



Australian Government
Department of Industry,
Innovation and Science

Anti-Dumping
Commission

PUBLIC RECORD

Received

Anti-Dumping Commission 17/08/2021

Application for the
continuation of a dumping
and/or
countervailing notice
or
continuation of an undertaking

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**APPLICATION UNDER SECTION 269ZHC OF THE *CUSTOMS ACT 1901*
FOR THE CONTINUATION OF A DUMPING AND/OR COUNTERVAILING
DUTY NOTICE OR CONTINUATION OF AN UNDERTAKING**

I hereby request, in accordance with section 269ZHC of the *Customs Act 1901* (the Act) that the Minister:

- continue a dumping duty notice, or
- continue a countervailing duty notice, or
- continue the undertaking given under the Act by

AUSTUBE MILLS PTY LIMITED

(Name of company or organisation)

in respect of the goods the subject of this application.

I believe that the information contained in this application:

- provides reasonable grounds for continuation of the anti-dumping measure; and
- is complete and correct to the best of my knowledge and belief.

Signature:

Name:

Position:

Authorised agent and representative

Company:

ABN:

21 123 666 679

Date:

16 August 2021

Authorisation at **Confidential Attachment Authority**.

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Signature requirements

Where the application is made:

By a company - the application must be signed by a director, servant or agent acting with the authority of the body corporate.

By a joint venture - a director, employee, agent of each joint venturer must sign the application. Where a joint venturer is not a company, the principal of that joint venturer must sign the application form.

On behalf of a trust - a trustee of the trust must sign the application.

By a sole trader - the sole trader must sign the application.

In any other case - contact the Commission's client support section for advice.

Assistance with the application

The Anti-Dumping Commission has published guidelines to assist applicants with the completion of this application. Please refer to the '*Instructions and Guidelines for applicants: Application for continuation*' on the Commission's website.

The Commission's client support section can provide information about dumping and countervailing procedures and the information required by the application form. Contact the team on:

Phone: 13 28 46

Fax: (03) 8539 2499

Email: clientsupport@adcommission.gov.au

Other information is available from the Commission's website at www.adcommission.gov.au

Small and medium enterprises (i.e., those with less than 200 full-time staff, which are independently operated and which are not a related body corporate for the purposes of the *Corporations Act 2001*), may obtain assistance, at no charge, from the Department of Industry, Innovation and Science's International Trade Remedies Advisory (ITRA) Service. For more information on the ITRA Service, visit www.business.gov.au or telephone the ITRA Service Hotline on +61 2 6213 7267.

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Required information

1. Provide details of the name, street and postal address, of the applicant seeking the continuation.

The applicant is Austube Mills Pty Ltd (**Austube Mills**), an Australian manufacturer of hollow structural sections (HSS).

Address and contract details are as follows:

Head office and street address

Austube Mills
Building 7
Industrial Drive
Mayfield, NSW 2304

Postal Address

Austube Mills
PO Box 156
Newcastle NSW 2300

2. Provide details of the name of a contact person, including their position, telephone number and facsimile number, and e-mail address.

Primary contact

Contact Name: ■
Position: Authorised agent and representative
Telephone: ■
Facsimile: N/A
E-mail address: ■

Alternative contact

■
Manager Trade Development
Telephone: ■
Facsimile: ■
E-mail address: [XX](#)

3. Provide the names, addresses, telephone numbers and facsimile numbers of other parties likely to have an interest in this matter e.g. Australian manufacturers, importers, exporters, users.

Other Australian Manufacturers

Orrcon Operations Pty Ltd (Orrcon)
121 Evans Road
SALISBURY QLD 4107
Tel: 07 3274 0500
Contact person:
■
Team Leader – Trade Affairs

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Tel: [REDACTED]
Email: [REDACTED]

Australian Pipe and Tube Pty Ltd (APT)
2-14 Independent Way
RAVENHALL VIC 3023
Tel: 03 8361 8366

Exporters

China

Dalian Steelforce Hi-tech Co., Ltd (Dalian Steelforce)
A-7, Dd 2 Street
Dd Port
Dalian Hi-Tech Industrial Zone
Dalian, Liaoning, China 116600
Tel: 86 411 87549531

Hengshui Jinghua Steel Pipe Co., Ltd (Hengshui)
1 Xiangsu East Road
North Ind Base Taocheng District
Hengshui China 05300
Tel: 86 318 6018-112

Huludao City Steel Pipe Industrial Co., Ltd (Huludao)
Beigang Industrial Park
Changjiang Road
Huludao, Liaoning China
Tel: 86 429 2065655

Qingdao Xiangxing Steel Pipe Co Ltd (Qingdao)
No 48, No 204 Road
Chengyang District, Qingdao City
Shandong Province China
Tel: 86 532 8776 1199

Tianjin Youfa Steel Pipe Co Ltd (Tianjin Youfa)
RM 1502-1509
15F, No.4 Anshun Building
Dafeng Road
(Aqua City) Hongqiao Tianjin City, China 300120
Tel: 86 22 5833 8800-812

Korea

HiSteel Co., Ltd (HiSteel)
8th floor, Hanyoung Building
28 Toegye-ro 27-gil,
Jung-gu, Seoul, Republic of Korea

Malaysia

Alpine Pipe Manufacturing Sdn. Bhd (Alpine)
Lot 6085
Jalan Haji Abdul Manan

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5 ½ Mile, Jalan Meru, 41050
Klang Selangor 42200 Malaysia
Tel: 60 3 3392 7678

Taiwan

Shin Yang Steel Co., Ltd (Shin Yang)

No. 297, Yuliao Road,
Qiaotou District
Kaohsiung City 82544, Taiwan

Ta Fong Steel Co. Ltd (Ta Fong)

6, Kung His 2nd Road,
Shen Kang Hsiang
Chang Hua Hsien, Taiwan

Importers

Sanwa Pty Ltd (Sanwa)

201/100 New South Head Road
Edgecliff NSW 2013
Telephone: 02 9362 3088

ThyssenKrupp Mannex Pty Ltd (TKM)

Level 4, Tower B
799 Pacific Highway
Chatswood NSW 2064
Telephone: 02 8424 2000

MacSteel International Australia Pty Ltd (MacSteel)

41 Walker St
North Sydney
NSW 2060
Tel: 02 8912 6600

Duferco International Trading Holding Australia Pty Ltd (DITH)

Level 30
31 Market Street
Sydney NSW 2000
Telephone: 02 9284 5600
Facsimile: 02 9284 5601

GP Marketing International Pty Ltd (GP Marketing)

Level 4, 160 Pacific highway
North Sydney, NSW 2060
Tel: (02) 9925 0755
Fax: (02) 9925 0909

- 4. The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods. Applicants should refer to the “Guidelines for Preparing an Application for Continuation of Measures” for assistance.**

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Refer to **Public Record Attachment A**.

5. The applicant must provide details of the current anti-dumping measure(s) the subject of this continuation application, including:

The goods the subject of this continuation application to which the current anti-dumping measures apply (the **goods**) are:

Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes.

The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections).

Finish types for the goods include inline galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS. Non-galvanised HSS is typically of painted, black, lacquered or oiled finish coatings. CHS with other than plain ends (such as threaded, swaged and shouldered) are also included.

Sizes of the goods are, for circular products, those exceeding 21 millimetres (mm) up to and including 165.1 mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3 mm.

Excluded goods

Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6 mm and air heater tubes to Australian Standard (AS) 2556.

Goods subject to Tariff Concession Order 1609617 with an effective date of 16 February 2016.

Tariff classification:

The goods are classified to the following tariff subheadings in Schedule 3 to the Customs Tariff Act 1995:

7306.30.00 (statistical codes 31, 32, 33, 34, 35, 36 and 37), circular hollow sections.;

7306.50.00 (statistical code 45), other circular cross-sections of other alloys of steel;*

7306.61.00 (statistical codes 21, 22, 25 and 90), rectangular or square hollow sections; and*

7306.69.00 (statistical code 10), other non-circular cross-sections.

** The tariff subheadings (7306.61.00 (90) and 7306.50.00 (45)) apply to the following exporters/suppliers following Anti- Circumvention Inquiry 291 (**INQ 291**).*

- Dalian Steelforce Hi-Tech Co. (China);*
- Tianjin Friend Steel Pipe Co. Ltd (China);*
- Tianjin Ruitong Iron and Steel Co. Ltd (China);*
- Roswell S A R Ltd (China); and*

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- *Alpine Pipe Manufacturing SDN BHD (Malaysia)*

The countries or companies:

Anti-dumping measures in the form of interim dumping duties (**IDDs**) apply to all exporters from the People's Republic of China (**China**), the Republic of Korea (**Korea***), Malaysia and Taiwan.

*On 12 March 2021, with an effective date of 13 March 2021, the anti-dumping measures were revoked against Kukje Steel Co Ltd (**Kukje**) of Korea.

Anti-dumping measures in the form of interim countervailing duties (**ICDs**) apply to all exporters from China except for exports by Huludao and Qingdao.

Specified date of publication of the measure

The date of publication of anti-dumping measures applied to HSS exports from China, Korea, Malaysia and Taiwan was 3 July 2012 (refer ACDN No. 2012/31).

The measures were continued for five years from 3 July 2017, refer ADN 2017/70.

The measures were last amended following Review 529 (**REV 529**), refer ADN 2021/11 published 12 March 2021.

Provision of data

Industry financial data must, wherever possible, be submitted in an electronic format.

- The data should be submitted on a media format compatible with Microsoft Windows.
- Microsoft Excel, or an Excel compatible format, is required.
- If the data cannot be presented electronically please contact the Commission's client support section for advice.

Industry financial data is contained in electronic format in the Confidential Appendices submitted with this application.

Lodgement of the application

This application, together with the supporting evidence, must be lodged in the manner approved by the Commissioner under subsection 269SMS(2) of the Act. The Commissioner has approved lodgement of this application by either:

- preferably, email, using the email address clientsupport@adcommission.gov.au, or
- post to:

The Commissioner of the Anti-Dumping Commission
GPO Box 2013
Canberra ACT 2601, or
- facsimile, using the number (03) 8539 2499.

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Public Record | During an investigation all interested parties are given the opportunity to defend their interests, by making a submission. The Commission maintains a public record of these submissions. The public record is available on the Commission's website at www.adcommission.gov.au.

At the time of making the application both a confidential version (for official use only) and non-confidential version (public record) of the application must be submitted. Please ensure each page of the application is clearly marked "FOR OFFICIAL USE ONLY" or "PUBLIC RECORD". The non-confidential application should enable a reasonable understanding of the substance of the information submitted in confidence. If you cannot provide a non-confidential version, contact the Commission's client support section for advice.

Austube Mills Pty Ltd
ABN 21 123 666 679

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PUBLIC RECORD ATTACHMENT A

4. The application must include a detailed statement setting out reasons for seeking continuation of the anti-dumping measure. Applicants must provide evidence addressing whether, in the absence of measures, dumped or subsidised imports would cause material injury to the local industry producing like goods. Applicants should refer to the “Guidelines for Preparing an Application for Continuation of Measures” for assistance.

The applicant, Austube Mills, seeks the continuation of the anti-dumping measures that were imposed on Hollow Structural Sections (**HSS**) exported from the People’s Republic of China (**China**), the Republic of Korea (**Korea**), Malaysia and Taiwan (the subject countries) following the completion of Investigation 177 (**INV 177**). The measures were continued for a further five years following the completion of Continuation Inquiry 379 (**CON 379**) and were last reviewed in the recently completed Review 529 (**REV 529**). Measures apply to all exporters from the subject countries except for, the Korean exporter, Kukje Steel Co Ltd (**Kukje**¹).

It is Austube Mills’ firm view that based on available facts, it is more likely than not, that the expiration of measures on HSS exported from the subject countries would lead or would be likely to lead to a continuation of, or a recurrence of, the dumping and subsidisation and the material injury that the anti-dumping measures are intended to prevent.

The reasons supporting this view include the following:

- Since the measures were continued in 2017, two reviews have found that exporters from Malaysia, Taiwan and China had continued to dump and in the most recent review exporters from Korea were found to have been dumping.
- Exporters have generally maintained their distribution channels to Australia and continue to export the goods to the Australian market since the imposition of measures.
- Despite the COVID-19 pandemic causing short to medium term disruptions to global supply chains, there remains underlying global overcapacity of steel production that will drive marginally costed products to be exported to countries that don’t have effective fair trade remedies in place.
- Austube Mills’ domestic prices will continue to be directly influenced by the price of the imported goods including those from the subject countries.

4 (i)(a) Will dumping continue or recur?

- **Whether the exporter retains excess capacity that may be directed to Australia**
- **Actions by other countries**

Summary

Overcapacity in world steel markets has triggered an unprecedented number of global trade defence actions that include the United States’ (US) Section 232 tariffs and the European Union’s (EU) steel safeguard actions. Whilst the COVID-19 pandemic has resulted in significant economic uncertainty, this overcapacity remains a continuing concern.

¹ Measures applying to Kukje were revoked following REV 529.

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These broad trade defence actions affect export markets for all countries including the subject countries and it is expected that export volumes will significantly increase when world trade returns to, or even exceeds, previous levels following the global pandemic. Export volumes displaced by the trade defence actions will likely be diverted to open markets, making Australia an attractive destination for excess capacity of HSS, particularly in the absence of continued effective anti-dumping and countervailing measures.

Discussion and Evidence

- **Overcapacity in steel markets**

Ongoing excess capacity continues to be a significant challenge for the global steel industry.

On 28 June 2021, the EU extended safeguard measures for a further three years from 1 July 2021 to 30 June 2024, **Public File Attachment 1** refers. The EU noted the following in its reasons for the extension.

*The conditions that required the launch of the safeguard initially are still very much present – **including global steel overcapacity and US Section 232.** [emphasis added]*

This measure will ensure there is a modicum of certainty for EU steel producers, provide ample access to third-country supplies of steel for users, and help ward off disruptive post-COVID surges of steel imports.

The extended safeguard would apply to the same products as it does now.

This measure mainly provides a safety net in the event that a sharp surge in imports occurs,

The current state of demand-supply disruption in the global steel industry – and in many other sectors – follows in the wake of the COVID crisis.

Instead, the recovery of steel demand and the wider economic rebound has inspired a rush for material after the countercyclical destocking seen during the downturn.²

To defend its steel industry against distorted trade flows, the United Kingdom of Great Britain and Northern Ireland (**UK**) on 1 July 2021 introduced emergency legislation to extend steel safeguard measures, including HSS, that applied whilst the UK was part of the EU. The article on the extension of the measures notes:

warnings from the UK steel industry that removing tariffs on a wide array of products would be a “hammer blow”

The current government will review it to ensure it is up-to-date, champions WTO rules and is fit for purpose in the post-Covid world,

The EU recently extended its steel safeguards for a further three years, prompting fears that the UK could be the target of steel dumping if it lowered its defences.³

² EU Press release, extension of safeguard measures, 28 June 2021.

³ <https://www.ft.com/content/7292c0e6-fcec-4cc3-84dd-2dbb93549f20>

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The OECD Steel Committee at its 86th session in March 2019 provided the following insight in relation to global steel capacity:

The gap between steel capacity and production is therefore expected to remain high, at 425.5 million metric tons in 2018.⁴

The OECD report on developments in steelmaking capacity (June 2020) identifies that Asia is a region where capacity is growing faster than other regions.

The net capacity change in 2019, taking into account new capacity additions and closures, brings current global steelmaking capacity up to 2 362.5 mmt, representing a 1.5% increase from the level at the end of 2018.

*In 2019, most of the capacity additions took place **in Asia**, where an additional 30.4 mmt of capacity (+1.9%) was deployed in 2019.*

Moreover, many investment projects continue to take place around the world and others are in the planning stages. Should these projects be realized, global steelmaking capacity could increase by approximately 2-3% between 2020 and 2022 in the absence of closures.

Over 27 mmt and 19 mmt of gross capacity additions are currently underway for start-up during 2020-22 in Asia and the Middle East region, respectively, with an additional 3.0 mmt and 6.0 mmt in the planning stages in these regions, respectively.⁵

the OECD forecasts that world GDP will drop by 6%-7.6% in 2020 and rebound by 2.8%-5.2% in 2021, depending on whether the global economy faces a second wave of the COVID-19 epidemic by the end of 2020.

*Steel production growth turned negative in all regions, with the exception of **Asia** and the Middle East. (emphasis added)*

Although the demand and production shocks caused by the COVID-19 outbreak began to abate in the second half of 2020, the crisis risks resulting in long-lasting and significant impacts on the steel sector.

Global steelmaking capacity could increase to 2 455.8 mmt at the end of 2020, i.e. by 1.7% (41.8 mmt) from the level at the end of 2019, according to the available information as of June 2020. World steel production as a share of capacity is expected to fall from 76.6% in 2019 to 71.2% in 2020.⁶

Excess capacity of exporters that may be directed to Australia

Excess capacity of exporters subject to the measures was last reviewed in the continuation inquiry, CON 379. The report into the continuation of the measures, Report No. 379 (**REP 379**), made the following findings into excess capacity of the subject countries.

⁴ <http://www.oecd.org/sti/ind/86-oecd-steel-chair-statement.htm>

⁵ <https://www.oecd.org/industry/ind/latest-developments-in-steelmaking-capacity-2020.pdf>

⁶ <https://www.oecd.org/industry/ind/steel-market-developments-Q4-2020.pdf>

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Capacity of the goods from the Chinese exporters was 5.8 million tonnes in 2015. These figures are particularly concerning, as global usage rates as of 2014 were only between 50 to 60 per cent with forecast usage rates to decline slightly in the near term.⁷

China's crude steel industry not only has a capacity problem, it is faced with an environment of chronic oversupply. This appears even more pronounced in the pipe and tube sector due to recent increases in production despite the current rebalancing of the economy away from traditional demand drivers for the goods.⁸

The Korean exporters that the Commission are aware of as part of this continuation inquiry have a capacity to produce over 2.3 million tonnes the goods, which is almost five times the current size of the Australian market for the goods. Most notably, Korea's overall excess capacity, and recent production volumes of pipe and tube are second only to China.⁹

The (Taiwanese) exporters known to the Commission from the continuation inquiry have a capacity to produce 500,000 tonnes of the goods, which is larger than the current size of the Australian market. Total production of pipe and tube was ... 228,000 tonnes in 2015. That figure is almost half the size of the current Australian market.¹⁰

Malaysian production of the goods is almost double the size of the current Australian market. In the years 2013 and 2014 Malaysia witnessed a downturn in the domestic construction sector. As a result Malaysian consumption rates of the goods declined by almost 200,000 tonnes. Exports of the goods surged in response to the oversupply.¹¹

The Commission has demonstrated above that the countries subject to the measures all currently have over capacity and oversupply problems, and a majority are facing decreasing domestic demand resulting in the increasing use of exports to deal with these structural problems, at a time when they face numerous trade remedy related sanctions in numerous export markets.¹²

Recent findings in other jurisdictions have found that that the subject countries retain excess capacity:

The analysis of information on the record indicates that China is a net exporter of steel products and has substantial CSWP production capacity, ... steel producers in China are dependent on exports to maintain capacity utilization rates due to the insufficient domestic demand in China.¹³

Chinese Taipei (Taiwan) produces more steel than it consumes and, for a number of years, has exported more than half of all the steel it produces... The fact that exporters in Chinese Taipei would remain focused on two foreign markets, the US and Australia, despite having anti-dumping measures in place on similar carbon steel tubular products, indicates that the country's steel producers are heavily reliant on exports.

⁷ REP 379, p. 51

⁸ REP 379, p.52

⁹ REP 379, p.54

¹⁰ REP 379, p.57

¹¹ REP 379, p.59

¹² REP 379, p. 60

¹³ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/cswp12018/cswp12018-de-eng.html>

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Korea is the world's fourth largest steel exporter and in the first three quarters of 2017, Korea exported 23.7 million MT, a 5% increase from 22.5 million MT in the same time period in 2016. With respect to pipe and tube products, Canada is among Korea's top five export markets along with the US, Kuwait, Japan, and the UAE.¹⁴

South Korean producers are highly leveraged to export markets, ... In the first half of 2018, South Korea produced 36.1 MMT of steel while apparent consumption was 28.3 MMT.

The information on the record clearly indicates that South Korea continues to be highly reliant on export markets for its steel products. The increase in sales to other markets in response to the market shock and restricted access created by the section 232 tariffs (subsequently mitigated by the amended KORUS agreement) is evidence of the South Korean exporters' ability to significantly switch market focus, in response to changes in circumstances.¹⁵

As noted above the latest OECD reports notes significant capacity additions in Asia in 2019 with further additions underway for 2020-2022. Further excess capacity is expected to increase with world steel production as a share of capacity expected to fall from 76.6% in 2019 to 71.2% in 2020.

The above provides compelling evidence that increased production capacity, decreased demand and the resultant growing excess capacity, particularly in Asia, will continue to be a significant part of the post COVID global steel sector, including HSS. The available evidence further indicates that post COVID-19 there is likely to be an excess in supply and demand for HSS and a sharp surge in imports as traditional exporters increase production and seek markets for that excess production.

Actions by other countries

There are a number of different types of trade defence actions used by countries that are not limited to anti-dumping and countervailing actions. These include Safeguard actions and specific country legislative instruments, such as the US Section 232 and US Section 301 tariffs.

US Section 232

Following an investigation by the US Department of Commerce under Section 232 of the US Trade Expansion Act of 1962, the publicly released report concluded that the quantities and circumstances of steel and aluminium imports "threaten to impair the national security" of the United States.¹⁶

On 8 March 2018, a Presidential Proclamation was signed imposing a tariff of 25 per cent on all imports of steel and 10 per cent on all imports of aluminium commencing 23 March 2018. As of 20 May 2019, tariffs apply to steel from all countries of origin except Argentina, Australia, Brazil, Canada, Mexico and South Korea.

¹⁴ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/cswp22017/cswp22017-de-eng.html>

¹⁵ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/hss2018/hss2018-de-eng.html>

¹⁶ https://www.commerce.gov/sites/commerce.gov/files/the_effect_of_imports_of_steel_on_the_national_security_-_with_redactions_-_20180111.pdf

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On April 30, 2018, the President issued a Presidential Proclamation under Section 232 of the Trade Expansion Act of 1962 providing for an absolute quota for imports of steel mill products from South Korea.¹⁷

Whilst the imports of steel products, including HSS, from Korea to the US are not subject to the 25% tariff the absolute quota imposes a restriction limiting the volume of imports of steel products including HSS from Korea.

Imports of steel from the other subject countries into the US, namely China, Malaysia and Taiwan, are subject to the full 25% tariff rate.

Antidumping actions by other countries

a. US Measures on Heavy Walled RHS

The US imposed anti-dumping measures on rectangular and square hollow sections (**RHS**) exported from Korea effective from September 2016. The RHS in the US actions is described as certain heavy walled rectangular welded steel pipes and tubes of rectangular (including square) cross section, having a nominal wall thickness of not less than 4 mm. The dumping rates found ranged from 3.24% to 3.86%¹⁸.

The RHS subject to the US measures is similar to the RHS subject to the Australian measures and are classified to the same six-digit tariff sub heading, 7306.61. The scope of the goods specifies RHS having a nominal wall thickness of not less than 4mm, which overlaps with the goods subject to the Australian measures.

The US collects anti-dumping duties retrospectively in annual reviews. Completed reviews to 2019 have resulted in rates found of 0.0%¹⁹ to 53.80%.²⁰

b. US Measures on Light Walled RHS

The US has anti-dumping measures on RHS exported from Taiwan, and Korea and China²¹. The RHS in the US actions is described as certain welded carbon quality light-walled steel pipe and tube, of rectangular (including square) cross section, having a wall thickness of less than 4 mm.

The RHS subject to the US measures is similar to the RHS subject to the Australian measures and are classified to the same six-digit tariff sub heading, 7306.61. The scope of the goods specifies RHS having a nominal wall thickness of less than 4mm, which overlaps with the goods subject to the Australian measures.

The measures on light walled RHS were continued for a further five years for Taiwan in 2017 and Korea and China in 2019 with the ITA determining that revocation of the anti-dumping orders would likely lead to continuation or recurrence of dumping, with weighted average dumping margins likely to prevail up to 40.97% for Taiwan²², 30.66 percent for Korea and 255.07% from China.

¹⁷ <https://www.cbp.gov/trade/quota/bulletins/qb-18-120-korea-steel-annual-limits>

¹⁸ <https://enforcement.trade.gov/frn/summary/korea-south/2016-17313.txt>

¹⁹ <https://www.govinfo.gov/content/pkg/FR-2021-07-01/html/2021-14109.htm>

²⁰ <https://www.govinfo.gov/content/pkg/FR-2020-07-10/html/2020-14918.htm>

²¹ Countervailing duties were imposed on China at the same time.

²² <https://enforcement.trade.gov/frn/summary/taiwan/2017-09355.txt>

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The US International Trade Commission (ITC) determined that revocation of the orders would likely lead to a continuation or recurrence of material injury to an industry in the United States.²³

c. US Measures on Circular welded steel pipe (CWP)

The US imposed anti-dumping measures on circular welded nonalloy steel pipe exported from Korea and Taiwan. The pipe in the US actions is described as circular welded non-alloy steel pipe and tube, of circular cross-section, not more than 406.4mm (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). The pipe subject to the US measures is similar to the CHS subject to the Australian measures and is classified to the same six-digit tariff sub heading, 7306.30.

The most recently completed reviews to 2019 have resulted in dumping rates found up to 53.80%²⁴ for exporters from Korea and for Taiwan rates of 2.73%²⁵.

d. US Measures on CHS Oil country tubular goods (OCTG)

The US has anti-dumping measures on Oil Country Tubular Goods (OCTG) exported from China²⁶ effective from 2010 and Korea. The description of OCTG in the US actions includes hollow steel products of circular cross-section of steel (both carbon and alloy), whether seamless or welded, regardless of end finish (e.g., whether or not plain end, threaded, or threaded and coupled) whether or not conforming to American Petroleum Institute (API) or non-API specifications, whether finished or unfinished.

The OCTG goods includes circular welded hollow steel products regardless of end finish and finish of non-API specifications. These OCTG goods subject to the US measures are similar to the CHS subject to the Australian measures.

The latest completed reviews saw dumping rates of 3.96% found for exporters from Korea²⁷.

e. Canadian measures on HSS

Canada has anti-dumping measures on certain structural tubing known as hollow structural sections (HSS) exported from Korea. The description of the goods in the Canadian action is Structural tubing known as hollow structural sections made of carbon and alloy steel, welded, in sizes up to and including 16.0

inches (406.4 mm) in outside diameter (O.D.) for round products and up to and including 48.0 inches (1,219.2 mm) in periphery for rectangular and square products.

The HSS subject to the Canadian measures is similar to the HSS subject to the Australian measures and is classified to the same six-digit tariff sub headings, 7306.30, 7306.50 and 7306.61.

²³ [https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2019/Light-Walled%20Rectangular%20Pipe%20and%20Tube%20from%20China,%20Korea,%20Mexico,%20and%20Turkey/Second%20Review%20\(Full\)/fr-notice-final_results.pdf](https://www.usitc.gov/trade_remedy/731_ad_701_cvd/investigations/2019/Light-Walled%20Rectangular%20Pipe%20and%20Tube%20from%20China,%20Korea,%20Mexico,%20and%20Turkey/Second%20Review%20(Full)/fr-notice-final_results.pdf)

²⁴ <https://www.govinfo.gov/content/pkg/FR-2020-07-10/html/2020-14918.htm>

²⁵ <https://www.govinfo.gov/content/pkg/FR-2020-01-22/html/2020-00951.htm>

²⁶ Countervailing duties were imposed on China at the same time.

²⁷ <https://www.govinfo.gov/content/pkg/FR-2020-07-13/html/2020-15052.htm>

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Canada's latest expiry review, concluded in May 2019, found that the expiry of the order on HSS from Korea would be likely to lead to continuation or recurrence of dumping and material injury.

f. Canadian measures on Carbon Steel Welded Pipe (CSWP)

Canada has anti-dumping measures on carbon steel welded pipe (**CSWP**) exported from Korea and Taiwan. Anti-dumping and countervailing measures are in place on exports from China and were continued on Korea, Taiwan and China for a further five years in November 2018²⁸.

The description of the goods in the Canadian action includes nominal size range from 1/2 inch up to and including 6 inches (12.7 mm to 168.3 mm in outside diameter) inclusive, in various forms and finishes. The CSWP subject to the Canadian measures is similar to the CHS subject to the Australian measures and is classified to the same six-digit tariff sub heading, 7306.30.

g. Thailand actions on HSS

On 20 July 2017 Thailand imposed anti-dumping duties on exports of Certain Iron Steel Pipe and Tube from China and Korea.²⁹

The Pipe and Tube subject to the duties include tariff codes 7306.30, 7306.50, 7306.61 and 7306.69, 7306.90. The tariff codes, 7306.30, 7306.61 and 7306.69, are the same codes that the HSS subject to the Australian measures fall within.

4. (i)(b) Likelihood that dumping and subsidisation will continue or recur

Summary

Evidence supporting the likelihood that dumping and subsidisation might continue or recur includes:

- The most current verified information from the recently concluded review of the measures, Review No. 529 (**REV 529**) showing dumping and subsidisation continuing for most exporters subject to the measures;
- Exporters retaining distribution links in Australia;
- Relevant findings on exporter behaviour and dumping in other jurisdictions; and
- The price sensitivity of HSS in the Australian market.

Discussion and evidence

Review 529 findings

In March 2021, REV 529 found the following dumping and subsidy margins for exporters subject to the measures.

China (dumping) – 9.1% to 24.9%, subsidy – 3.3% to 45.6%.

Korea (dumping) – negative 6.2% to positive 2.8%.

Malaysia (dumping) – 26.3% to 27.2%.

Taiwan (dumping) – 0.5% to 53.6%.³⁰

²⁸ <https://www.cbsa-asfc.gc.ca/sima-lmsi/mif-mev/cswp1-eng.html>

²⁹ <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/G/ADP/N350THA.pdf&Open=True>

³⁰ REP 529, p.9

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REV 529 also found that a particular market situation existed in respect of the domestic market for HSS in China for the review period³¹, that the Government of China (**GOC**) exerts significant influence over the Chinese steel market³² and that the GOC interference has resulted in distortions in the Chinese HRC and HSS markets affecting all participants in the Chinese market in the same way³³.

Rev 529 found that financial benefits were conferred to HSS producers from China in respect of the goods via countervailable subsidy programs. The Commission examined 66 programs and listed 61 of the programs where evidence was available that the programs were countervailable.³⁴

Austube Mills submits that, given there is no available evidence to the contrary, the particular market situation and countervailable subsidy programs found in REV 529, previous reviews, the original investigation and the previous continuation inquiry, still apply in regard to HSS in China.

Exporters retaining distribution links

The latest available information on the Commission's Trade Remedy Index (**TRINDEX**) website shows that imports of HSS from China, Korea and Taiwan have continued for every month from January 2018 to June 2021³⁵ which evidences that exporters from those countries have retained distribution links to Australia.

Whilst exports from Malaysia do not appear separately on TRINDEX, available information indicates that Malaysian exporters have retained distribution links to Australia, (**Confidential Attachment 1**, refers), and have continued to export HSS to Australia (**Confidential Attachment 2**, refers).

Findings in other jurisdictions

The recent Canadian HSS expiry review previously noted, found that HSS competes in markets that are extremely price sensitive and because of this, prices in a given market may tend to converge over time towards the lowest available price offerings.

The review also found that Korean exports would compete in the market largely on the basis of price and that Korean exporters would be unlikely to compete without dumping. Measures in Canada and the other jurisdictions demonstrate that Korean exporters have a propensity to dump steel products.³⁶

The recent Canadian CSWP expiry review for China noted that anti-dumping measures have been imposed by Canada, the US, the EU and many other jurisdictions with respect to similar goods from China and found that exporters from China have been unable to export at non-dumped prices.

The review also found that due to continued availability of subsidy programs for CSWP exporters in China; the Government of China's provision of subsidies to its manufacturers in the steel sector; and the countervailing measures against pipe products from China in both Canada and the United States that subsidisation of the exported CSWP was likely to continue.³⁷

³¹ REP 529, p. 33

³² REP 529, p.145

³³ REP 529, p.149

³⁴ REV529, p.154-162

³⁵ <https://www.industry.gov.au/data-and-publications/trade-remedy-index>

³⁶ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/hss2018/hss2018-de-eng.html>

³⁷ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/cswp12018/cswp12018-de-eng.html>

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The recent Canadian CSWP expiry review for Korea and Taiwan found that exporters from Korea and Taiwan continued to export goods at dumped prices to Canada during the three-year review period and were likely to continue to export goods at dumped prices should the measures expire. The review further noted similar findings in the recent US expiry review on Circular Welded Pipe.³⁸

Price sensitivity in the Australian market

Report No. 177 (**REP 177**), the report into the original investigation that imposed the measures, noted the following in regard to price sensitivity:

*Customs and Border Protection considers this (the evidence referred to) illustrates a significant degree price transparency and sensitivity in the Australian HSS market. In this context, it is reasonable to expect that Australian industry would be cognisant of, and influenced by, competitors' prices when determining the prices they could achieve in the Australian market.*³⁹

Austube Mills notes that REP 379 also found that:

*The Australian produced goods and the imported goods have similar end uses, meet the similar quality specifications and standards, are sold to the same types of customers and compete directly with each other in the same markets. Previous investigations and reviews of measures by the Commission indicate that the HSS market is a commodity market and that price is the major factor in customers' purchasing decisions.*⁴⁰

Austube Mills submits that the Australian HSS market continues to show significant price sensitivity and price is the major criteria in customers' purchasing decisions. Product and brand differentiation is minimal as long as the products satisfy the requirements of the Standards the products are sold to.

Conclusion

Recent reviews in Australia have found that exporters from China, Korea, Malaysia and Taiwan have continued to export the goods at dumped and subsidised prices.

Recent reviews in other jurisdictions have also found that exporters from China, Korea and Taiwan have exported similar goods at dumped and subsidised prices and that dumping and subsidisation was likely to continue should the measures expire.

Exporters from the subject countries have maintained distribution links and continue to export the goods to Australia.

Whilst there are current short to medium term international supply issues caused by the COVID-19 pandemic and disrupted shipping, recent reports and findings demonstrate that there is underlying global over capacity in steel and that it is likely that exporters in the subject countries have excess capacity relating to HSS that could be directed to Australia.

Relevant trade actions restricting export markets make Australia, as an open market, an attractive destination for the excess capacity of the exporters to be diverted to Australia should the measures expire.

³⁸ <https://www.cbsa-asfc.gc.ca/sima-lmsi/er-rre/cswp22017/cswp22017-de-eng.html>

³⁹ REP 177, p.90

⁴⁰ REP 379, p.63

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Beyond the short to medium international supply chain disruptions caused by the COVID-19 pandemic, findings in Australia and other jurisdictions of the price sensitive nature of HSS and similar goods make it likely that exporters will return to their normal practices of reducing export prices to Australia to increase volumes and that it is likely that those exports will be at dumped prices.

Austube Mills submits that there is no minimum level of dumping required to be found that could be considered as injurious in a continuation inquiry. WTO Dispute Settlement Panel rulings note that the *de minimis* standard should not apply in revocations or continuations:

The Panel in *US – Corrosion-Resistant Steel Sunset Review* rejected the argument that the Anti-Dumping Agreement requires that the same *de minimis* standard that applies to investigating authorities under Article 5.8 also applies to sunset reviews under Article 11.3: In the view of the Panel in *US – Corrosion-Resistant Steel Sunset Review*, it was clear that Article 5.8 did not suggest that the *de minimis* standard set out for investigations also applied to sunset reviews.⁴¹

On the basis of this textual analysis of the relevant provisions of the Anti-Dumping Agreement, the Panel in *US – Corrosion-Resistant Steel Sunset Review* concluded that the 2 per cent *de minimis* standard of Article 5.8 does not apply in the context of sunset reviews.⁴²

The Anti-Dumping Review Panel Member in explaining her decision to change an exporter's dumping margin by **0.2 percentage points** (*ADRP Report No. 39* at p. 41) stated:

*“While it could be argued that 0.2% difference in a dumping margin is not material, it can become material in terms of dumping duty imposed when it relates to large volumes of imports.”*⁴³

Austube Mills submits that the available evidence demonstrates that there appears to be reasonable grounds to assert that the expiration of the measures might lead, or might be likely to lead, to a continuation or recurrence of the dumping and subsidisation that the measures are intended to prevent.

4.(ii) Likelihood that Material Injury might continue or recur?

Summary

Evidence supporting the likelihood that material injury might continue or recur includes:

- Previous findings on the link between export prices, import prices offered in the Australian market and industry selling prices;
- The latest verified evidence of the link between export prices, import prices offered in the Australian market and industry selling prices;
- Previous findings on the causal link between import prices and material injury; and
- Available information that material injury might be likely to be caused.

⁴¹ Panel Report, *US – Corrosion-Resistant Steel Sunset Review*, paras. 7.67-7.68.

⁴² Panel Report, *US – Corrosion-Resistant Steel Sunset Review*, para. 7.85.

⁴³ ADRP REP 39, p.41

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Discussion and evidence

4.(ii)(a) Import prices and industry selling prices in the Australian market

REP 177 found linkage between import and industry selling prices.

Using information provided by ATM and Orrcon and verified importer data, Customs and Border Protection has compared the Australian industry's monthly Import Parity Price (IPP) with sales prices of imported HSS for a similar time period.

The data shows that ATM's and Orrcon's weighted average monthly IPP prices closely tracked monthly prices of HSS imported from the countries/region the subject of the investigation. This evidence supports the claim made by Australian industry that import prices were used to lever parity pricing from Australian manufacturers⁴⁴.

REP 379 found continuing linkage between import prices and industry prices.

Verified evidence provided by Australian industry demonstrated that it lost sales during the inquiry period when it was unable to match the price of the imported goods. Australian industry also provided evidence showing that its customers use import offers to negotiate better prices. ... This evidence demonstrates continuing price sensitivity in the HSS market found in previous investigations and reviews.⁴⁵

Austube Mills submits that outside the short to medium term supply chain disruptions caused by the Covid-19 pandemic pricing in the Australian market will continue to be strongly influenced by export prices from countries subject to the measures. The exporters' export price to Australia is set by negotiations with the importers, the importers themselves are pricing in competition with other importers. Distributors and resellers use the purchase price of the imported HSS product to motivate the domestic producers to sell at a lower price.

Austube Mills notes that at the most recent Austube Mills verification visit, the Commission was provided with data and evidence to demonstrate that prices were set to an Import Parity Price (IPP) model and that those prices were strongly influenced by export prices from countries subject to the measures.⁴⁶

4.(ii)(b) Causal link – import prices and material injury

REP 177 found the following on causal link, import prices and injury:

Customs and Border Protection has established a connection between imports of HSS from China, Korea, Malaysia and Taiwan at dumped and subsidised prices and the fact that prices of HSS at dumped and subsidised prices sold in Australia undercut the Australian industry prices.

The price undercutting and associated price pressures have contributed to price depression and suppression for the Australian industry, which has resulted in lower profitability.

⁴⁴ REP 177, p.90

⁴⁵ REP 379, p.63

⁴⁶ REV 529 and Continuation Inquiry No. 532 verification visit and data refers

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Customs and Border Protection finds that dumped or subsidised imports of HSS imported to Australia from China, Korea, Malaysia and Taiwan have caused material injury to the Australian industry producing like goods.⁴⁷

REP 379 also found the link between export prices and likely material injury to Australian industry.

The Commission is satisfied that the expiration of the measures would be likely to lead to a recurrence of material injury to the Australian industry. In particular the Commission considers that:

- without measures import volumes would likely return to the high levels seen prior to the imposition of the measures;*
- import levels would then also likely increase from the pre-2012 levels due to exporters no longer having to consider engaging in circumvention activity;*
- selling prices of the imported goods in the Australian market during the inquiry period undercut Australian industry prices;*
- dumped imports from some of the exporters subject to measures have continued during the inquiry period; and*
- exporters currently subject to the measures would likely lower their prices even further in order to compete with those exporters who are not subject to measures (and currently are the lowest prices in the market).*

Austube Mills submits that the same circumstances and conditions found in the Australian market in INV 177 and CON 379 will continue in the Australian market for HSS following the short to medium term disruptions to international supply chains caused by the COVID-19 pandemic. The Australian industry will continue to set its prices having regard to import prices, including from the subject countries, and exports of HSS from the subject countries will have continued to Australia.

4.(ii)(c) Current Australian market for HSS

The COVID-19 pandemic and resultant government stimulus measures have seen a growing market for HSS in Australia whilst short to medium term shipping issues have impacted the growth of imports to a certain extent such that the Australian industry has been able to increase its market share.

Import levels would likely increase post the COVID-19 pandemic if the measures were allowed to expire as exporters from the subject countries would likely seek to offload their excess capacity and regain market share.

As the Australian market is price sensitive, it is likely that exporters from the subject countries would lower their prices, to likely dumped prices, to increase export volumes and gain market share.

Austube Mills submits that that outside the short to medium term supply chain disruptions caused by the Covid-19 pandemic it is reasonable to assert that the increased exports and lower import prices from the subject countries might likely cause material injury.

⁴⁷ REP 177, p. 95

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4.(ii)(d) Likelihood that material injury may continue or recur if the measures were to expire

Austube Mills has calculated the likelihood of material injury continuing or recurring based on its recent economic performance.

Austube Mills notes previous investigations that have found that injury experienced by Austube Mills is representative of injury experienced by the Australian industry as a whole.⁴⁸

In estimating material injury that is likely to be caused Austube Mills has had regard to the cumulative effects of exports from the subject countries.

Austube Mills notes that REP 177 found that:

*The conditions of competition are such that it is appropriate to consider the cumulative effect of the dumped imports from China, Korea, Malaysia and Taiwan.*⁴⁹

The WTO Appellate Body (**AB**) concluded that cumulation in continuations is permissible stating that:

*Given the rationale for cumulation—a rationale that we consider applies to original investigations as well as to sunset reviews—we are of the view that it would be anomalous for Members to have limited authorization for cumulation in the Anti-Dumping Agreement to original investigations".*⁵⁰

The WTO AB also agreed with WTO Panel findings that negligible standards for the volume of imports do not apply in a continuation inquiry where cumulation is considered.⁵¹

Austube Mills submits that, as the conditions of competition between imported and domestically produced HSS are similar, as domestically-produced HSS can be directly substituted with imported HSS, it would be appropriate to consider the cumulative effects of the imports from the subject countries.

4.(ii)(e) Calculations and assumptions on material injury

Calculations of material injury that might likely be caused by dumped goods are contained in the “Market and Injury” worksheet in the attached Confidential Financial Appendices.

Available evidence noted above, including the conclusions in CON 379, support the likelihood that exporters subject to the measures would lower prices to increase export volumes and market share.

Volume injury and loss of market share has been calculated on the likelihood of subject exporters reducing prices to recover market share.

Lost revenue and lost profits have been calculated based on lost sales volumes and market share.

⁴⁸ Report No. 254, p. 44, Statement of Essential Facts No. 320, p.16

⁴⁹ REP 177, p.88

⁵⁰ Appellate Body Report, *US – Oil Country Tubular Goods Sunset Reviews*, para. 297.

⁵¹ Appellate Body Report, *US – Oil Country Tubular Goods Sunset Reviews*, para. 302.

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Austube Mills submits that the Australian industry might likely suffer further injury from price depression as it reduced its selling prices to limit the loss of sales volumes caused by the lower prices from the subject exporters.

The lower sales volumes would lead to reduced capacity utilisation and reduced profitability due to higher unit overhead costs. The lower sales volumes would also lead to reduced employment.

The reductions in profits and profitability would lead to reduced returns on investment.

This likely injury can reasonably be linked to the likelihood of reduced export prices from the subject countries as exporters seek to increase market share in Australia in a post COVID-19 environment.

Conclusion

Austube Mills submits that there appears to be reasonable grounds to assert that the expiration of the measures might lead, or might be likely to lead, to a continuation or recurrence of the material injury that the measures are intended to prevent.

Material injury that might likely continue, or recur, would be in the form of:

- Volume injury from lost sales volumes;
- Lost market share;
- Lost revenue;
- Lost profits;
- Price depression;
- Loss of profitability;
- Reduced capacity utilisation;
- Decreased employment; and
- Reduced return on investment.

For and on behalf of the Australian industry member, Austube Mills.

Press release

Extension of EU steel safeguard provides long-term safety-net for the EU steel industry

Key messages

- The EU steel safeguard has been extended by three years.
- The extended EU steel safeguard will run from 1 July 2021 to 30 June 2024, with an automatic annual liberalisation of 3%.
- The conditions that required the launch of the safeguard initially are still very much present – including global steel overcapacity and US Section 232.

Main body of press release

Brussels, 28 June 2021 – The extension of the EU steel safeguard for another three years has been published today. This measure will ensure there is a modicum of certainty for EU steel producers, provide ample access to third-country supplies of steel for users, and help ward off disruptive post-COVID surges of steel imports.

“We welcome that the EU steel safeguard regime has been extended,” said Axel Eggert, Director General of the European Steel Association (EUROFER). “The conditions that required the launch of the safeguard initially are still very much present – including global steel overcapacity and US Section 232”.

The EU steel safeguard will, in principle, be prolonged by three additional years from 1 July 2021 to 30 June 2024, with an automatic annual liberalisation of 3%. The safeguard can also be reviewed every year after the first year. The extended safeguard would apply to the same products as it does now.

“This extension provides ample opportunity for users to source material they might require from abroad, as the tariff-free quota level is now at least 15% higher than the record import levels on which the safeguard’s tariff rate quota is set – the years 2015-2017”, added Mr Eggert. “This measure mainly provides a safety net in the event that a sharp surge in imports occurs”.

The EU steel safeguard is not a measure to stabilise prices on the domestic market, and it does not restrict normal supply to the market. European downstream users of steel can still access all the third-country steel they need based on traditional trade flows. Over the past three years, the size of the unused quota has grown – and there is plenty of space in the tariff-free quota for users to satisfy their material needs.

“The current state of demand-supply disruption in the global steel industry – and in many other sectors – follows in the wake of the COVID crisis. However, it has nothing to do with the safeguard”, Mr Eggert said. “Instead, the recovery of steel demand and the wider economic rebound has inspired a rush for material after the countercyclical destocking seen during the downturn”.

The EU steel safeguard extension was voted upon by EU Member States on 18 June 2021. WTO members were notified of the proposed extension on 11 June 2021. The Implementing Regulation was published on 28 June 2021.

Notes for editors

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About the European Steel Association (EUROFER)

EUROFER AISBL is located in Brussels and was founded in 1976. It represents the entirety of steel production in the European Union. EUROFER members are steel companies and national steel federations throughout the EU. The major steel companies and national steel federations in Switzerland and Turkey are associate members.

The European Steel Association is recorded in the EU transparency register: 93038071152-83.

About the European steel industry

The European steel industry is a world leader in innovation and environmental sustainability. It has a turnover of around €170 billion and directly employs 330,000 highly-skilled people, producing on average 160 million tonnes of steel per year. More than 500 steel production sites across 22 EU Member States provide direct and indirect employment to millions more European citizens. Closely integrated with Europe's manufacturing and construction industries, steel is the backbone for development, growth and employment in Europe.

Steel is the most versatile industrial material in the world. The thousands of different grades and types of steel developed by the industry make the modern world possible. Steel is 100% recyclable and therefore is a fundamental part of the circular economy. As a basic engineering material, steel is also an essential factor in the development and deployment of innovative, CO2-mitigating technologies, improving resource efficiency and fostering sustainable development in Europe.