

For Publication

Email

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Mr Adam Yacono
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Dear Mr Yacono

Investigation 223

DUMPING OF HOT ROLLED STRUCTURAL STEEL SECTIONS EXPORTED FROM JAPAN, THE REPUBLIC OF KOREA, TAIWAN AND THE KINGDOM OF THAILAND

NSSMC

We act for Nippon Steel & Sumitomo Metal Corporation (**NSSMC**). We refer to the ongoing investigation as it relates to exports from Japan generally and, specifically, the preliminary findings of the Anti Dumping Commission set out in SEF 223 published on 18 July 2014.

Our client is concerned by the ADC's preliminary findings that, inter alia,

- a) the goods under consideration (**GUC**) have been exported to Australia from Japan at dumped prices; and
- b) Australian industry has suffered material injury caused by imported goods sold at dumped prices.

Our client disagrees with the ADC's findings and urge the ADC to consider the accuracy of these preliminary findings as they relate to Japanese exporters generally and to the unique commercial circumstances relating to exports of the GUC to Australia by NSSMC during the period of investigation (**POI**).

1 NSSMC's exports of the GUC

- 1.1 As the ADC can confirm, NSSMC was provided with, and subsequently completed, an exporter Questionnaire response in relation to Investigation 223. The questionnaire response prepared by NSSMC, and provided to the ADC, contained non-confidential information regarding NSSMC's exports of the GUC to Australia during the POI, as well as confidential commercial information relating to individual transactions executed during this period and the commercial terms of trade, prices and export practices pursuant to which these transactions were made.
- 1.2 NSSMC provided this information to the ADC to assist it in its investigations in relation to exports of the GUC from Japan. Exhibit B4 of our client's response provides a complete listing of all export sales to Australia during the period. This data confirms that all export transactions executed by NSSMC during the period (for which the ultimate destination was Australia) were made by NSSMC [REDACTED]. Commercial documentation was provided to the ADC to evidence the Australian supply chain [REDACTED].

- 1.3 NSSMC's export data can be verified against import data held by the Australian Customs and Border Protection (**ACBPS**) to confirm accuracy and completeness.
- 1.4 The ADC can confirm, with reference to the transactional export data provided by NSSMC, that the Australian market is not [REDACTED].
[confidential market/trade information]
- 1.5 NSSMC's [REDACTED] Australian customer and end user during the period was [REDACTED].
- 1.6 The ADC will note, with reference to the transactional supporting data provided (Exhibit B4 and related documentation) that sales of the GUC made [REDACTED]. [confidential market/trade information]
- 1.7 The [REDACTED] is not identical to AS/NZS¹ standard [REDACTED] in terms of the physical/metallurgical tolerances that define each code. Each code is produced in accordance to a distinctly different set of standards.
- 1.8 As the ADC will be aware, standards are applied within the industry to provide assurances of maximum/minimum characteristics - which are directly correlative to end-use demands. To this end, the current AS/NZS standard requires that, if an exporter intends to market and sell products to the AS/NZS standard, they must first be certified as being compliant with AS/NZS standard production requirements and, once this is achieved, print an identified mark by rolling (the "roll mark") on the products sold.
- 1.9 Our client's production of the relevant GUC [REDACTED].
[REDACTED] [confidential market/trade information]
- 1.10 [REDACTED] [confidential IP/certification information]
- 1.11 As the ADC will be aware at this stage of the verification, and from OneSteel's numerous submissions regarding grade comparisons for the purposes of determining 'like goods', OneSteel manufactures products to the current AS/NZS standard. It does not offer product coded to [REDACTED]. This dissimilarity is in our view a weighty consideration for the matters discussed below, namely no market demand and no material injury.

The [REDACTED] nature of the NSSMC's export of the GUC

- 1.12 As the ADC will have confirmed from its own information sources and databases, our client engaged in [REDACTED] of the GUC during the period of investigation. The relevant documents were submitted by our client to the ADC as part of its reply to the exporter questionnaire. That sale was made [REDACTED]. The circumstances of that sale were that [REDACTED].

¹ AS/NZS 3679.1:2010 at page 11 and table 11 and 12 at page 17.

[REDACTED]

chose our client because of reputational and quality issues to supply the [REDACTED] product.
[confidential customer and market/trade information]

- 1.13 We are instructed [REDACTED] can attest to the correctness of the above facts and invites the ADC to [REDACTED] corroboration of the circumstances of that sale.

Australian market demand

- 1.14 NSSMC wishes to emphasise that it does not suggest that [REDACTED] are not capable of cross-comparison but does submit that customers in the Australian market during the POI, and currently, demand product that adheres to relevant [REDACTED] standards. NSSMC believes that this specific demand preference is related to the specific end-use requirements for HRS that define the Australian market - that is, construction and major projects.

- 1.15 In short, there is no demand for [REDACTED] manufactured by NSSMC. The lack of demand for [REDACTED] means that the Australian market has not been, and is not, [REDACTED] and is not in direct competition with OneSteel's product. Indeed there is no fungibility whatsoever. [confidential market/trade information]

- 1.16 This fact is demonstrated and further emphasised by [REDACTED]
[REDACTED]. [confidential trading strategy]

- [REDACTED]
- 1.18 [REDACTED]. [confidential trade information]

2. Material Injury

- 2.1 The transactional data provided to the ADC by NSSMC, read in conjunction with ACBPS import data, provides insight into the commercial terms upon which all transactions to NSSMC's Australian customers were made.

- 2.2 This data includes information, inter alia, of price payable (and paid) at each stage of the supply chain - that is between NSSMC [REDACTED] (Exhibit B4) and between [REDACTED] and the Australian customer (ACBPS database).

- 2.3 The ADC can verify the [REDACTED] the sale made by our client to [REDACTED] set out in paragraph 1.12 and 1.13 above. It is, respectfully, impossible to suggest that the circumstances of that sale could have injured the applicant. This is further strengthened by the fact that there has not been [REDACTED]. [confidential trade information]

- 2.4 The ADC has sufficient material upon which to form an understanding of the price at which NSSMC's goods entered the Australian market, and the level of trade at which they were sold - that is, to end users.

