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ANTI-DUMPING INVESTIGATION BY AUSTRALIA CONCERNING IMPORTS OF RAILWAY WHEELS FROM FRANCE

Written submission by the European Commission regarding the Statement of Essential Facts No 466

The European Commission would like to thank the Australian authorities for the opportunity to submit comments with regard to the Statement of Essential Facts No 466 (SEF).

Following the analysis of the information provided in the SEF, certain elements have raised the European Commission's concerns. Furthermore, the release of non-confidential information in the form of graphs only, remains a problematic issue, as it infringes the rights of interested parties to effectively defend their interests.

On the basis of the available information, the European Commission would like to insist on the following issues that were not adequately addressed.

1. Dumping

According to the information released in the SEF and the verification report¹, normal values have been constructed, since the product sold in France was not the like product. Export prices were taken from the different supply contracts applicable during the investigation period.

One French exporter alleges that the costs to make and sell was severely inflated, which resulted in a higher normal value and higher dumping margin. On these grounds, MG-Valdunes requested certain adjustments to be made to the normal value. Some of these adjustments are still under consideration by the Anti-Dumping Commission.

In relation to the above, the European Commission requests that the Australian authorities pay due attention to all the arguments presented by the French company, and, as the case may be,

¹ Investigation 466. Visit report – Exporter MG-Valdunes. EPR No 042.

make the necessary adjustments to the dumping calculation, based on the evidence presented by the company.

2. Injury/causality

The arguments and information provided in the SEF do not seem to show a picture of an industry that is suffering **material** injury due to dumped imports.

The Australian authorities limit their analysis to 2017, i.e. the last year of the injury investigation period ('IP'). However, an objective analysis in terms of Article 3.1 of the WTO anti-dumping Agreement ('ADA') must cover the trends over the entire injury IP, which includes the years 2014 to 2017.

While the domestic industry experienced a decline in sales, market share, capacity utilisation and revenues in 2017, overall trends are rather positive. **Sales increased** by around 80% between 2014 and 2017. In a market that more than tripled during the injury IP, the domestic industry was able to **increase its market share**. Capacity utilisation decreased in 2017, but increased overall. Capacity and sales prices remained stable over the period.

In the SEF it is argued that the decrease in revenues in 2017, is due to an increase in costs caused by reduced volumes produced and sold in 2017, as a result of dumped imports. However, sales and capacity utilisation were much lower in 2014 (before the increase in imports), than in 2017, but losses incurred in 2017 were around twice as high as in 2014. Moreover, due to the low production levels in 2014 and 2015, the capacity utilisation rate must have been at unsustainable low levels in those years, which may point to structural problems of the industry.

Production, an important injury indicator listed in Article 3.4 of the ADA, does not seem to have been specifically analysed in the SEF. However, on the basis of information in the complaint, production was around 9 times higher in 2016 than in 2014, and around 3 times higher in 2017 than in 2014 (demand more than tripled between 2015 and 2016, and remained around the same high level in 2017). This may indicate that production volumes in 2016 far exceeded demand. The overproduction and ensuing high stock levels would at least partially explain the high losses in 2017. Unfortunately, no information regarding production and stocks has been provided in the SEF.

Furthermore, despite the increase in production and the most likely high stock levels, export sales decreased in 2017. Therefore, there must be **other factors** that had a negative impact on the domestic industry's performance than dumped imports.

Other factors

According to Article 3.5 of the ADA *"It must be demonstrated that dumped imports are, through the effects of dumping, as set forth in paragraphs 2 and 4, causing injury within the meaning of this Agreement. [...] The authorities shall also examine any known factors other than the dumped imports which at the same time are injuring the domestic industry, and the injuries caused by these other factors must not be attributed to the dumped imports.[...]"*

However, the impact of other factors such as the development of **raw material prices** or the enormous **fluctuations in demand** have not been addressed. It also appears, that besides price, **quality** is a major criteria for winning/loosing tenders in this sector. In this context, the Australian industry's quality and also packaging issues appear to have been more problematic than acknowledged in the SEF. While the SEF mentions that no injury could be found regarding reduced attractiveness to invest, it is unclear, if and what **investments** were made during the IP, e.g. in order to update existing equipment to improve quality (it is recalled that capacity remained stable).

As regards **demand**, several factors need to be taken into account. The wheel demand increases with the increase of ore car demand and the growth in ore car fleet sizes. The demand is also linked to iron ore prices and the life cycle of the wheels, normally between 8 and 12 years. As explained above, the Australian industry was already in a very difficult position in 2014, before the increase of imports, due to a very low demand.

Therefore, the difficulties experienced by the domestic industry appear to be linked to **structural problems**, such as massive **idle capacity** in periods of low demand or erroneous market forecasts (as in 2016) rather than to dumped imports.

4. Conclusion

The European Commission trusts that the elements raised above will be duly taken into account by the Australian authorities before a final determination is made, in particular:

- provide meaningful non-confidential summaries of the injury analysis, e.g. in indexes;
- complete the analysis with information regarding indicators such as production, stocks or investments;
- take appropriately into account the impact of other factors such as development of demand, or other cost drivers.

The European Commission trusts that the Australian authorities will finalise this investigation in full compliance with their WTO obligations.