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Director Operations 2
Anti-Dumping Commission
GPO Box 1632
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Expiry review of hot rolled structural steel sections exported from Taiwan

This submission is made on behalf of Dragon Steel Corporation (DSC) in response to the Anti-Dumping Commission's (the Commission) preliminary findings outlined in Statement of Essential Facts Report No. 505 (SEF 505).

It is noted that DSC's submission of 9 August 2019 was not able to be considered by the Commission in finalising SEF 505, but expects that the submission will be considered in addressing submissions received in response to the SEF report. The substantive issues raised by DSC are summarised as:

- a strategic decision by Liberty Steel to transfer production capacity away from HRSS to steel rail products to meet demand from contracted rail projects;
- the reduction in HRSS production was offset by Liberty Steel's significant direct and/or indirect purchases of imported HRSS from subject countries;
- injury indicators appear to be affected by Liberty Steel's imports;
- the impact of Liberty Steel's purchases and sales of imported HRSS needs to be carefully analysed to ensure that the Commission's injury assessment properly distinguishes and isolates the effects of these decisions;
- injury caused by Liberty Steel's strategic decisions must not be attributed to dumping of subject imports;
- the prospective assessment of whether material injury will recur in the absence of measures must only take account of the "foreseeable and imminent" period. In doing so, the Commission must acknowledge that there is no credible evidence supporting a view that Liberty Steel will expand capacity within the foreseeable period.

DSC does not intend to repeat this specific points in this submission, but instead addresses the Commission's preliminary findings and analysis contained in SEF 505.

At the outset, DSC wishes to express its concern with the lack of proper analysis and reasoning contained in the SEF report to support the Commission's preliminary findings. In terms of the material injury assessment, DSC considers that SEF 505 falls well short of the positive evidentiary standard required to recommend that measures be continued. In

particular, DSC is concerned with the Commission's scant causality analysis and reasoning linking dumped imports to foreseeable injury, which limits the opportunity for interested parties to respond and address key aspects of the Commission's analysis. In the absence of sufficient explanation of the analysis undertaken and reasoning, DSC's submission in large part is restricted to posing questions aimed at better understanding the type of analysis utilised by the Commission in reaching its preliminary view.

The Australian market

At section 4.4 of SEF 505, it notes *'that eight of the top 10 importers of HRS in 2018 have been in the group of top 10 importers of HRS since 2010.'* It is critical to the material injury assessment for the Commission to confirm whether the combined import purchases by Liberty Steel, either direct or indirect, places it within the category of largest customers/imports in the Australian market. For example, if Liberty Steel were the largest single customer of imported HRSS in the Australian market, this is an essential fact which would have a substantial bearing on the causal link assessment undertaken by the Commission.

Section 4.8 notes that Liberty Steel *'sets its prices by applying an import parity pricing (IPP) process in which it negotiates prices with reference to offers made in the HRS market for imported goods.'* Further, Liberty Steel stated *'that known import offers in the market are used as a tool by customers to negotiate lower prices from Liberty Steel.'*

Apart from accepting evidence from Liberty Steel regarding its price setting process, the Commission appears to have made no attempt to understand the factors that might influence the IPP model. It should seem obvious that one potential factor that could impact on Liberty Steel's IPP model was its own purchases of imported HRSS. For example, if Liberty Steel's purchase price of imported HRSS was lower than other prevailing and comparable import prices then it is reasonable to conclude that any impact on Liberty Steel's overall pricing is self-inflicted.

In DSC's view, the Commission's preliminary report shows a complete lack of analysis and assessment on Liberty Steel's IPP model caused by its own imports.

Economic condition of the Australian industry

Price suppression

As noted in DSC's submission of 9 August 2019, the Commission's preliminary conclusion regarding price suppression appears to be flawed as it compares the cost to make and sell of Liberty Steel's produced goods with the selling prices of self-produced and imported goods. It is possible that Liberty Steel's cost of purchasing imports are less than the equivalent cost to make and sell and therefore, the price suppression chart provides a distorted view of the movement in its costs relative to prices.

DSC requests the Commission to confirm whether the cost to make and sell data series in figure 2 includes the cost of purchasing imported HRSS or relates only to the cost to make and sell of Liberty Steel's own production.

Further, it is unclear what delivery terms the Commission has relied upon in comparing the cost and revenue data series in figure 2. If these are inclusive of freight, then DSC requests the Commission to separately analyse the series at an ex-work point of sale to remove the impact

of higher freight charges that are expected to be incurred by Liberty Steel, given the location of its Whyalla steel plant relative to the key market centres on the east coast of Australia.

Price suppression

The distortion highlighted above regarding the price suppression chart appears evident in the profitability charts at figures 5 and 6. If the reported total profits are based on Liberty Steel's own cost of production and do not include the cost of purchasing imported HRSS, then its profitability may be distorted in the event that it is able to achieve profits on sales of its imported HRSS, compared to possible losses on self-produced goods.

Market share

It is noted that SEF 505 provides no understanding as to whether the market shares outlined in figure 7 have accurately attributed Liberty Steel's import purchases to its own market share or that of the exporting country. It has been the Commission's regular and normal practice to confirm the treatment of imports by industry for the purposes of assessing injury. The lack of explanation in SEF 505 is concerning given the potential significance of Liberty Steel's import purchases during the review period.

For example, DSC notes that previous investigations into steel reinforcing bar¹ by Liberty Steel have provided an overview of the significance of industry imports and the need to treat those goods as non-injurious:

8.4.3 OneSteel's own imports of rebar

In its application OneSteel advised that it is an exclusive Australian distributor of rebar manufactured by an exporter subject to this investigation and that during the investigation period it had supplemented its supply with imported rebar. Various submissions have noted that OneSteel imported 20 mm rebar coil during the investigation period.

On the basis of the analysis of ABF data and verified data provided by OneSteel and the relevant exporters, the Commissioner considers that the volume of OneSteel's domestic sales of imported rebar does not represent a materially significant proportion of the overall Australian rebar market. The Commission's analysis of import volumes is at Confidential Appendix 1.

For the purposes of assessing volume injury, the Commissioner has separately identified OneSteel's volume of domestic sales of imported rebar. As OneSteel's own imports cannot be considered to have caused it injury, for the purposes of assessing injury factors, the Commission has disregarded OneSteel's domestic sales of imported rebar.

Similar clear explanation about the significance and treatment of industry's import purchases can also be found in Report 264².

It is noted in SEF 505 that 'Liberty Steel imported a small volume of HRS during the inquiry period. In its price undercutting analysis, the Commission has excluded Liberty Steel's sales of imported HRS as well as sales made to Liberty Steel by importers.' However, this statement appears incompatible with submissions made by key exporters which have highlighted the importance of Liberty Steel's direct imports. DSC requests the Commission to confirm the Liberty Steel's purchases

¹ Report 418, Steel reinforcing bar – Greece, Indonesia, Spain (by Nervacero S.A), Taiwan (by Power Steel Co. Ltd) and Thailand, page 50.

² Report 264, Steel Reinforcing Bar – Korea, Malaysia, Singapore, Spain, Taiwan, Thailand and Turkey, page 61.

of direct and indirect imports as a share of total imports during the period. This would provide parties with an understanding of the potential significance and impact of this other non-injurious factor.

Capacity

It is also particularly troubling that the Commission would assess the movement in Liberty Steel's capacity utilisation over the assessment period, without any comment or reference to issues raised by interested parties during the course of the investigation. A number of parties have raised the issue of Liberty Steel's decision to transfer production to rail products to meet the increased demand from contracted rail projects. This has negatively impacted on production of HRSS.

Yet the Commission simply notes that *'Liberty Steel has experienced injury in the form of reduced capacity utilisation in the period since FY 2014.'* This falls well short of the expected positive assessment and objective analysis required of an investigating authority.

Recurrence of dumping

Taiwanese capacity

SEF 505 correctly notes that there is limited capacity in Taiwan to increase production of HRSS and that there is no evidence of new investment to increase capacity in the future. DSC can confirm that it also has limited capacity, with actual production capacity of ██████³ mt and total sales during the review period of ██████ mt, representing capacity utilisation of █%.

Recurrence of material injury

It is noted by the Commission that vast majority of exports from Taiwan were made by Tung Ho. DSC total exports during the review period were approximately ██████ mt. Whilst SEF 505 provides no estimate of the total size of the Australian market during the review period, it is noted that the Commission estimated the market to be approximately 365,000mt⁴ during the original investigation period, and notes in SEF 505 that *'since the implementation of the measures in 2014, there has been a general increase in the size of the whole Australian market.'*

On the basis of an estimated market size of 400,000mt during 2018, it is important to that DSC's exports accounted for █%. This confirms that the vast majority of Taiwanese exports were non-dumped and the volume of dumped goods represented a negligible volume relative to the total Australian market. In that circumstance it is unreasonable to consider that exports from Taiwan caused material injury during the review period, or will cause material injury to recur.

Price undercutting

Firstly, DSC wishes to highlight that the Commission's price undercutting analysis in SEF 505 provides insufficient information or understanding of the methodology used to ensure prices have been properly compared. There is no explanation of the point of price comparison in terms of location, level of trade and delivery terms; how timing differences were addressed or how credit terms, rebates/discounts and packing terms were adjusted to ensure proper comparison.

³ Refer to verified capacity from Review 359.

⁴ Report 223, page 23.

Second, analysis at figure 19 shows that imports by DSC's imports undercut Liberty Steel's prices but those prices were at or above the non-dumped prices for Tung Ho's imports. As Tung Ho's prices must be considered non-injurious prices given the negative dumping margin established for the review period, it stands to reason that DSC's equivalent prices must also be non-injurious as they are sold at or above the non-injurious price levels.

It is also important for the Commission to provide context to the price comparisons by showing the degree of undercutting by DSC's import prices relative to Liberty Steel's own purchase prices of imported HRSS. In the event that Liberty Steel's import purchases were at or lower than DSC's comparable prices, then it again supports as view that Liberty Steel has contributed to its own self-injury, and those import prices must be treated as being non-injurious. So to the extent that DSC's import prices might be at or above Liberty Steel's own non-injurious import prices, it again provides evidence that DSC's exports are non-injurious.

Conclusion

DSC contends that the analysis contained in SEF 505 is lacking a proper consideration of the key factors which may have impacted on the Australian market conditions since the imposition of the measures. In particular, the Commission appears to simply dismiss or provide little weight to impact of Liberty Steel's own strategic decisions surrounding production utilisation and purchasing of imported HRSS. These are important decisions which have clearly impacted each of the injury indicators in different ways.

DSC therefore urges the Commission to reconsider its material injury assessment by properly distinguishing and isolating the effects of Liberty Steel's import purchases to ensure these effects are not attributable to the subject imports. In doing so, the Commission should treat Liberty Steel's import purchases as non-injurious for the purposes of giving any weight to price undercutting. Likewise, import prices by Tung Ho must be treated as non-injurious when examining the past and future impact of DSC's prices.

Yours sincerely

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