

25 June 2018

The Director
Operations 2
Anti-Dumping Commission

EMAIL operations2@adcommission.gov.au

Dear Director,

Resumed Dumping Investigation No. 384 concerning alloy round steel bar exported from China: Australian industry member response to submission of Moly-Cop

OneSteel Manufacturing Pty Ltd, now trading as *Liberty OneSteel (OneSteel)*, refers to the submission of Commonwealth Steel Company Pty Ltd, trading as 'Moly-Cop' (Moly-Cop) dated 1 June 2018.¹

SUMMARY

Moly-Cop makes a number of unfounded and incorrect assertions concerning the future state of Australia's alloy round bar industry.

Firstly, it suggests that OneSteel is no longer a participant in Australia's grinding bar market. However, OneSteel produces evidence below to contradict this assertion. Further, OneSteel provides evidence of ongoing sales volume injury of at least [REDACTED] tonnes of grinding bar.

Secondly, it suggests that OneSteel lacks the capacity to produce alloy round bar. Again, this is an incorrect statement, and OneSteel provides evidence of its current ability to do so.

Even if OneSteel were to cease production of grinding bar, the exporters verified to be dumping by margins of between 21.9 and 73.3 per cent, will continue to cause material injury to OneSteel's range of alloy round bar.

Sensibly, Moly-Cop acknowledges that the key issue for consideration in the resumed investigation is whether the terms of s.269TG(2) are met. OneSteel considers that it is now beyond contention that the terms of s.269TG(1) have been satisfied, in light of the direction from *ADRP Decision No. 75*. OneSteel further considers that the prospective elements of s.269TG(2) are also met.

In the event that OneSteel ceases to produce and sell grinding bar products in the future, then Moly-Cop has the right at such time to seek a Ministerial exemption to the measures.

SUBSTANTIVE OBSERVATIONS AND FACTUAL CORRECTIONS

Moly-Cop states:

With Donhad becoming part of the Moly-Cop business, OneSteel Manufacturing is left with no Australian customer for grinding media bar.

...

Neither is it commercially plausible for the Moly-Cop business to sell toll rolled grinding bar to OneSteel Manufacturing only to buy back the grinding bar for its own, recently acquired Donhad business. Given the scale of these industry

¹ EPR Folio No. 384/065 (published 5 June 2018).

changes and the shift in the ownership of the manufacturing assets for grinding bar, it seems the foreseeable future is set.²

This is factually incorrect for as recently as [REDACTED] Donhad Pty Ltd (Donhad) has placed a request to quote on OneSteel for the supply of grinding bar:

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

What is most significant about this request to quote is that it seeks delivery in and about [REDACTED], a time, when according to Moly-Cop's rationale, with the completion and settlement of its purchase of Donhad, *"OneSteel Manufacturing is left with no Australian customer for grinding media bar. Donhad's grinding media bar requirements will mostly be manufactured at the Moly-Cop, Waratah facility"*.⁴

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]⁵

OneSteel's quoted offer price was not accepted by Donhad for supply of the additional [REDACTED] tonnes required.

In light of this evidence, Moly-Cop must surely acknowledge that it's following representation to the Commission is entirely false and misleading:

Neither is it commercially plausible for the Moly-Cop business to sell toll rolled grinding bar to OneSteel Manufacturing only to buy back the grinding bar for its own, recently acquired Donhad business. Given the scale of these industry changes and the shift in the ownership of the manufacturing assets for grinding bar, it seems the foreseeable future is set.⁶

Donhad's [REDACTED] request to quote

However, the request to quote by Donhad on [REDACTED] is not an isolated incident. In fact, there have been a number of requests to quote since the August 2017 announcement of the proposed common ownership of Donhad and Moly-

² EPR Folio No. 384/065, p. 3.

³ CONFIDENTIAL EMAIL [REDACTED]

⁴ EPR Folio No. 384/065, p. 3.

⁵ CONFIDENTIAL EMAIL [REDACTED]

⁶ EPR Folio No. 384/065, p. 3.



Cop, specifically, a request on [REDACTED], seeking delivery of grinding bar for [REDACTED], which resulted in the sale of a portion ([REDACTED] tonnes) of Donhad's requirement⁷:

Can you please provide me with price indications and whether the requirements can be met on the below indicative steel requirements:



OneSteel's quoted offer price was not accepted by Donhad for the supply of the majority ([REDACTED] per cent or [REDACTED] tonnes) of the additional [REDACTED] tonnes required.

Donhad's [REDACTED] request to quote

In [REDACTED], Donhad placed two requests to quote on OneSteel - [REDACTED] - specifically in the following terms:



Can you please providing provide pricing for the following requirements:



⁷ CONFIDENTIAL ORDER [REDACTED]
⁸ CONFIDENTIAL EMAIL [REDACTED]
⁹ CONFIDENTIAL EMAIL [REDACTED]



Both OneSteel's quoted offer prices were not accepted by Donhad for supply of the additional [REDACTED] tonnes required.

Donhad's [REDACTED] request to quote

A price offer for supply by OneSteel in [REDACTED] was also sought by Donhad on [REDACTED]:

[REDACTED]

[REDACTED]

11

OneSteel's quoted offer price was not accepted by Donhad for supply of the additional [REDACTED] tonnes required.

Donhad's [REDACTED] request to quote

Further request to quote was received from Donhad on [REDACTED] for delivery in [REDACTED]:

[REDACTED]

12

OneSteel's quoted offer price was not accepted by Donhad for supply of the additional [REDACTED] tonnes required.

Donhad's [REDACTED] request to quote

A price for an additional [REDACTED] tonnes of grinding bar supplied was also sought of OneSteel by Donhad on [REDACTED]

[REDACTED]

[REDACTED]

13

¹⁰ CONFIDENTIAL EMAIL [REDACTED]
¹¹ CONFIDENTIAL EMAIL [REDACTED]
¹² CONFIDENTIAL EMAIL [REDACTED]

Again, none of the tonnes quoted by OneSteel were accepted by Donhad.

Current toll-rolling arrangements between Moly-Cop and OneSteel

As matters currently stand, since the agreement in August 2017 concerning the sale of Donhad, Moly-Cop has continued to toll-roll [REDACTED] tonnes of alloy round bar for OneSteel. Over that period, OneSteel has rolled [REDACTED] tonnes of alloy round bar within its own facilities.¹⁴

Ongoing sales volume injury to OneSteel

Overall, OneSteel has quoted to supply to Donhad the total of [REDACTED] tonnes of grinding bar of which only [REDACTED] tonnes (or [REDACTED] per cent) resulted in sales for OneSteel. It is observed that acceptance of this offer corresponds with a period of increasing export prices from China (CONFIDENTIAL ATTACHMENT E, specifically refer export dates [REDACTED] [REDACTED], for delivery the following month), which suggests that Donhad is prepared to continue to purchase grinding bar from OneSteel during periods of rising prices for the goods exported from China, or when there may be delays in shipments from China, i.e. a dual sourcing strategy.

There are clear price negotiation motivations for Moly-Cop (and by extension, Donhad) to defeat the resumed investigation by suggesting that the toll-rolling arrangement and ongoing supply by OneSteel to Donhad has come to an end, when the evidence suggests otherwise, and the imminence of that outcome cannot be guaranteed. The latest export trade data suggest that the volume of goods exported by those exporters verified by the Commission to be dumping (Suzhou Suxin Special Steel Co. Ltd and Daye Special Steel Co. Ltd) have continued since the conclusion of the investigation period.¹⁵

Furthermore, the Commission should not accept Moly-Cop's premise that the combined Moly-Cop/Donhad entity will no longer import dumped Chinese grinding bar to supplement or potentially replace its own domestic production of grinding bar. Indeed, the company has used highly qualified language on this point:

Donhad's grinding media bar requirements will mostly be manufactured at the Moly-Cop, Waratah facility.¹⁶
[emphasis added]

As such, Moly-Cop reveals its real incentive for resisting the measures, namely, the continuance of Donhad's dual sourcing strategy albeit at dumped prices.

Ongoing threat of injury

On the other hand, OneSteel agrees with Moly-Cop's assessment that:

Moly-Cop does not consider that the composition of the Australian industry producing like goods during the investigation period is the key consideration for the Commission in the resumed investigation. Rather, what is for consideration is whether the requirements of subsection 269TG have been met, notably that the Parliamentary

¹³ CONFIDENTIAL EMAIL [REDACTED]

¹⁴ CONFIDENTIAL ATTACHMENT A.

¹⁵ CONFIDENTIAL ATTACHMENT B.

¹⁶ EPR Folio No. 384/065, p. 3.

Secretary must be satisfied that in publishing a duty notice that because of the dumping, material injury has been, or is being caused, or has been threatened to the Australian industry producing like goods.¹⁷

Following the direction of *ADRP Decision No. 75*, the Commission must necessarily find that the Australian industry, comprising primarily OneSteel, suffered material injury caused by dumping during the investigation period. This satisfies the elements of s.269TG(1).¹⁸ In fact, the ADRP's decision completely reverses the Commission's determination of negligible injury with respect to OneSteel's claims of price and volume injury:

33. The finding of negligible injury from the price effects was as a result of the ADC calculating the revenue lost by OneSteel and Milltech due to the price effects of the dumped goods as a proportion of the total Australian industry (that is, weighted by reference to the respective share of production volume shown in Figure 1) as less than 2 per cent. Again, as noted above, Figure 1 includes the captive production by Moly-Cop. When this production is excluded from the calculation, the result is different, and the injury is not negligible.
34. While it is not as clear from the Termination Report, when regard is had to the confidential material^[20], it appears that a similar calculation was done with respect to the finding of the negligible injury from the lost sales. The calculation appears to have been done using the Moly-Cop captive production and, if this is excluded, the injury is not negligible.¹⁹

The obligation to address the issue of future injury is most clearly identified by the terms of s.269TG(2) which provides:

Where the Minister is satisfied, as to goods of any kind, that:

- (a) the amount of the export price of like goods that have already been exported to Australia is less than the amount of the normal value of those goods, and the amount of the export price of like goods that may be exported to Australia in the future may be less than the normal value of the goods; and
- (b) because of that, material injury to an Australian industry producing like goods has been or is being caused or is threatened, or the establishment of an Australian industry producing like goods has been or may be materially hindered;

the Minister may, by public notice (whether or not he or she has made, or proposes to make, a declaration under subsection (1) in respect of like goods that have been exported to Australia), declare that section 8 of the Dumping Duty Act applies to like goods that are exported to Australia after the date of publication of the notice or such later date as is specified in the notice.

However, OneSteel does not agree with Moly-Cop's contention that:

¹⁷ EPR Folio No. 384/065, p. 3.

¹⁸ References to statutory provisions are to the *Customs Act 1901*, unless otherwise stated.

¹⁹ ADRP Decision No. 75 *Alloy Round Bar exported from [China]*, pp. 12 – 13.

Following the recent structural changes to the Australian industry producing like goods it cannot be concluded that OneSteel Manufacturing will suffer, or is threatened, with material injury following the acquisition of Moly-Cop by AIP and, more recently, by Moly-Cop's acquisition of OneSteel Manufacturing's sole grinding bar customer, Donhad.²⁰

Firstly, contrary to Moly-Cop's prediction that "OneSteel Manufacturing does not participate in the grinding bar market", OneSteel has continued to quote for over [REDACTED] tonnes grinding bar to supply Donhad since the August 2017 acquisition announcement. This is the relevant evidence to which the Commission must have regard when considering the terms of s.269TG(2).

However, even if Moly-Cop's speculation is correct, and at some future point in time, Moly-Cop ceases to toll-roll grinding bar or indeed any other alloy round bar product for OneSteel, then this does not indicate the end of OneSteel's status as a member of the industry producing alloy round bar in Australia. Since the end of the investigation period (i.e. 1 October 2016), OneSteel has on average produced [REDACTED] per cent of alloy round bar at its Sydney Rolling Mill (SRM). Since August 2017 it has increased its production of alloy round bar at its SRM to [REDACTED] per cent.²¹ As such, contrary to Moly-Cop's implication that OneSteel would cease to be a producer in Australia of alloy round bar, the opposite is in fact the case. [REDACTED]

[REDACTED]

[REDACTED]

22

Even if Moly-Cop is right to speculate that OneSteel will cease to produce and sell grinding bar in the future, the option is available for any interested party to apply for a Tariff Concession Order and seek Ministerial exemption to the measures under s.8(7)(b) of the *Customs Tariff (Anti-Dumping) Act 1975* insofar as they relate to grinding bar. However, Moly-Cop is seeking to prejudice OneSteel's ongoing viability as a producer of alloy round bar altogether.

In the case of assessing the likelihood of future dumping, it is observed that two exporters were found to have dumping margins of 35.3 per cent in the case of Suzhou Suxin Special Steel Co. Ltd, and 21.9 per cent for Daye Special Steel Co. Ltd. The dumping margin for uncooperative and all other exporters from China was determined at 73.7 per cent. Both the named exporters, and exporters with an alloy round bar trading history in Australia (such as, [REDACTED]) are considered 'special steel producers' and as such capable of producing alloy round bar across the range covered by the goods description (beyond just grinding bar).²³ Therefore, even if OneSteel should cease to produce grinding bar, then the recurrence

²⁰ EPR Folio No. 384/065, p. 4.

²¹ CONFIDENTIAL ATTACHMENT A

²² CONFIDENTIAL ATTACHMENT C

²³ CONFIDENTIAL ATTACHMENT D

of dumping by these exporters present a real and imminent threat of future injury to OneSteel across its non-grinding bar range of alloy round bar products.

CONCLUSION

Should the Commission seek to discuss any aspect of this submission, please do not hesitate to contact the applicant Australian industry member.

FOR AND ON BEHALF OF THE AUSTRALIAN INDUSTRY APPLICANT

ONESTEEL MANUFACTURING PTY LTD (trading as LIBERTY ONESTEEL)