

1 April 2022

Mr Corey Hawke  
Case Manager, Investigations 3  
Anti-Dumping Commission  
Level 6  
215 Spring Street  
Melbourne Victoria 3000

## Public File

Dear Mr Hawke,

### Anti-Dumping/Subsidisation Reinvestigation No. 550 – Precision Pipe & Tube Steel exported from China

#### I. Introduction

Orrcon Manufacturing Pty Ltd (**Orrcon**) welcomes the Preliminary Reinvestigation Report (**PRR 550**) finding by the Anti-Dumping Commission (**the Commission**) in relation to the reinvestigation of certain findings in Report No. 550 (**REP 550**) that *Program 20 – Hot rolled steel provided by government at less than fair market value* (**Program 20**) conferred a countervailable benefit to non-cooperative Chinese exporters of the subject goods.

#### II. Preliminary Finding

In reaching the above-noted conclusion based on a further consideration of the available evidence, the Commission has departed from its REP 550 methodology where it determined that the prevailing market conditions for Hot Rolled Coil (**HRC**) (and consequently for the Program 20 assessment) was the Chinese domestic market for HRC, notwithstanding that it had found that there was a particular market situation in respect of HRC.<sup>1</sup> The Commission had been satisfied, based on the findings of *Investigation 553 – Painted Steel Strapping*, that there was a large volume of participants in the Chinese HRC market who engaged in commercial negotiations in the sale and purchase of HRC, which was supposedly indicative of competition, albeit impacted by government distortions.

The Commission now finds it preferable to rely on information from previous cases involving Program 20, and thus recognise the prevalence and influence of Program 20 on the price of steel exports in China. Orrcon agrees with this revised approach.

#### III. Dalian Steelforce

In the letter from the Anti-Dumping Review Panel (**ADRP**) to the Commissioner requesting the reinvestigation,<sup>2</sup> the Panel Member stated that:

*As the Commission had found that Dalian had only sourced HRC from “private” mills at prices below those offered by public body mills, the Commission’s reinvestigation will also need to address whether the “private” mill prices were for less than adequate remuneration having regard to prevailing market conditions for like goods. Stated differently, the Commission will need to be satisfied that Dalian would not need to pay more to its “private” mill suppliers of HRC if there had been no financial*

<sup>1</sup> Report 550, p. 84.

<sup>2</sup> Letter from Review Panel to the Commissioner – Request for Reinvestigation (published 24 December 2021). Page 13.  
<https://www.industry.gov.au/data-and-publications/anti-dumping-review-panel-current-reviews/precision-pipe-and-tube-steel-exported-from-the-peoples-republic-of-china-and-the-socialist-republic-of-vietnam>

*contribution from the GOC through the operation of Program 20.*

The Panel Member went on to remark that Investigation 550's finding that Dalian was not in receipt of a Program 20 countervailable subsidy, due to its purchases of HRC from private mill suppliers at prices which were below those offered by State Owned Enterprises (**SOE's**), may be viewed as an exception but was anomalous given that the Commission, through its earlier enquiries, has accepted both the prevalence and influence of Program 20 upon the price of steel exports from China.<sup>3</sup>

PRR 550 appears to only briefly address the ADRP's concerns, citing that Investigation 550 is the first of its type into precision pipe & tube steel, and that in the absence of other verified data concerning HRC purchases to manufacture the goods in China, it is difficult to conclude whether Dalian's circumstances are an exception.<sup>4</sup> Orrcon submits that this preliminary comment does not adequately address the Panel Member's request that the Commission be satisfied that Dalian would not need to pay more to its "private" mill suppliers of HRC in the absence of a financial contribution from the GOC.

Notwithstanding this brevity, the Commission was able to assess whether Dalian's HRC purchases were an exception vis-à-vis **other** Chinese manufacturers<sup>5</sup> of the goods,<sup>6</sup>

- *As observed by the ADRP, the commission has accepted in previous cases that Program 20 confers a countervailable benefit for other exporters (albeit not in respect of Dalian Steelforce).*
- *As part of its market situation analysis in REP 550, the commission was satisfied that SIEs continue to provide inputs to Chinese steel companies at below-market prices.*

concluding, given this previous case law, that the purchasing behaviour of non-cooperative Chinese exporters in the current investigation would not have changed from the purchasing behaviour of similar non-cooperative exporters earlier – and hence that Program 20 conferred a countervailable benefit to such exporters, increasing the overall subsidy margin from 42.7% to 46.3%.

This previous case assessment appears to confer to Dalian an exemption by default given its exclusion of an assignment of a Program 20 countervailable benefit in hollow structural sections (**HSS**). In PRR 550, the Commission notes:<sup>7</sup>

*...that while it has 'accepted both the prevalence and influence of Program 20 upon the price of steel exports in China', it has not done so in respect of any exports of the goods by Dalian Steelforce, with the exception of INV 177, which was later overturned by the Federal Court.*

What is not clear is if the Commission is seeking to place reliance on this (the INV 177 overturn) in addressing the ADRP's direction on whether Dalian would not need to pay more to its private mill suppliers of HRC in the absence GOC intervention. In any case, the Panel Members request is not explicitly addressed.

What is clear, however, is the existence of other cooperative exporters (by default) in the Commissions above assessment. Had there existed more than one cooperative exporter in the current inquiry, purchasing HRC from either/or private suppliers and SOE's, Orrcon submits that the Commission would have been required to conclude that Program 20 conferred a benefit to that particular exporter. The fact that Dalian's much earlier exclusion from countervailable measures should not impact a stand-alone assessment based on the merits and circumstances of Investigation 550.

Orrcon agrees with the Panel Member's comment that it would be imprudent to accept an exception as the norm, and requests that the Commission specifically address Dalian's circumstances in the final report.

<sup>3</sup> Letter from Review Panel to the Commissioner – Request for Reinvestigation (published 24 December 2021). Page 15.

<sup>4</sup> PRR 550, p. 18.

<sup>5</sup> The Commission did not state that its consideration was limited to non-cooperative exporters.

<sup>6</sup> PRR 550, p. 19.

<sup>7</sup> Ibid, p. 18.

IV. Basis of Program 20

PRR 550 sequentially highlights the previous HSS findings in relation to Program 20 – that a competitive benchmark, as then compared to the price paid by Chinese exporters for domestic HRC, was used to determine the countervailable benefit. In its application to the ADRP, Orrcon included the following table in detailing the specifics of the benchmark in the previous inquiries:

Inquiry No.	Goods	Inquiry Period	PMS	LTAR	Non-Chinese Benchmark	Benchmark
177	Hollow Structural Sections (investigation)	Jul. 2010 – Jun. 2011	✓	✓	✓	Verified HRC costs of cooperating exporters from Korea, Malaysia, and Taiwan.
379	Hollow Structural Sections (continuation)	Jul. 2015 – Jun. 2016	✓	✓	✓	Verified HRC costs of cooperating exporters from Korea, Malaysia, and Taiwan.
419	Hollow Structural Sections (variable factors review)	Jul. 2016 – Jun. 2017	✓	✓	✓	Verified HRC costs of cooperating exporters from Korea and Taiwan.
529	Hollow Structural Sections (variable factors review)	Oct. 2018 – Sep. 2019	✓	✓	✓	Verified HRC costs of cooperating exporters from Korea, Taiwan, and Thailand.

PRR 550 preliminary concludes that:<sup>8</sup>

*...the subsidy margin for Program 20 as it applies to non-cooperative entities ought to be calculated consistent with how it was determined in these previous cases. This approach also makes the calculation of the Program 20 subsidy margin consistent with the determination of the subsidy margin for all other programs in INV 550.*

Given the extensive nature of Investigation 550, the scope of which included multi-country anti-dumping and countervailing assessments, for the avoidance of doubt, and in the interests of full transparency, Orrcon requests that the Commission's final reinvestigation report explicitly state the specific details and composition of the Program 20 benchmark.

If you have any questions concerning this submission, please do not hesitate to contact me on [REDACTED] [REDACTED].

Kind regards,

[REDACTED]  
 Manager – Trade Measures

<sup>8</sup> PRR 550, p. 22.