

Consultation Points under Article 13.1 of SCM concerning the Application for Countervailing Duty Investigation about Rod in Coils Exported from the People's Republic of China

The Government of the People's Republic of China ("GOC") has been informed that Australia Anti-dumping Commission ("AADC" or "the Commission") recently received an application lodged by OneSteel Manufacturing Pty Ltd ("Applicant"), requesting AADC to conduct a countervailing duty investigation on Rod in Coils exported to Australia from China ("Subject Product"). Upon the Invitation by the Australia Government, GOC hereby submits this position paper for the purpose of consultation under Article 13.1 of the WTO Agreement on Subsidies and Countervailing Measures ("SCM Agreement"). The following aspects are not exhaustive, and nothing will prevent us from presenting other issues to the follow-up consultation.

Section I. General Comments

GOC noticed that since 2014, the Applicant has filed numerous trade remedy applications against various steel products exported from Korea, Singapore, Malaysia, Thailand, Turkey and China as well, especially it already filed an anti-dumping application on the Subject Product in 2015. Now it refers to a countervailing duty investigation. We hold that if all the imports are restrained, the Applicant will obtain unfair competitive advantage, and the downstream industries in Australia will suffer substantial loss therefrom. **The Chinese side strongly opposes any abuse of trade remedy measures.** The Australian side is requested to take a cautious attitude in this regard.

Also, it is noted in the Commission's PAD Report 301, "that *over the injury period, OneSteel held at least 80% of the market by volume*". It also states "*in 2015 RIC imported from China accounted for 25% of all imported RIC for the year*". That is to say the imports from China barely accounts for 6% of the Applicant's share in Australian market. Moreover, the Applicant's parent company- Arrium's revenue was higher than its total cost to make and sell rod in coil in the last quarter of the investigation period (from July 2011 to June 2015). Based on the fractional market share of Chinese imports and Arrium's turning from deficits to profits, GOC seriously doubt Australian domestic industry

will suffer substantial damage from Chinese imports.

Section II. Specific Subsidy Allegations

1. Provision of Goods (Billet provided by government at less than adequate remuneration)

It is our long-standing position that GOC strongly disagree with the foreign investigating authorities in the findings or determinations that Chinese State-owned input suppliers are public bodies under SCM Agreement. Again, in the Case of DS379, the Appellate Body found that DOC had acted inconsistently with Article 1.1(a)(1) and with the US's obligations under Article 10 and 32.1 of the SCM Agreement, in 4 investigations under disputes, in determining the SOE input suppliers constituted public bodies. According to the interpretation of the Appellate Body, the majority ownership of the government shares in an entity alone cannot suffice a finding that the entity is a public body, which needs to be vested with government authority and/or performs a government function.

In the application of this case, the Applicant alleged that the inputs were provided for less than adequate remuneration, including steel billet, coking coal, coke, etc. The Applicant failed to provide any evidence to demonstrate that provisions of these inputs to the producers of Subject Product by state-owned suppliers is authorized or directed by GOC, and failed to analyze suppliers' functions respectively. In our view, the ownership of these inputs manufactures does not itself constitute a complete and creditable evidence to support the "public body" allegation.

It needs to be particularly pointed out that, steel billet is semi-product manufactured by the relevant companies themselves, not provided by outside state-owned enterprises. The largest raw material input cost in producing steel billet in China is iron ore, which represents approximately 40% of the total cost of production. The Application contains no consideration or explanation as to whether and how, the costs of iron ore recorded in the exporter's accounting records are not reasonably reflective of competitive market costs. Given the significant contribution of iron ore costs in the production of steel billet, and the fact that the vast majority of iron ore purchased by the cooperating Chinese exporters were sourced from Australia, Brazil and other

exporting countries, we are convinced that the program of **Billet provided by government at less than adequate remuneration** does not exist.

We hope the Commission take a serious look at these allegations and critique them in light of established disciplines under the SCM Agreement.

2. Financial Grants and Preferential Tax Policies

GOC noticed that in the application, many alleged Financial Grants and Tax related programs are local programs, including Huzhou, Wuxi, Jinzhou, etc. We believe that since relevant companies and their affiliates are not located in those districts, the alleged programs shall not be covered in the investigation without direct evidence to prove the companies benefited from these programs.

3. Preferential Loans and Interest Rates to Producers of Rod in Coils

As explained in Article 1 of this Section, GOC firmly opposes to identifying the state-owned commercial bank as public body. In China, the bank's loan is operated commercialized and the financial contribution does not exist. In addition, the Application failed to provide any evidence to prove that Chinese state-owned commercial banks provided policy lending or preferential loans to relevant producers or exporters of rod in coils during the period of investigation. Therefore, these programs shall not be investigated or positively determined.