to misrepresent the views of Power Steel and continues to incorrectly phrase the key question central to the reinvestigation.

Firstly, the Commission appears to have incorrectly expressed Power Steel's comments about factors affecting domestic prices for rebar. As outlined in the Power Steel visit report and confirmed by the visit team's consideration, the main factors that affect price of rebar is:

1. Specification and grade (minimum yield strength)
2. Diameter size
3. Length

The inclusion of specification in the first point is critical as the Taiwanese standards only allow for high grade rebar to be produced from high grade billet using the air-cooling method, and standard grade rebar to be produced from standard grade biller using the air-cooling method. Therefore, specifications are vitally important to understanding any impact on prices as they are the primary source for determining the grade of billet and method of production allowed in the domestic market.

Therefore, it is erroneous for the Commission to ask whether domestic customers would pay different prices based on the level of microalloys. The assessment for the Commission is to consider whether domestic customers would continue to pay higher prices for rebar if the Taiwanese specification allowed for high grade rebar to be produced from cheaper standard grade billet using the quench and tempering method. As noted earlier, it is unreasonable for the Commission to hold the view that domestic customers of a highly commoditised product in a highly transparent market, would not expect or seek to negotiate lower rebar prices knowing that a cheaper raw material input was used which led to lower overall production costs.

Alternatively, the Commission should consider whether Power Steel would price 500N micro-alloyed rebar at the same price as 500N rebar produced from standard billet using the water-cooling method, even though the micro-alloyed rebar will incur higher production costs. This view cannot be supported as the higher production costs for the micro-alloyed rebar at unchanged prices would [redacted]. Instead, it is clear from the export [redacted]. **[confidential terms of sales]**

3. **Power Steel calculation masks the nature and effect of cost differences.**

Power Steel disagrees with the Commission's analysis and preliminary findings. As the Commission's visit team noted during verification and which Power Steel assumes is reflected in Confidential Attachment 1 - Verification work program to the Power Steel visit report, Power Steel [redacted] **[confidential purchasing details]**. Therefore, raw material costs submitted for 500N exports were [redacted] **[confidential purchasing details]**

[redacted] **[confidential purchasing details]**.

It is noted that during its visit to Power Steel, the verification team sought detailed billet [redacted] **[confidential purchasing details]**. Power Steel understands the visit team's comments in the verification report reflects the difficulties associated with calculating a reasonable quarterly specification adjustment:

> *The verification team considers that a specification adjustment may be required to ensure a fair comparison to the export price. During verification of the exporter's production costs, the verification team gathered and verified the monthly purchase and consumption cost differences stemming the different grade of billet used to manufacture the high alloy domestic 420 and 420W grade rebar and the 500N export grade rebar. However, the verification team was unable to calculate a reasonable specification adjustment based on the exporter's data.*

To address this issue, a weighted average cost difference across the whole twelve month investigation period was considered reasonable as it would more accurately account for [redacted] in the production of 500N, compared to the [redacted] of high grade billet in the same month.

In addition, Power Steel considered that the adjustment based on an annual cost difference was more appropriate given that each of the other adjustments made by the Commission were also calculated using a weighted average for the whole of the investigation period. This included adjustments for:

- metal tag;
- label;
- inland freight;
- handling and FOB related charges.

Therefore, Power Steel considers its approach to the calculation of the proposed dumping margins to be correct and reasonable in the circumstances.

Yours sincerely,

John Bracic