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**The Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra
Australian Capital Territory 2601**

By email

Dear Director

Accelerated Review 697 – hollow structural sections from Korea NEXTEEL response to Austube comments

We make this submission on behalf of NEXTEEL CO., Ltd (“NEXTEEL”) as the applicant of the abovementioned review (“the Review”).

The purpose of this submission is to respond to assertions contained in a submission by Austube Mills Pty Ltd (“Austube”) in this Review, published on the Commission’s electronic public record on 17 March 2026.¹

It is NEXTEEL’s submission that Austube’s assertions, to the extent that it attempted to characterise NEXTEEL and NEXTEEL’s exports as having a tendency of “dumping” or should otherwise be treated with a bias, should be dismissed. This is because Austube’s assertions are solely based on its self-interest as a beneficiary of prolonged tariff protection, and antiquated examples from isolated foreign jurisdictions. The materials that the Austube submission relied on has no bearing on the purpose of *this* review – being the determination of an appropriate variable factors and individual duty rate for NEXTEEL as a new exporter to Australia, who has never dumped nor caused injury to the Australian industry. We

¹ EPR 697-04.

kindly request the Commissioner to place no weight on Austube’s submission on the basis that it is not appropriate to do so under section 269ZG.²

We trust that the reasons for this request need not be laboured, so we will proceed by addressing each of the numbered sub-headings of Austube in a succinct and concise manner.

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A Improper reliance on antiquated and irrelevant information

NEXTEEL’s right to seek accelerated review as a new exporter is embedded in the Article 9.5 of WTO Anti-Dumping Agreement, and Division 6 of the *Customs Act 1901*. This is an important legal mechanism that protects the right of an exporter to be treated fairly, and its exports are not subject to trade remedy measures, the imposition for which the new exporter is not liable.

As such, the Commission’s mandate is to determine the appropriate level of variable factors with respect to NEXTEEL’s exports, based on NEXTEEL’s information from the nominated review period, provided that it has the cooperation from the NEXTEEL.

Such fair treatment and review period evidence based determination is particularly appropriate with respect to NEXTEEL – being a well-established and reputable steel pipe manufacturer based in Korea who has never exported the goods under consideration to Australia prior to the review period.

By comparison and for context, the current anti-dumping measure concerning exports from Korea has been in operation since July 2012, that is, for almost 14 years. On how many occasions did NEXTEEL export the goods at dumped price and injured the domestic industry producing like goods in Australia? Zero. As such, insofar as “propensity” is concerned, the Commission must conclude that there is strong evidence that NEXTEEL does not appear to have a propensity to “dump” export the goods to Australia. Austube’s assertion for anything else must be dismissed.

Further, we respond to Austube’s reliance on “examples” from other jurisdictions – being the trade remedy measures in Canada and the United States.

The first point we would like to make, at the risk of stating the obvious, is that Australia is not Canada, nor the USA. The Australian market for hollow structural steel sections is sufficiently independent of and geographically far away from the relevant markets in Canada and the United States. The NEXTEEL’s sales activities in those markets, and the findings of the Canadian and US authorities cannot dictate the

² *The Customs Act 1901* (Cth) (“the Act”).

Commission's determination in this accelerated review, concerning NEXTEEL's new engagement with the Australian market.

Secondly, the examples relied on by Austube are clearly outdated and irrelevant.

The first example, being the determination of Canada Border Services Agency, was made on 5 December 2017, which is more than 8 years ago, and concerned a period of investigation of April 2016 to March 2017, which is more than 9 years old. The second example referenced by Austube, being the outcome in the US, concerned investigation period of 2015 to 2016, which is more than 10 years ago. Such antiquated examples offer no contemporaneous probative value of NEXTEEL's "propensity" for anything. Indeed, those foreign proceedings cited by Austube did not even relate to the goods under consideration for the present review. The Canadian measure concerned line pipe and the US proceeding concerned OCTG products.

Thirdly, Austube's attempt to rely on those outdated and irrelevant examples risks misleading the Commission by being completely silent on their up-to-date status in its submission. For example, in relation to the measure on OCTG and standard pipe products in the US, NEXTEEL has consistently obtained 0% or negligible dumping margin/anti-dumping duty rate in reviews conducted during recent years, and the US continues to be NEXTEEL's major export market destination during the review period.³ As such, even if proceedings in foreign jurisdictions are of relevance, a proposition that NEXTEEL rejects, those proceedings would in fact show NEXTEEL have been able to manage its export sales with major markets with undumped pricing, and they do not suggest "NEXTEEL has a propensity for dumping" or is regarded as a "high-risk exporter".

Fourthly, NEXTEEL is perplexed by Austube's suggestion that NEXTEEL's attainment of ACRS certification and to ensure exports are not dumped can also, somehow, be seen as problematic. NEXTEEL confirms that it is focused on supplying quality products to Australia that complies with the relevant Australian standard, including ACRS. Further, NEXTEEL is also focused on ensuring that its export sales are not dumped. This is consistent with its record for not having exported any goods subject to the anti-dumping measure since the original investigation period of 1 July 2010 to 30 June 2011, until very recently.

We respectfully submit that Austube's extrapolation regarding NEXTEEL's intention to dump products to Australia based on the points mentioned above is a non sequitur. Austube's claims about NEXTEEL's "risk" profile is baseless, and we trust the Commission will consider this inquiry based on the evidence provided by NEXTEEL in its application and comprehensive exporter questionnaire response.

B Frivolous arms length speculation

The Commission's consideration of the evidence submitted by NEXTEEL will conclude that NEXTEEL's export sales during the review period are arm's length.

It is regrettable that the Austube submission attempted to make unsubstantiated claims that questions the arms length nature of NEXTEEL's sales to Australia, based on Austube's sketch of the specific

³ For example, see Administrative Review conducted by the US Department of Commerce, which determined a dumping duty rate of 0% for NEXTEEL with respect to review period 1 September 2022 to 31 August 2023, see Attachment 1; and a preliminary (latest) dumping duty of 0% for review period 1 September 2023 to 31 August 2024 (OCTG), see Attachment 2.

circumstances of an US investigation, concerning the US market, some 13 years ago. Such allegations offer no value to the Commission's conduct of the current review.

The fact is that NEXTEEL has no affiliation with POSCO in a corporate structural sense. NEXTEEL did not export the goods to Australia via POSCO or POSCO affiliates. Even in the US, the USDOC has explicitly ruled that no affiliation exists between NEXTEEL and POSCO in administrative review conducted subsequent to the original investigation. For example, in the review concluded in 2019, the USDOC stated:⁴

...we find that the record no longer supports finding that NEXTEEL is affiliated with POSCO in the current POR.

We expect Austube, given its keen eye on the US practice, is fully aware of this.

It is unclear to us what Austube expects the Commission to do, by pointing out that POSCO Australia Pty Ltd is "*listed as an entity facilitating POSCO Korea's zinc coated steel exports*". This has nothing to do with NEXTEEL nor its Australian sales of the goods during the review period.

C Model comparison is a non-issue

NEXTEEL confirms that it has applied the MCC mapping method as requested by the Commission in its response to the Exporter Questionnaire. The method is consistent with Austube's understanding.

D Duty method should be balanced and reflective NEXTEEL's role as a new exporter

In its submission, Austube advocates for "*the most effective measure to mitigate future injury*" and cites as its support the broad level uncertainties and influences from "*global steel overcapacity and the geopolitical instability disrupting freight and trade in international steel markets*" and repeats its wrongful accusation of NEXTEEL's "propensity to dump". These claims should also be dismissed.

The purpose of an accelerated review and any resulting resetting of duty is to afford a new exporter with the procedural fairness and opportunity to engage with the Australian market, with a duty rate that reflects the actual circumstances of the said exporter. As already identified above, this is a special proceeding purposefully made available to exporters who did not export, and is not responsible for either the established dumping or dumping caused injury, which justified the imposition of anti-dumping measure at the first place. As such, any dumping duty to be assigned to NEXTEEL as an exporter must be commensurate with its history of no-dumping with respect to the Australian market, and its variable factors as ascertained from the review period. If the Commission is satisfied that NEXTEEL's exports during the review period is not dumped, and that there is no positive evidence suggesting that NEXTEEL's future exports will likely to be dumped, then it is entirely appropriate for the Commission to assign a 0% duty rate with respect to NEXTEEL's exports, on an *ad valorem* basis. This is consistent with the Commission's past practice, and is also fully compatible with the Commission's practice manual. For example, even where there are no exports to Australia during the accelerated review period, the Commission may still "*consider recommending that a floor price form of interim dumping duty be*

⁴ Attachment 3, page 87.

imposed”, “using the lower of the normal value or the NIP (where applicable)”.⁵ As the Commission’s practice manual correctly recognises, such approach:⁶

may be appropriate where the exporter has never exported to Australia. Once the exporter commences exporting to Australia, as long as the exporter does not sell below its ascertained normal value, its goods would not attract interim dumping duty.

Once again, NEXTEEL has never caused injury to the domestic industry producing like goods in Australia, and there is no evidence that its current or future exports will do so. The dumping measure was not imposed to counter exports or potential exports from NEXTEEL, nor can the current accelerated review be given the function of “mitigat[ing] future injury”, as to do so will require a full-scale injury assessment of the domestic industry members. In this regard, we would also like to point out that, Austube’s claim that it would be “prohibited from applying for a Review of Measures” for NEXTEEL is practically inaccurate. The current measure, having been in place since 2012, will be due for its third expiry review within 2026. Provided that Austube (and/or qualifying Australian industry member/s), are able to comply with the relevant timing, procedural and substantive evidentiary requirements for a continuation inquiry, then NEXTEEL anticipate that another review of the measure, both in terms of whether it should be allowed to expire, and if not, at what level, will be indeed be initiated by the Commission within the next 12 months. The continuation inquiry will be the more appropriate forum to address Austube’s “future injury mitigation” claims.

For and on behalf of NEXTEEL Co., Ltd

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⁵ Anti-Dumping Commission Dumping and Subsidy Manual, page 135.

⁶ Ibid.