

**Canberra**

6/2 Brindabella Circuit  
Brindabella Business Park  
Canberra International Airport  
ACT 2609 Australia  
+61 2 6163 1000

**Brisbane**

Level 4, Kings Row Four  
235 Coronation Drive  
Milton, Brisbane  
QLD 4064 Australia  
+61 7 3367 6900

**Adelaide**

Level 21  
25 Grenfell Street  
Adelaide  
SA 5000 Australia  
+61 8 8424 2352



commercial + international

8 July 2024

The Director – Investigations  
Investigations 4  
Anti-Dumping Commission  
GPO Box 2013  
Canberra  
Australian Capital Territory  
2601

By email

Dear Director

## **thyssenkrupp Materials Australia Inquiry 643 re steel mesh from China – anti-circumvention**

As you know, we represent thyssenkrupp Materials Australia Pty Ltd (“thyssenkrupp”) with respect to this inquiry.

We share the very significant concerns of our client and of other interested parties regarding the basis for initiation of this inquiry. The concept that steel mesh could be considered to be “slightly modified” rod-in-coil is, we believe, extreme. The physical, scientific and industrial evidence that has already been advanced on the public record emphasises that point. That the Commission has been influenced to consider that “*reasonable grounds exist for asserting*” that steel mesh is slightly modified rod-in-coil by an application that is at times vaguely and imprecisely worded, and that controversially omits key facts, makes the situation even more troubling.

We do not mean to say that an applicant cannot assert anything it truly believes to be true or maintainable. However, in this case those assertions have been supported by (a) what may kindly be referred to as imprecise statements about physical characteristics, end uses and markets, and (b) the omission of key facts, being facts that would be well-known to a steelmaker.

The risk communicated to the business community by the initiation of an inquiry such as this, sharpened by the possibility of retrospective application of circumvention duties, has an immediate effect on competition in the relevant Australian market. We believe that the Commission should be interactive and inquisitive in evaluating applications in situations such as this and should engage in a more robust interrogation of the reasonableness of the applicant’s belief.

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Moulis Legal Pty Limited ACN 614 584 539

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Adopting an unsuitable procedure on grounds that are not reasonably maintainable is an abuse of process by an applicant. In the case at hand, this abuse of process is having and will continue to have anti-competitive effects on the steel mesh market. If there are grounds for an *anti-dumping investigation* concerning *steel mesh* from China, which would of necessity assess the questions of dumping and the causation of material injury to the Australian industry that manufactures those like goods, being *steel mesh*, then as a matter of both international and domestic law the relevant industry is entitled to come forward with an application for such an investigation.

At the very least a product alleged to be a slightly modified version of a product subject to dumping duties should be substitutable for the product subject to the duties notwithstanding the modifications made. This is entirely consistent with the legal requirement that *“the use or purpose of the circumvention goods is the same before, and after, they are... slightly modified”*. This has been the situation in the inquiries where slight modification has been established:<sup>1</sup>

- A4 paper - the description of the A4 paper that was subject to dumping duties was confined to the weight range of 70 to 100 gsm, whereas the circumvention goods were 68gsm;<sup>2</sup>
- clear float glass – the description of the clear float glass that was subject to dumping duties excluded edge-worked glass, whereas the circumvention goods were subjected to a basic form of edge working;<sup>3</sup>
- concrete underlay film – the description of the concrete underlay film that was subject to dumping duties was confined to the width range of 2 to 6 metres, whereas the circumvention goods were 1.95 metres wide;<sup>4</sup>
- hollow structural sections – the description of the hollow structural sections that were subject to dumping duties was confined to those made of carbon steel, whereas the circumvention goods were made of alloy steel;<sup>5</sup>
- steel wire rope - the description of the steel wire rope that was subject to dumping duties was confined to those having no more than 8 strands, whereas the circumvention goods had 9 strands;<sup>6</sup>
- galvanised steel – the description of the galvanised steel that was subject to dumping duties was confined to that made of iron and non-alloy steel, whereas the circumvention goods were made of alloy steel.<sup>7</sup>

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<sup>1</sup> *Customs (International Obligations) Regulation 2015*, Regulation 48(2)(c).

<sup>2</sup> 552 - A4 copy paper from China.

<sup>3</sup> 479 - Clear float glass from Thailand.

<sup>4</sup> 606 - Concrete underlay film from Malaysia.

<sup>5</sup> EPR 291 - Hollow structural sections from China, Korea, Malaysia.

<sup>6</sup> 483 - Wire ropes from South Africa.

<sup>7</sup> EPR 290/298 - Zinc coated (galvanised) steel from Korea, Taiwan and EPR 290/298c - Zinc coated (galvanised) steel from China.

In each of these cases:

- (a) the description of the goods under the original notice did not capture goods that answered the same description as the circumvention goods because of a slight *metric difference* between those two kinds of goods;
- (b) the products positively found to be circumvention goods were a slightly modified version of the goods subject to the original dumping notice because of that metric difference;
- (c) the Commission determined, consistent with and as mandated by Regulation 48(2)(c), that the use or purpose of the goods was the same before and after their modification.

In short, the products were substitutes for each other.

Our reason for setting this out so comprehensively is to emphasise that a product that is “downstream” of goods subject to a dumping notice, in manufacturing, production, fabrication and processing terms, cannot be circumvention goods, because Regulation 48(2) requires the slight modification not to change the use or purpose of the goods. The end use of rod-in-coil, or one end use of rod-in-coil, is the production and fabrication of steel mesh. The end use of steel mesh is as formwork for strengthening concrete. They are not substitutes for each other.

In that context we wish to highlight that the fact that the Commission has already concluded, in every previous report or investigation in which it has discussed steel mesh in connection with rod-in-coil, that they are different products, and that steel mesh is not a slightly modified version of rod-in-coil, as we now explain.

EPR	Extract from previous Commission report	Significance
240 <sup>8</sup>	<p><i>Low carbon grades are manufactured in a range from 0.05 per cent to 0.22 per cent maximum carbon content with typical final application end uses in reinforcing mesh and general purpose wire.</i><sup>9</sup></p> <hr/> <p><i>Wire manufacturers subject the rod in coils product to cold drawing processes which produces wire for use in a variety of applications which include:</i></p> <ul style="list-style-type: none"> <li><i>Concrete reinforcing mesh manufacturing (steel in concrete)</i></li> <li><i>Wire manufacturing (wire rope, springs, nails, fencing)</i></li> </ul>	<p>The <i>end-use</i> of rod-in-coil is to manufacture wire mesh. Statements in Infrabuild’s application to the effect that the two products have the same end use are incorrect.</p> <hr/> <p>Rod-in-coil is an input in the further <i>manufacturing</i> processes by <i>wire manufacturers</i> that eventually result in the <i>manufacturing</i> of steel mesh.</p>

<sup>8</sup> Final report 240 - [https://www.industry.gov.au/sites/default/files/adc/public-record/073-final\\_report-rep240.pdf](https://www.industry.gov.au/sites/default/files/adc/public-record/073-final_report-rep240.pdf)

<sup>9</sup> Ibid, page 16.

- Mine mesh manufacturing
- General manufacturing
- Reinforcing ligatures

Rod in coils for the mesh market and general purpose wire is the dominant market sector.<sup>10</sup>

**5.3 Market distribution**

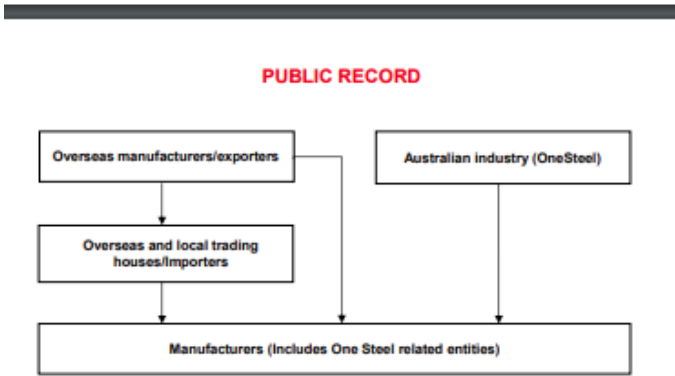
The Australian rod in coils market is supplied by OneSteel and importers who sell direct to end users. End users may also import rod in coils.

The Australian supply chain for rod in coils is shown below:

**REP 240 ROD IN COILS – INDONESIA, TAIWAN AND TURKEY**

Rod-in-coil is sold direct to *end users*. The end-users are *manufacturers* of steel mesh, amongst other things.

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**5.4 Demand variability**

Demand variability is driven by the market for mesh wire which comprises four major segments:

- Residential – the housing market where the mesh is used in concrete slabs;
- Non-residential – such as warehouses, office buildings;
- Mines - used to line tunnels in the mines; and
- Engineering – bridges and roads.

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**301**<sup>12</sup> *RIC is an intermediate good, and is purchased by fabricators to produce other products including reinforcing mesh and wire.*<sup>13</sup>

Rod-in-coil is an intermediate product *purchased by fabricators* to produce another product. That *other product* is steel mesh.

*The injury analysis has been undertaken in recognition of several key factors which impact on the market:*

- *RIC is a commodity type product;*

Rod-in-coil is a commodity product which is an *intermediate manufacturing input* subject to further

<sup>10</sup> Ibid, page 17.

<sup>11</sup> Ibid, pages 17 and 18.

<sup>12</sup> Final report 301 - [https://www.industry.gov.au/sites/default/files/adc/public-record/038\\_-\\_rep\\_301\\_0.pdf](https://www.industry.gov.au/sites/default/files/adc/public-record/038_-_rep_301_0.pdf)

<sup>13</sup> Ibid, page 9.

- *RIC is an intermediate manufacturing input and is generally not sold without being subject to further processing;*
- ...<sup>14</sup>

*processing into other products, including steel mesh.*

331<sup>15</sup>

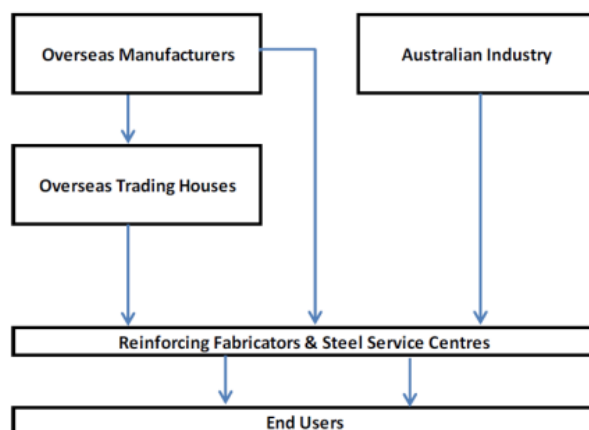


Figure 1 - Distribution Channels

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Rod-in-coil is sold direct to *reinforcing fabricators and steel centres*. The end users of rod-in-coil are those *reinforcing fabricators* who fabricate steel mesh, amongst other things.

*In its application OneSteel stated that RIC of less than 14mm diameter is a semi-finished intermediate feed material that is largely utilised by the wire manufacturing industry. Wire manufacturers subject the RIC product to cold drawing processes which produces wire for use in a variety of applications which include:*

- *Concrete reinforcing mesh manufacturing (Steel in Concrete);*
- *Wire manufacturing (wire rope, springs, nails, fencing);*
- *Mine mesh manufacturing;*
- *General manufacturing; and*
- *Reinforcing ligatures.*<sup>17</sup>

Rod-in-coil, according to the Australian industry, is a *semi-finished intermediate feed material* utilised by the wire manufacturing industry. The wire manufacturing industry processes the rod-in-coil. The cold drawn wire processed by that industry then proceeds to a further manufacturing process, which is *concrete reinforcing mesh manufacturing*.

*The Commissioner has found:*

- *the Australian market for RIC is supplied by locally produced goods and imported goods from a range of countries including China;*

Rod-in-coil is an intermediate product *purchased by fabricators* to produce another product. That *other product* is steel mesh.

<sup>14</sup> Ibid, page 23 [check].

<sup>15</sup> Final report 331 - [https://www.industry.gov.au/sites/default/files/adc/public-record/057\\_final\\_report\\_331\\_rod\\_in\\_coils\\_0.pdf](https://www.industry.gov.au/sites/default/files/adc/public-record/057_final_report_331_rod_in_coils_0.pdf)

<sup>16</sup> Ibid, page 11.

<sup>17</sup> Ibid, pages 11 and 12.

- OneSteel supplies well over half of the RIC market in Australia;
- RIC is an intermediate good, and is purchased by fabricators to produce other products;
- ...
- demand is driven by construction and infrastructure projects as the goods are generally used in concrete for construction purposes, or further processed prior to end use
- ...<sup>18</sup>

416<sup>19</sup>

OneSteel provided the following further information about the goods:

*Rod in coils, also known as "wire rod" or "rod for mesh" is sold into the Australian market typically in a range of diameters from 5.5 mm to 18.5 mm.<sup>20</sup>*

Rod-in-coil is rod for mesh.  
Rod-in-coil is not rod and mesh.

### 3.4.3 Functional likeness

*The goods under consideration and locally produced RIC are both primarily drawn into wire and made into mesh, which is used to reinforce concrete products. Other uses include*

- wire manufacturing;
- mine mesh manufacturing;
- general manufacturing; and
- reinforcing ligatures.

*Based on verification visits conducted for this investigation, and information obtained in Investigation 240, the Commission is satisfied that imported RIC and locally produced RIC are both used for the same end uses. Further, the Commission has found that importers do not consider any alternative products to be a suitable substitute for RIC.<sup>21</sup>*

Rod-in-coil is drawn into wire and then made into mesh.  
Steel mesh is not considered to be a suitable substitute for rod-in-coil.

*RIC is an intermediary good that is further processed by cold drawing through a die to produce a wire. The predominant end use is reinforcing mesh which is used*

*The end use of a process firstly involving rod-in-coil, as an intermediary good, and*

<sup>18</sup> Ibid, page 13.

<sup>19</sup> Termination 416 - [https://www.industry.gov.au/sites/default/files/adc/public-record/037\\_-\\_ter\\_416.pdf](https://www.industry.gov.au/sites/default/files/adc/public-record/037_-_ter_416.pdf)

<sup>20</sup> Ibid, page 15.

<sup>21</sup> Ibid, page 16.

*to reinforce concrete in the residential, commercial and engineering construction industries.<sup>22</sup>*

secondly involving the cold drawing of the rod-in-coil into a wire, *as an intermediary good*, and thirdly involving fabrication of the cold drawn wire, is *reinforcing mesh*.

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*OneSteel competes with importers and overseas manufacturers of RIC to supply processors, predominantly of reinforcing mesh, which consumes the majority of RIC in the Australian market.<sup>23</sup>*

The Australian *rod-in-coil* manufacturing industry competes for sales to buyers with importers and overseas manufacturers of *rod-in-coil*. The Australian *rod-in-coil* industry does not compete for sales to buyers of *steel mesh*.

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The above analysis establishes that in all submissions the Australian industry has made to the Commission with respect to the relationship between rod-in-coil and steel mesh, and in all findings made by the Commission on the same subject, these propositions have been consistently advanced:

- 1 Rod-in-coil and steel mesh are different products.
- 2 Rod-in-coil is a commodity product, steel mesh is a non-commodity product.
- 3 Rod-in-coil is an intermediary good, steel mesh is a finished good.
- 4 Steel mesh is a product that is at least four or five significant industrial processes downstream from rod-in-coil (including cold drawing,<sup>24</sup> ribbing,<sup>25</sup> cutting and straightening, welding, and finishing treatments).
- 5 An end-user buyer in the market for rod-in-coil cannot buy steel mesh to satisfy its need for rod-in-coil.
- 6 An end-user buyer in the market for steel mesh cannot buy rod-in-coil to satisfy its need for steel mesh.
- 7 Steel mesh is not considered to be a substitute for rod-in-coil.

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<sup>22</sup> Ibid, page 18.

<sup>23</sup> Ibid, page 19.

<sup>24</sup> See Elements of Metallurgy and Engineering Alloys, F.C. Campbell, editor, p 282: “A material subjected to cold rolling strain hardens considerably, and grains become elongated in the direction of major deformation. Dislocation density increases, and when a tension test is performed on the strain-hardened material, a higher stress will be needed to initiate and maintain plastic deformation; that is, the yield stress increases.”

<sup>25</sup> See Neumann Steel Reinforcing: “This mesh is not just a grid of wires; it’s a robust material designed to reinforce concrete structures, making them more durable and long-lasting... The steel mesh has a ribbed surface, allowing it to bond more effectively with the concrete and prevent unwanted movement over time.”

These things do not point towards steel mesh being considered as “slightly modified” rod-in-coil. The products are very different products, visually, physically, industrially, technically and competitively. They are not interchangeable for each other.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Daniel Moulis', with a long horizontal flourish extending to the right.

**Daniel Moulis**  
Partner Director