



10 September 2019

Director
Investigations 2
Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601

BY EMAIL:
investigations2@adcommission.gov.au

Dear Director,

Continuation Inquiry 505 and Review of Measures 499 concerning Hot Rolled Structural Steel Sections exported from Japan, Korea, Taiwan and Thailand

SUBMISSION OF THE AUSTRALIAN INDUSTRY

This submission is made on behalf of ONESTEEL MANUFACTURING PTY LIMITED (**Liberty Primary Steel**) in response to Siam Yamato Steel's (**SYS**) submission following publication of the Statements of Essential Facts 499 and 505.¹

Liberty Primary Steel is compelled to respond to a number of false and misleading statements made by SYS that include:

- 1. ... the Minister when making her decision has an obligation to take into consideration the National Interest ramifications.²**

SYS and their representatives should be well aware that neither the Anti-Dumping Agreement (ADA) nor Australia's anti-dumping legislation require consideration of a National Interest Test or Public Interest Test. The primary reason that Australia has a WTO compliant anti-dumping system reflects the fact that successive governments understand the importance of creating a level, competitive playing field for manufacturers and producers that supports investment in Australian jobs and innovation in manufacturing and primary production.

- 2. ... (Liberty Primary Steel) is a monopoly local producer/distributor³.**

There is no basis to the false allegation that Liberty Primary Steel is a monopoly local producer or distributor. Australia is an open economy located in one of the most competitive manufacturing regions in the world and, as a consequence, Liberty Primary Steel is a price taker in the Australian

¹ EPR Folio No. 499/047 and EPR Folio No. 505/038

² Page 1

³ Ibid 2

market. This view is supported by the ACCC which, in its recently published report on the *Acquisition of Steelforce Holdings Pty Ltd (Steelforce) by GFG Alliance Australia*, declared that:⁴

*The ACCC's review focused on the wholesale supply and distribution of three types of long steel products: hollows, **structurals** and merchant bars. [emphasis added]*

"The ACCC looked closely at this proposed acquisition. We decided not to oppose it because we considered that imported products and rival distributors will continue to provide strong competition," ACCC Deputy Chair Mick Keogh said.

In addition to the false and misleading statements made by SYS above, the exporter further requests that in the event that measures are to be continued, the Commission "*seriously consider recommending the Minister impose*" measures in the form of a non-injurious price based on the non-dumped export prices of Taiwanese exporters that have a negative preliminary dumping margin.

Liberty Primary Steel supports the Commission's decision not to make this recommendation, as to do so would ignore the commercial reality that importers and exporters compete against each other in the Australian market. The dumped goods from Thailand, Korea, Japan and Dragon Steel, all suppress the prices of not only the applicant, but also the prices of Tung Ho Steel (THS) and TS Steel. The fact that dumped goods are influencing the prices of all participants in the market is highlighted by Tung Ho:

...due to the measures recommended in SEF for other exporters. Business acumen would evoke THS (likewise Liberty Steel) to be in a position to charge a higher competitive price to Australia⁵

...prices will only rise from limited non-dumped prices⁶

When considering whether the selling price of undumped imports into the Australian market for steel reinforcing bar is an appropriate basis for the USP, the Commissioner has previously also concluded that such an approach would be insufficient to prevent injury caused by dumping.

*The Commissioner has next considered whether the selling price of undumped imports into the market is an appropriate basis for the USP. After assessing this option, the Commissioner has concluded that this option would be insufficient to prevent injury caused by dumping. In the course of this investigation **the Commissioner has established that OneSteel prices are influenced by a number of different price offers in the market. OneSteel does not set its price to individual customers according to the lowest price offer in the market** (see the discussion at section 9.5.1 of this report). It is for this reason that the Commissioner has found that dumped imports have caused injury to OneSteel despite the presence of lower priced imports from countries not subject to investigation and negligibly dumped imports in the market.⁷ [emphasis added]*

⁴ <https://www.accc.gov.au/media-release/liberty%E2%80%99s-acquisition-of-steelforce-not-opposed#targetText=The%20ACCC%20will%20not%20oppose,for%20construction%20and%20industrial%20purposes.>

⁵ EPR Folio No. 499/048 and EPR Folio No. 505/039 at p2

⁶ Ibid p7.

⁷ REP 418 at p96

3. ... the imposition of measures... would only result in putting a handbrake on the market supply of goods required to meet Australia’s projected increased demand.

There is no evidence to support the claim that if measures are continued on hot rolled structural sections that they would restrict the supply of goods to Australia. The evidence following Investigation 223 clearly shows there was no such ‘handbrake’ effect following the imposition of the measures at the end of 2014.

Figure 1⁸ in the SEF shows that the Australian market size for HRS has increased above levels realised in 2016, 2017 and 2018; and

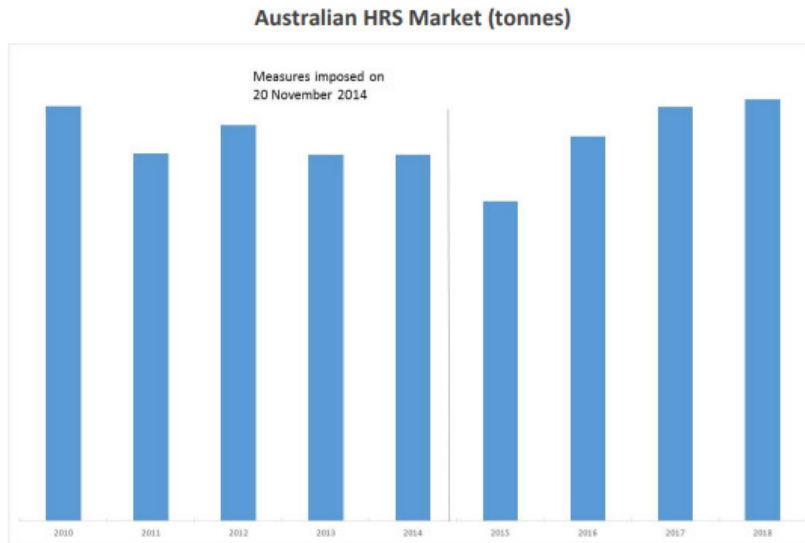


Figure 1 – Australian HRS Market Size

Figure 7⁹ shows that in each of the years following initial imposition of measures, including 2015, import origin market shares in the Australian HRS Market were at higher levels than they were in 2014.

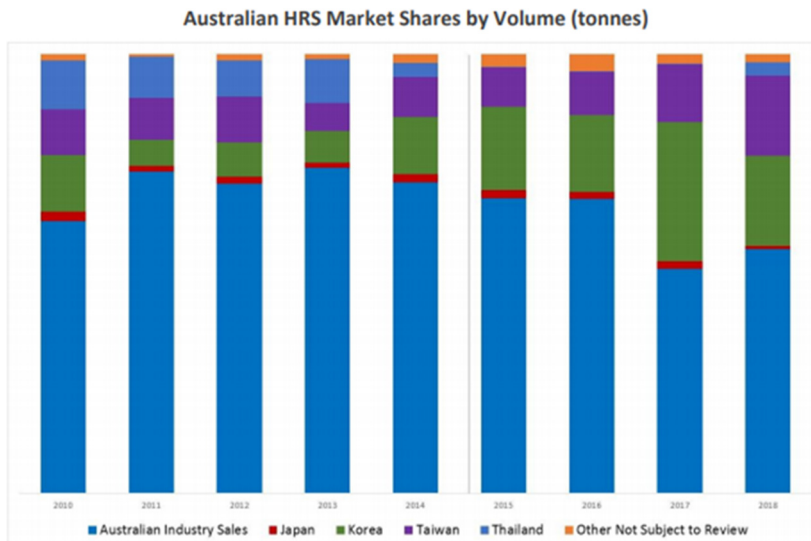


Figure 7 – Australian HRS Market Shares by Volume

⁸ SEF – Continuation Inquiry 505p13

⁹ Ibid p 20

Summary

Based on the behaviour of the exporters over the last 5 years and the evidence before him, the Commissioner is able to be satisfied to recommend that measures continue for a further 5 years.

- SYS and other exporters have continued to dump throughout the period that measures were imposed. This is a clear indication that they would likely continue to do so if measures were removed.
- Liberty Primary Steel's customers continue to use the prices of dumped products, or prices influenced by dumped products, to negotiate lower prices. This provides a clear and direct link to the likely recurrence of material injury caused to the applicant by dumping.

The *ad valorem* method of interim dumping duty collection has not been effective in preventing the ongoing dumping and material injury it was intended to prevent.¹⁰ This validates the Commission's recommendation to impose the combination form of duty.

FOR AND ON BEHALF OF THE AUSTRALIAN INDUSTRY APPLICANT

¹⁰ Hyundai Steel's *ad valorem* dumping margin of 2.52% (INV223) increased to 9.9% (REV495)