



J.BRACIC & ASSOCIATES
TRADE REMEDY ADVISORS

PO Box 3026
Manuka, ACT 2603
Mobile: +61 499 056 729
Email: john@jbracic.com.au
Web: www.jbracic.com.au

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The Director - Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2600

**Review of measures – Hot Rolled Structural Sections exported by
Dragon Steel Corporation from Taiwan**

Dear Director

This submission is made on behalf of Dragon Steel Corporation (DSC), in response to the Anti-Dumping Commission's (the Commission) findings outlined in Statement of Essential Facts Report No. 642 (SEF 642) on 29 November 2024.

1. Determination of low volume exporter

As SEF 642 highlights, for DSC to be considered a 'low volume exporter' in accordance with subsection 269TAB(2A), the Minister must have regard to (i) previous volumes of exports by that exporter, (ii) patterns of trade for like goods, and (iii) factors affecting patterns of trade for like goods that are not within the control of the exporter.

However, it is important to acknowledge the intent and underlying key element of the relevant provisions, which is to consider whether the previous volumes of exports were '*much higher than the volumes of exports during the period being examined by the review*' in order to understand and determine whether the exporter had '*adopted a strategy of low volume exports in an attempt to exploit the unintended consequence of the review of measures to obtain a more favourable rate of duty*'.

There is no evidence in SEF 642, that DSC reduced its export volumes as part of some strategy to obtain a favourable rate of duty, and any suggestion is firmly denied by DSC. It is also important to note that the review of the variable factors was sought by Liberty Steel, and not by DSC. That is to say, that had Liberty not applied for the review of measures, DSC's variable factors would have remained unchanged as it had no intention of applying for review.

As noted by the Commission in SEF 642, DSC last exported to Australia over 5 years ago. It is absurd to consider that DSC may have adopted a strategy of refusing to export to Australia for the past 5 years, in the hope of obtaining a favourable duty rate in some future review. Instead, DSC's circumstances surrounding its exports to Australia, confirmed by the Commission that '*... there has been a long period where Dragon's Steel's exports have been absent*'¹, supports a finding that the low

¹ SEF 642, page 28.

volume exporter provisions ought not be applied.

Further, it is noted that the Commission highlights that ‘*Dragon Steel’s volume of exports in the review period was low when compared to its previous volume of exports*’. Whilst this is undisputed given that it has not exported for over 5 years, it is also important to acknowledge that its previous exports during the 2018-19 period were in fact also of low volume. This is confirmed by the chart at Figure 2 of SEF 642, showing the relative import volumes from DSC compared to other Taiwanese exporters.

Notwithstanding that the evidence confirms that DSC has not adopted a strategy in an attempt to exploit the unintended consequence of the review of measures to obtain a more favourable rate of duty, we present our views to the Commission’s consideration of the relevant factors for assessing whether the conditions of s.269TAB(2A) are satisfied.

a) Previous volumes of exports of those goods to Australia

In assessing DSC’s previous volumes, the Commission simply compares the relative volumes and finds that zero exports during the contemporary review period is low when compared to exports during the 2018-19 period. DSC considers this assessment to be too simple given the importance of the determination to be made.

Using this simple comparison, had DSC exported a mere 10 tonnes in 2019, the Commission would still consider that current volumes were low. This undeveloped approach has no regard to the relative magnitude of the previous volumes. This is confirmed by the example contained in the explanatory memorandum which highlights that:

*If the previous volumes of exports are **much higher** than the volume of exports during the period being examined by the review, this may indicate that the Exporter has adopted a strategy of low volume exports in an attempt to exploit the unintended consequence of the review of measures to obtain a more favourable rate of duty [emphasis added]*

Therefore, if the previous volumes were themselves of a relatively low volume, then lower contemporary export volumes may indicate that the exporter has not adopted a strategy of low export volumes to achieve a favourable duty rate. In DSC’s case, its previous exports averaged a mere [REDACTED] metric tonnes per quarter. When compared to relative export volumes from other exporters from Taiwan, Korea, and the overall Australian market², it is clear that DSC’s previous export volumes were negligible.

That is, DSC has always been a low volume exporter, and has at no time been a significant exporter into the Australian market. This is in large part due to its requirements for minimum order quantities for each individual product. It is also the case that DSC’s total manufacturing capacity for like goods is [REDACTED] tonnes, which is substantially less than Tung Ho (approximately [REDACTED] tonnes), and Hyundai (approximately [REDACTED] tonnes).

Therefore, it is not appropriate to consider that DSC’s exports are now of a low volume, when it has always been a low volume exporter, and in that circumstance, it is reasonable to consider that this indicates that DSC has not sought to adopt a strategy to attain a favourable duty rate in the current review.

b) Patterns of trade for like goods.

The Commission considers that Dragon Steel’s low volume of exports is not consistent with the general patterns of trade for HRSS. Again, the Commission’s assessment overlooks critical evidence which supports the view that DSC’s exports are likely to be consistently exported in low volumes. The explanatory memorandum highlights by example, that considering the patterns of trade involves examining the nature of the products being exported to understand whether the characteristics of the

² Final report 637, page 33, figure 2.

exports may lead to sales being of a consistently low volume.

As evidenced in its submission to the recently completed expiry review (Case 637), DSC's exports to Australia are limited due to its requirement for minimum order quantities for each ordered profile and size. As far as DSC is aware, it is the only producer in Taiwan that applies a minimum order quantity for each ordered size. This is a disincentive for most Australian steel traders as they receive smaller lot orders across the full-size range of the subject goods from local end-user customers. In that situation, a steel trader would prefer to order with a single supplier that is willing to supply the full-size range on a full container basis, regardless of the individual volumes within each size. Essentially, steel traders would prefer to deal with a one-stop shop for the entire product range, rather than having to buy the various different sections and sizes from various different suppliers.

The evidence available to the Commission from Review 499 reveals that DSC's exports to Australia show that each sales order corresponds to an individual '██████████', which refers to a specific profile section and size. DSC made no export sales where multiple different sections and/or sizes were included in a single sales order.

The fact is that following the introduction of a floor price measure in 2016, DSC could not attract orders from Australian steel traders due its minimum order quantities per size policy, despite other exporters having combination measures in place. After finally agreeing orders with two customers in 2018, sales only continued for a short period before those customers ceased ordering with DSC. Importantly, it was the purchasing behaviour of the importing customers, in response to the inefficiencies associated with placing single orders for each '██████████', that led to DSC's exports ceasing.

There is no evidence which supports a view that DSC changed its behaviour in response to a change in measures. DSC has only exported an immaterial volume to Australia, and for a short period of time. This dissimilar trading pattern compared to other exporters from Taiwan whilst measures were in place, is due simply to DSC's policy of requiring a minimum order quantity per section and size, which limits its ability to achieve significant export volumes. By contrast, other exporters placed no such restrictions on the size of orders by size, and were able to bundle numerous products within consignments, which allows for increased export volumes.

The impact of DSC's minimum order quantities is more pronounced on the observable trading patterns given that DSC commenced exporting in 2018, during a period of contracting demand which impacted overall import volumes into Australia from all sources. The contraction in demand, coupled with the minimum order quantities, made DSC's offers uninviting to potential customers.

DSC urges the Commission to reconsider its finding given the evidence of its minimum order quantities having a significant impact on its trading patterns.

c) Factors affecting patterns of trade outside of Dragon Steel's control.

As the Commission rightly points out in its assessment of the factors affecting patterns of trade, the expiry of the measures on exports by TS Steel and Tung Ho from November 2019, had a damaging impact on DSC's exports, given the high fixed duty rate and the uncompetitive floor price applying to its imports. Following the expiry of those measures, and irrespective of DSC's minimum order quantities, DSC was nowhere near to being competitive with TS Steel or Tung Ho.

This was especially evident given that DSC was operating with a fixed high floor price, whilst the exporters free of measures were able to reduce their price offers into the Australian market. This is noticeable in the chart below showing the indexed movement in Taiwanese export prices of HRSS in the 12 months following the expiry of the duties in November 2019.



Source: Australian Dumping Commission – Trade Remedy Index

DSC agrees with the Commission’s finding that its ‘... lack of exports appears to have been influenced by other Taiwanese exporters not subject to measures (who are exporting more than Dragon Steel’s previous volumes), a factor outside of its control.’

In summary, DSC contends that the Commission’s assessment overlooks key aspects of DSC’s terms of export, and its past low relative export volumes. The evidence confirms that DSC has only exported to Australia during a short period, and the volumes were negligible when compared to the overall Australian market, and volumes by other exporters. It also confirms that DSC has not engaged in a strategy to lower its export volumes with a view to achieving a favourable dumping duty rate. It simply wishes to compete in the Australian market at a price corresponding to its normal values to ensure its product is not dumped and not causing injury to the local producer.

2. Form of measures

It has been well documented in the media, and in submissions by interested parties to the recent expiry review (Case 637) and current review of measures (Case 642), that the local producer is dealing with production issues following identified damage to its blast furnace external shell during planned routine maintenance. This led to a production shortfall during the initial period of the unplanned outage between March to July 2024.

Following resumption in July 2024, news reports³ confirmed that less than two months later, the Whyalla blast furnace was again not producing steel. Latest news reports⁴ confirm that as at 10th December 2024, the Whyalla blast furnace continues to be offline, with steel not being produced, and with no firm date for resumption of steel production.

The impact of the prolonged outage at Whyalla, on current supply and demand conditions in the Australia market, is significant, especially given the uncertainty surrounding when, or if, steel production will resume.

In these unique circumstances, the Commission must ensure that the level of dumping duties is not excessive or punitive, to avoid exacerbating the already distorted market conditions, which are favouring exporters currently exempt from measures, and exporters with ad valorem rates of duty.

DSC therefore urges the Commission to consider recommending a floor price measure at the determined ascertained normal value. This would prevent DSC from contributing to injury to the Australian industry given that the proposed non-dumped floor price is well above

³ [The Australian - GFG Alliance's Whyalla blast furnace offline again - 20 September 2024](#)

⁴ [The Australian - 10 December 2024](#)

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contemporary market price offers from [REDACTED], [REDACTED] and [REDACTED]. The floor price measure is also preferable in DSC's circumstances given its requirement for minimum order quantities limits its customer base and export volumes to Australia.

Your sincerely

John Bracic