

**King, Tim**

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**Subject:** FW: Combination / Ad valorem duty. [SEC=UNOFFICIAL]

**Security Classification:**  
Unofficial

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**From:** David Roberts [REDACTED] *E-mail address redacted*  
**Sent:** Tuesday, 15 September 2015 4:25 PM  
**To:** Soumbassis, Con; McGovern, Reuben  
**Subject:** RE: Combination / Ad valorem duty.

Attn Con Soumbassis, Reuben McGovern  
Anti Dumping Commission  
55 Collins Street Melbourne  
Victoria 3000

Dear Con, Reuben,

In the conclusion in paragraph 11.4.5 of the Statement of Essential facts in the Anti-dumping Case number 264 for Steel Reinforcing Bar on page 91 submissions are invited on the "most appropriate form of measures."

One issue of great concern to the writer is the issue of the imposition of the combination method of imposing anti dumping duties. That is where both an ad valorem percentage type AD duty is imposed in addition to a floor price. It is noted that the domestic steel producers are pushing very hard for is the "combination" method of Anti dumping Duty imposition. It is argued by the local producers that this is somehow necessary to make sure anti-dumping measures are effective and are not circumvented.

Their argument is that imposing the AD duty on an Ad Valorem basis, only, does not adequately protect them and they say they need a floor price to also protect them. So, if there was a 10% dumping margin and a \$100 floor price, and the actual price of a transaction was 90, the duty payable would be 10% of \$90 (\$9) plus \$10, being the difference between the floor price and the lower actual price. They say that looking at recent reinforcing bar prices in various products has meant that real prices have fallen in Australian dollar terms in spite of the fall in the Australian dollar and the imposition of additional AD percentage type duties. They say the only way to rationalise this, is to argue that producers from overseas aim to dominate our Australian market and are prepared to make less money in their pursuit of this aim to circumvent the measures. But that is not the reason at all. The reality is that import prices for steel have fallen because the world market price for steel has come down in concert with the fall in the price of iron ore and scrap. Indeed world steel prices can often fall by more than the combined effect of the Australian dollar and additional AD duties. This has happened this year.

World Steel Market prices move up and down. Iron Ore prices move up and down. Scrap prices move up and down. Onesteel/Bluescope would have you believe that pricing is static and a floor price current at a particular date being the date of imposition will continue to retain relevance into the future. But a static floor price is not relevant at all. If coal, iron ore and scrap prices fall, being the largest cost components of the manufactured steel pricing, then the market price for the finished product is likely to fall also.

Keeping domestic pricing in Australia artificially high when the cost components of steel making might have collapsed (as Iron ore and scrap has) makes no sense, in competitive terms or

economic efficiency terms. Floor prices used as a measure of anti-dumping duties keep the finished product pricing at the old high levels. It is a protective mechanism par excellence. It insulates the Australian industry from the need to compete, the need to stay efficient, the need to deliver a good product at a fair price to the wider steel industry in Australia that depends on well-priced supply for its own profitability and livelihood. When costs come down, a floor price means that prices stay the same and profits for the Australian industry go up. It is a government-backed rent seeking behaviour of the worst type. The market and your costs can go down but you are not required to pass on any of the general markets movement downwards.

The reality is that floor prices have relevance only when the market is completely static. If the market price moves up then the floor price is too low to be relevant and it serves absolutely no purpose. If the market price moves down a floor price allows for price gouging or profiteering, an unhappy downstream industry and a deluded set of Arrium/Bluescope executives and shareholders who think their business is intrinsically valuable – when really it is only making money because of a fixed price set by the government.

Very fortunately the Anti Dumping Commission recognised much of the above in its independent report of November 2013 titled “Guidelines on the Application of forms of dumping duty”. This detailed and unbiased document provides guidelines to the Customs Tariff Anti Dumping Regulation 2013 replacing the mandatory imposition of a combination (double whammy) dumping duties. This report states that the Ad Valorem duty (Only) “suits a situation where a commodity’s prices vary significantly over time” and noted that it had been favoured in the US and Europe “in commodities such as steel”. It notes that it is “one of the simplest forms of duty and it is easy to administer” Whilst recognising that a potential disadvantage of this form of AD duty is that the duty can be artificially compensated for by lowering prices (to the detriment of the producer) it notes that “price manipulation under ad valorem duties is not a widespread problem”

Since this time the local producers have been successful in convincing a parliamentary committee that the combination method should be the default (but not the only) method of calculation of any AD duty. The Statement of Essential Facts deals with all of these issues I contend very appropriately. There is no doubt that pressure will be brought to bear on them to change their decision. However if a combination method is appropriate with a product with the commodity like qualities as steel rebar possesses then it is hard to imagine where an anti dumping duty could be anything other than combination method. This does not appear to have been the intent of the parliamentary committee, nor should it have been.

The more “commodity like” the product is, the more volatile its pricing becomes because it is not insulated by any special know how or advantages between one supplier and another. Steel Reinforcing Bar is very much a quasi commodity product. The London Metal Exchange is the principal metals pricing institution in the world. It has recently announced that it is launching a steel rebar futures contract on the 23<sup>rd</sup> of November 2015. Apart from steel scrap and billet no other ferrous “finished products” will be offered. This more than anything else is irrefutable evidence of the commodity like nature that steel rebar has in its pricing.

If there is no suggestion that a producer and the importer are in any way related then the disincentive to simply lower prices by the producer is that they are going to make less money. The idea that a company will continue to sell into a market which it is making a loss or insufficient profit as some sort of predator is simply not a realistic argument. Unquestionably our experience is that if the AD duty makes sales unprofitable, then they prefer to sell elsewhere. Getting any steel producer interested in selling into a loss making market is impossible.

The most relevant question is **“If an ad valorem (percentage type) dumping duty re-establishes a level playing field once a company has been found guilty of dumping, why**

**then is more needed”**. The answer that seems to exist to the writer is that the local steel industry wants a new playing field tilted heavily in its favour.

Regards

David

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