

18 September 2015

Anti-Dumping Review Panel  
C/O Legal Services Branch  
Department of Industry and Science  
10 Binara Street  
CANBERRA CITY ACT 2601

[adrp\\_support@industry.gov.au](mailto:adrp_support@industry.gov.au)

**FOR PUBLIC FILE**

Dear Sir/Madam

**Re: Application for review of a decision – Rod In Coil exported from Indonesia and Taiwan**

Introduction

I refer to the application by PT Gunung Rajapaski (“PT Gunung”) concerning review of the decision of the Parliamentary Secretary dated 3 June 2015 to apply anti-dumping measures on certain exports of rod in coil (“RIC”) from Indonesia and Taiwan.

PT Gunung is one of the exporters in Indonesia to which the decision of the Parliamentary Secretary applies.

OneSteel Manufacturing Pty Ltd (“OneSteel”) has reviewed the application by PT Gunung and makes this submission addressing certain matters raised therein.

The PT Gunung application identifies the following grounds for review:

- (i) A lack of positive evidence demonstrating a link between dumped exports and injury suffered by the Australian industry;
- (ii) A failure to properly isolate and distinguish factors other than the dumped exports;
- (iii) A failure to ensure that injury caused by other factors are not attributed to the dumped exports; and
- (iv) A lack of evidence demonstrating that injury attributable to the dumped exports is material.

Additionally, OneSteel seeks to comment on the Anti-Dumping Commission (“the Commission”) comment concerning the form of measures applied by the Parliamentary Secretary.

Causal Link

PT Gunung has sought to argue that its exports of RIC to Australia in the investigation period were minimal – at approximately 1.1 per cent of the total Australian market and hence could not have been the cause of injury to the Australian industry.

OneSteel refutes this assertion that represents a very simplistic and cursory assessment of the impact of PT Gunung's exports. It should be noted that PT Gunung's total volumes over the complete investigation period were cumulated with the dumped export volumes from Taiwan and it was the aggregate dumped volumes that the Commission based its material injury findings on. Importantly, however, the Commission also considered the following:

- the total volume of dumped exports from Indonesia and Taiwan was approximately 11-12,000 tonnes;
- the dumped imports accounted for approximately 12 per cent of the total import volume in the investigation period (and are well above negligible levels);
- PT Gunung's exports attracted the highest margins of dumping;
- According to the Commission, PT Gunung's exports predominated in the first six months of the investigation period and accounted for between 17 and 53 per cent of total exports from Indonesia (and between 9 and 33 per cent of total imports in those months);
- In a price-sensitive market, PT Gunung's exports were the lowest-priced exports across all exports in the first six months of the investigation period;
- Importantly, PT Gunung's export prices were, on average, lower than the non-dumped exports from PT Ispat Indo ("PT Ispat") over the investigation period; and
- The Commission's price undercutting analysis confirmed (both on a macro and micro level) that the dumped exports afforded the importers a competitive benefit and "influenced pricing decisions for both exporters found not to be dumping as well as the Australian industry".

The Commission was satisfied that the dumped exports by PT Gunung and those from Taiwan had undercut the Australian industry's selling prices and the selling prices of exporters determined not to be dumping and had caused injury to the Australian industry that was considered material (through price depression, price suppression and reduced profit and profitability).

In the Commission's material injury analysis, the selling prices for PT Gunung's dumped exports was a key consideration. PT Gunung's average export prices were lower than those of PT Ispat, indicating that PT Gunung had shown a willingness to adjust pricing to secure sales in Australia. The significance of PT Gunung's export volumes in the first six months of the investigation period was another key consideration, indicating that PT Gunung's exports accounted for a significant proportion of total import volumes in the corresponding period.

OneSteel also notes the Commission's observation (P. 49 of Report No. 240):

*"The Commission has assessed that the value of sales relating to the goods imported by (sic) Gunung and Quintain) are based on the prices paid by the end user, to be approximately \$8.55 million, and considers that OneSteel has suffered material injury in the form of reduced sales volume and domestic revenue due to the dumped imports of rod in coils from Indonesia and Taiwan."*

The Commission also conducted a comparative analysis of selling prices of the dumped exports with Australian industry selling prices at the distributor level. The Commission determined that the level of price undercutting was greatest in relation to the dumped exports.

In light of the findings as to the timing of PT Gunung's exports and the relative selling prices of the dumped exports, the Commission was therefore correct in concluding that the

dumped exports by PT Gunung and those from Taiwan had caused material injury to the Australian industry.

#### Attribution of injury

It is asserted by PT Gunung that the Commission failed to properly isolate and identify other factors that may have caused injury to the Australian industry. This claim is not supported by the Commission's assessment as detailed in Section 8.9 of Report No. 240. The Commission did examine the following factors in its consideration of other possible causes of injury, including:

- the impact of the non-dumped goods;
- imports from goods not the subject of the application;
- the deterioration of the Australian economy;
- the impact of the carbon tax; and
- OneSteel's manufacturing efficiencies for RIC.

The Australian market for RIC was relatively stable across the injury analysis period. There was an absence of an apparent reduction in overall demand. A contraction of the Australian economy was not observable in demand for RIC. The imports from countries not the subject of the investigation were relatively insignificant during the investigation period and could not have been an influencing factor in the pricing decisions of industry participants. As indicated above, the dumped exports by PT Gunung were, on average, priced below the selling prices of the non-dumped exports from Indonesia, and were considered (along with the selling prices of dumped exports from Taiwan) to have a more pervasive impact on the selling price intentions of importers and as a consequence, the Australian industry.

The Commission has correctly considered the impact of factors other than the dumped exports and that consideration has not distracted from its finding that dumping had caused material injury to the Australian industry during the investigation period.

#### Materiality of injury

PT Gunung suggests that there is a lack of evidence supporting a finding of materiality of injury and that the finding of material injury must be based on facts and not mere assertions.

The Commission evidenced that the dumped export prices had undercut the Australian industry's selling prices by the highest margins (Section 8.6.2 of Report No. 240). This finding is consistent with OneSteel's understanding of the competitive market forces in the investigation period. The Commission has meticulously examined the volume and price effects of the dumped exports on the Australian industry's selling prices and profit and profitability. The Commission has confirmed that PT Gunung's weighted average selling prices undercut the Australian industry's selling prices and the prices of other exporters. PT Gunung was responsible for a significant proportion of the total import sales in the first half of the investigation period. Additionally, the Commission has found that forward orders exist for the supply of RIC from the countries found to be dumping and was satisfied that the dumping and material injury were likely to continue.

OneSteel submits that the Commission has made the correct and preferred decision in respect of its finding on the materiality of injury sustained by the Australian industry. The

finding was not based upon mere assertions but, rather, on evidencing actual circumstances evident throughout the investigation period.

### Form of Measures

OneSteel notes the Commission's submission to the ADRP concerning both the applications for review by OneSteel and PT Gunung. In respect of OneSteel's ground for appeal concerning the form of measures, the Commission has reflected the ADRP's findings as stated in ADRP Reports No. 16 and 20. OneSteel respectfully disagrees that the decision of the Parliamentary Secretary to apply measures based upon the *ad valorem* method "*is not part of the reviewable decision*". OneSteel submits that the form of the measure to be applied is essential to ensure that the Australian industry does not experience further material injury. An inadequate form of measure emanates from the decision of the Minister (delegated to the Parliamentary Secretary).

OneSteel refutes the apparent limitation in jurisdiction, but if the Review Panel's view is correct and the form of measures does not fall within the jurisdiction of the reviewable decision under s.269TG(1) and (2) of the Customs Act as it is within the section 8(5) of the Customs Tariff (Anti-Dumping) Act 1975 (the "Dumping Duty Act"), then this is a deficiency in the review provisions of the Customs Act that needs to be amended.

### Conclusions

The decision of the Parliamentary Secretary to apply anti-dumping measures on dumped exports of RIC from Indonesia (other than for exports by PT Ispat) and Taiwan on the basis that the exported goods had caused material injury to the Australian industry (and threatens future material injury) is the correct and preferred decision.

Following the ADRP's findings in ADRP Report No 16 and 20 concerning the form of measures applied by the Parliamentary Secretary, OneSteel requests the ADRP to report to the Parliamentary Secretary that there presently exists a deficiency with the review provisions not extending to the form of measures as contained in the Dumping Duty Act.

If you have any questions concerning this letter please do not hesitate to contact OneSteel's representative Mr John O'Connor on (07) 3342 1921 or Mr Matt Condon of OneSteel on (02) 8424 9880.

Yours sincerely



Matt Condon  
Manager – Trade Development  
OneSteel Manufacturing Pty Ltd