

18 June 2014

Mr Adam Yacono
Manager
Anti-Dumping Commission
C/o Australian Customs and Border Protection Service
Customs House
1010 La Trobe Street
DOCKLANDS VICTORIA 3008

Public File

Dear Mr Yacono

Investigation into Hot Rolled Structural Sections exported from Japan, Korea, Taiwan and Thailand – OneSteel comments concerning Roger Simpson and Associates letter dated 11 April 2014.

I refer to the submission by Roger D Simpson & Associates sent on the 11 April 2014 and the subsequent attachment loaded on the public file on the 12th June 2013. By this submission, OneSteel Manufacturing Pty Ltd (“OneSteel”) seeks to highlight with the Anti-Dumping Commission (“the Commission”) incorrect assertions made on behalf of Siam Yamato Steel (SYS) and Thyssen Krupp Mannex Pty Ltd. (TKM)

Mr Simpson’s submission states that the attached graph demonstrates:

- a) the cyclical nature of the Australian market for HRS
- b) Australian market prices at their lowest level for at least 6 years during the investigation period (“the IP”)
- c) the vast improvement of the market since mid-2013.

and subsequently claims that it would therefore be unreasonable, illogical and irrational to impose anti-dumping measures on future imports of HRS.

Whilst OneSteel agrees with Mr Simpson’s statement that the Australian market is cyclical in nature, this is a typical sign of an open and competitive market. OneSteel strongly disagrees with Mr Simpson’s claims that it is illogical to impose measures based on the investigation period for a number of reasons as outlined below:

1. Mr Simpson’s submission states that market prices have improved since mid-2013 and claims that SYS has since been able to achieve significantly higher prices for its exports to Australia. In support of his claim Mr Simpson’s selects the SYS June 13 export price to Australia as the bottom of the market.

What Mr Simpson doesn’t explain is that mid -2013 represents the period when Thai exports were at their most aggressive. June and July export data¹ shows that Thai (SYS) exports severely undercut not only OneSteel, but the next lowest exporter price by approximately \$60/t - a fact that disproves a further claim by Mr Simpson that

“SYS is a price taker and its export prices follow the Australian market trend”

¹ Refer Attachment 1

The export data shows that the Australian HRS market was driven to one of its lowest points in 6 years due to the aggressive pricing of SYS and fully vindicates the imposition of dumping measures based on the investigation period.

2. As it is unclear that the subsequently attached graph actually represents the GUC or what the source of the price movements are, OneSteel makes the following comments in relation to the pricing data presented on page 2 of the submission dated the 11th of April 2104.

The slight improvement of Australian market prices for the GUC in August 13 and September 13 was due in part to a small increase in scrap prices² but also a correction in SYS pricing as a result of them previously being significantly below the rest of the market. Mr Simpson's own data shows that any increase in Australian market prices in August and September had evaporated by October 13 with SYS export prices to Australia falling back to below the June 13 price.

OneSteel submits that the increase in the Australian market prices from December onwards is predominantly due to the commencement of the anti-dumping investigation at the end of October 13. The view is supported by the fact that prices for other steel products in OneSteel's portfolio that are sold into a similar end market have remained relatively flat since mid-2013.³

3. OneSteel totally rejects Mr Simpson's claim that any dumping duties be solely based on a floor price as such an action would do nothing to remove material injury. Mr Simpson has already stated that the investigation period occurs at one of the lowest points in the steel price cycle and if a floor price was implemented as the only measure, it would largely be ineffective. Additionally as SYS had the lowest export price during the investigation period, they would effectively be rewarded for aggressive price undercutting.

OneSteel submits that to be effective, anti-dumping measures should be imposed based on both the ad valorem rate and floor price.

4. Mr Simpson's submission, citing the recommendations of the TMRO and the decision of the Minister relating to Report No. 209 on Hot Rolled Coil exported from Japan, Korea, Malaysia and Taiwan, claims that it is open to the Commission to have regard to prices outside the investigation period. However that decision is inconsistent with the later observations by Justice Nicholas of the Federal Court in *Panasia Aluminium (China) Limited v Attorney-General of the Commonwealth* [2013] FCA 870:

When s 269TG is read as a whole, it is apparent that subs (3) refers to the goods the subject of a declaration under subss (1) or (2). In particular, the references in subs (3)(c) of s 269TG to "the goods to which the declaration relates" and in subs (3)(d) and (e) to "those goods" indicate that the goods referred to are the same goods as those the subject of the declaration made under subss (1) or (2) and that they will have the same dumping margin as that calculated pursuant to s 269TACB. In my opinion, if a declaration is made under subss (1) or (2) in respect of goods then subs (3) requires that, along with the relevant declaration, the public notice set out details of the ascertained variable factors that led to the declaration. The ascertained normal values and export prices will each be the same single figure (usually expressed as a percentage) referable to a particular exporter that was used to determine, in accordance with the requirements of s 269TACB, whether dumping occurred and, if so, at what margin. Further, where in Part XVB of the Act the Minister is conferred with a discretion as to how he or she will go about determining a dumping

² A key raw material input for Asian producers of HRS

³ Refer Attachment 2

margin, the relevant provisions usually make this quite clear. There is nothing in s 269TG to suggest that there was any intention to confer upon the Minister a discretion that would enable him or her to determine variable factors different to those utilised for the purpose of determining whether dumping occurred and, if so, at what margin.

The Anti-Dumping Review Panel adopted his Honour's remarks in *Zinc Coated (Galvanised) Steel from Taiwan* in ruling that:

The above analysis indicates that the AEP for the purpose of any dumping duty notice is to be that used to determine whether or not there was dumping. A different AEP cannot be used for the purpose of subsection 269TG(3). For this reason, it does not appear to be open to the Minister to ascertain a different export price for the purpose of the dumping duty.

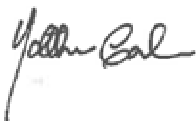
Clearly on the basis of this recent authority Mr Simpson's request to use pricing data from outside the investigation period must be rejected.

In Summary OneSteel submits

- Thai (SYS) dumped prices were a key factor in Australian market prices falling to one of their lowest levels in mid-2013.
- SYS's significant undercutting of all exporters and OneSteel in the market in mid- 2013 is totally at odds with claims that "SYS is a price taker and its exports prices follow Australian market trend"
- The increase in the market prices since Oct 2013 has largely been influenced by the commencement of the anti-dumping application. The magnitude of price increases for HRS have not be experienced by other major steel product groups that are sold into similar markets, validating the Anti –Dumping investigation as a key reason for the recent increase in market prices for the GUC.
- Anti-dumping measures based on floor price alone would negate the effect of any dumping measures and reward SYS for aggressive dumping practices.
- To effectively mitigate the material injury caused by unfair dumping it is imperative that the Commission impose the fullest measures available to it, including a combination of a fixed and variable rate.

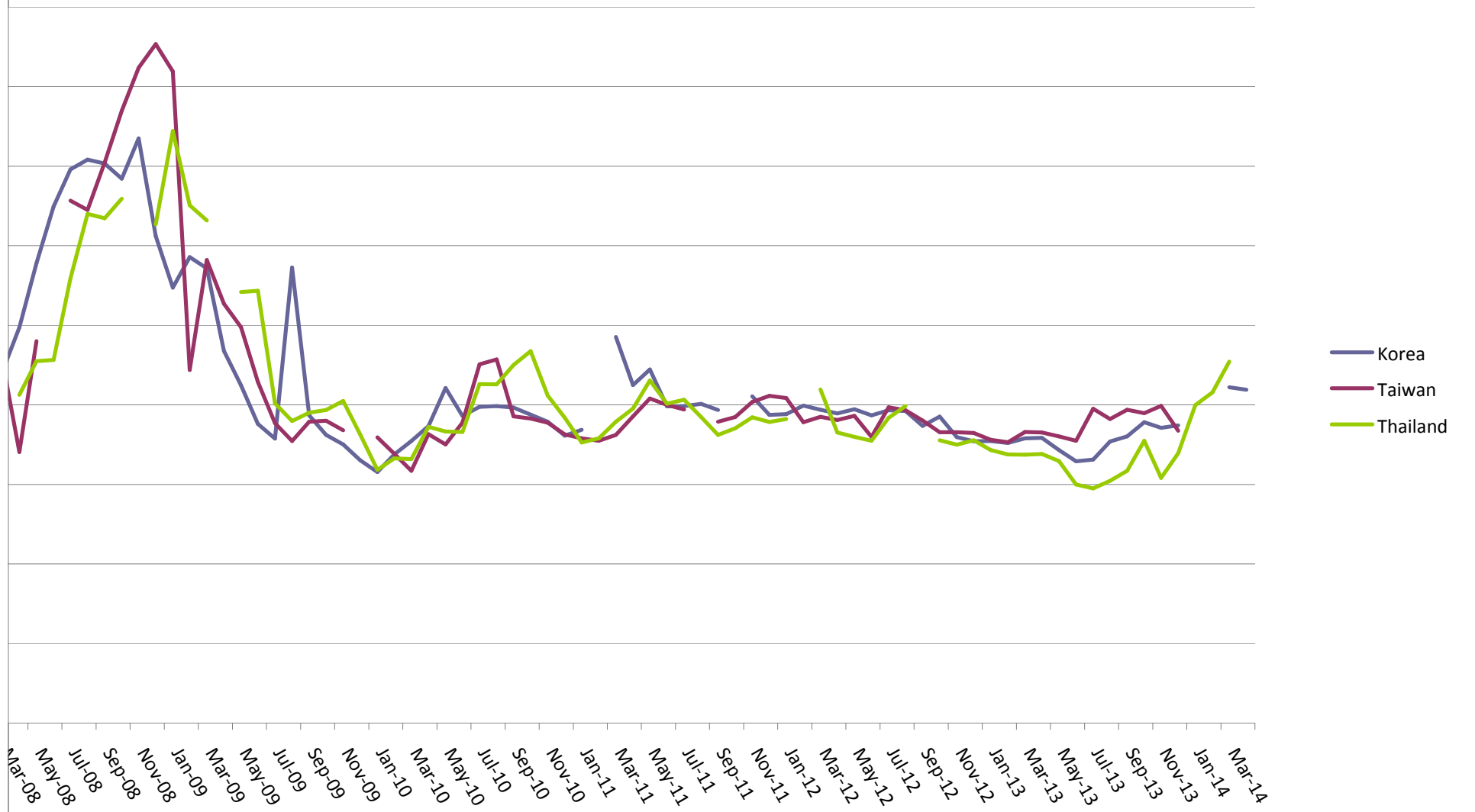
If you have any questions concerning this submission please do not hesitate to contact OneSteel's representative Mr John O'Connor on (07) 3342 1921 or Mr Matt Condon of OneSteel on (02) 8424 9880.

Yours sincerely

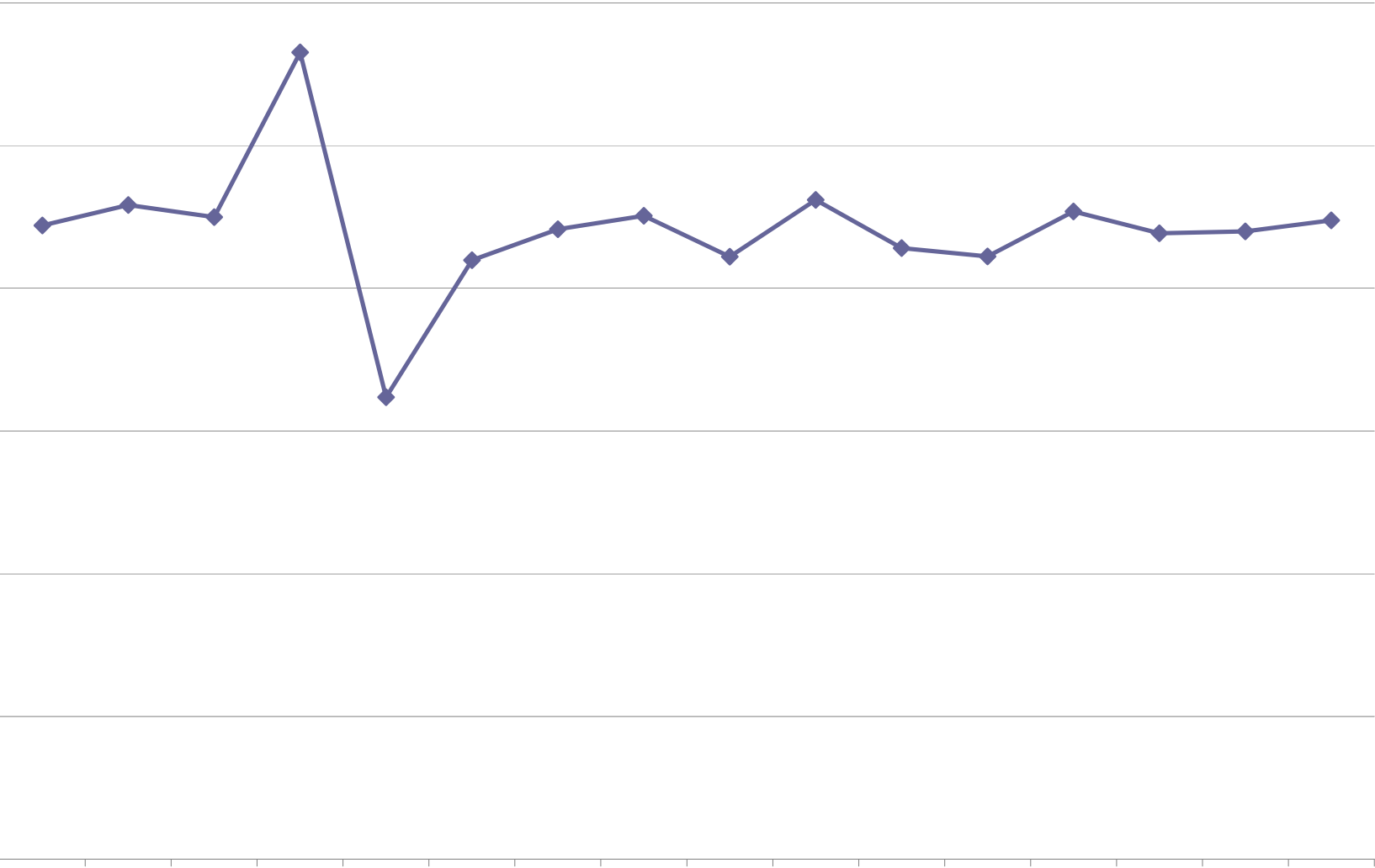


Matt Condon
Manager – Trade Development
OneSteel Manufacturing Pty Ltd

GUC Export Prices to Australia FOB in AUD



Australian Market Price for Non Hot Rolled Structural steel product.



Series1

Apr - Jun 2010 Jul - Sep 2010 Oct - Dec 2010 Jan - Mar 2011 Apr - Jun 2011 Jul - Sep 2011 Oct - Dec 2011 Jan - Mar 2012 Apr - Jun 2012 Jul - Sep 2012 Oct - Dec 2012 Jan - Mar 2013 Apr - Jun 2013 Jul - Sep 2013 Oct - Dec 2013 Jan - Mar 2014