

5 August 2014

Mr Adam Yacono
Manager
Anti-Dumping Commission
1010 La Trobe Street
DOCKLANDS VICTORIA 3008

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Dear Mr Yacono

Hot Rolled Structural Steel Sections exported from Japan, Korea, Taiwan and Thailand – OneSteel response to Statement of Essential Facts No. 223

Executive Summary

OneSteel Manufacturing Pty Ltd (“OneSteel”) acknowledges the recent publication of Statement of Essential Facts No. 223 (“SEF 223”) concerning the export of hot rolled structural steel sections (“HRS”) exported from Japan, the Republic of Korea, Taiwan and the Kingdom of Thailand.

SEF 223 confirms that HRS exported from Japan, Korea, Taiwan and Thailand was at dumped prices during the investigation period and the dumped exports had caused material injury to the Australian industry producing like goods. Subject to submissions received from interested parties in response to SEF 223, the Commissioner proposes to recommend to the Parliamentary Secretary that dumping duty notices be published in respect of all exports from Japan, Korea, Taiwan (except by Feng Hsin Iron and Steel Co Ltd) and Thailand.

OneSteel welcomes the preliminary findings of the Anti-Dumping Commission (“the Commission”) confirming that the Australian industry has suffered material injury from dumping. OneSteel submits that the following matters require reconsideration by the Commission prior to finalizing its Report to the Parliamentary Secretary:

- the proposed recommendation that measures be based on *ad-valorem* rates does not deter exporters from reducing export prices to increased injurious levels;
- for ‘like goods’ purposes, the domestic models considered (for Korea, Thailand and Taiwan) to most closely align with the goods exported to Australia are incorrect;
- there has not been a consistent approach followed in the assessment of differences in allowable weight tolerances between domestic sales in country of export and the goods exported to Australia, with the exception of JFE Bars and Shapes of Japan; and
- claims for adjustments by Hyundai Steel and Tung Ho for domestic advertising expenses for the goods requires review.

The impact of the Commission’s assessment of comparable grades, minimum tolerances, and advertising adjustments impact the normal values for the relevant exporters and thereby the assessed dumping margins. OneSteel requests the Commission to carefully re-examine these items in the context of the available information and the known industry practices on the treatment of each item.

The Commission is also requested to reconsider the form of the anti-dumping measures to be recommended to the Parliamentary Secretary. *Ad valorem* measures will not deter exporters from reducing export prices to Australia. OneSteel is seeking measures based on the ‘combination’ duty method involving fixed and variable components of the interim measures.

1. Form of dumping duty

SEF 223 proposes to recommend to the Parliamentary Secretary that the form of dumping duty to be applied to HRS exported from Japan, Korea, Taiwan and Thailand be based upon *ad valorem* duties. OneSteel has submitted to the Commission¹ that its preference is for the Parliamentary Secretary to base measures on a 'combination' duty method (that incorporates both a fixed component of measure and a variable component.)

SEF 223 refers interested parties to the Commission's "Guidelines on the Application of Forms of Dumping Duty" of November 2013. OneSteel has reviewed the *Guidelines* and maintains its view that a combination method is the preferred approach for measures in the HRS investigation.

OneSteel views the appropriate measures as essential to discourage circumvention opportunities and to limit further injury to the Australian industry.

An *ad valorem* form of duty is applied to the actual export price ("DXP") of the goods. Where the actual export price of the goods falls below the Ascertained Export price ("AEP") from the investigation period, the *ad valorem* duty is based upon the lower DXP. Reductions in export prices will result in further material injury to the Australian industry – an outcome the imposition of measures was intended to prevent.

OneSteel therefore does not consider that duties based solely on an *ad valorem* basis are sufficient to deter exporters from exporting at injurious prices. A Combination Duty Method is preferred as it addresses a decline in actual export prices where

- the fixed component is based upon an *ad valorem* rate and applies to the higher of the ascertained export price or the actual export price.
- And the variable duty rate applies if the DXP falls below the AEP

It is recognised by OneSteel that the combination method is the preferred method so that further material injury does not occur and that export prices are not further reduced to greater injurious levels.

OneSteel requests the Commission to reconsider its proposed recommendation to base the form of measures to be applied on an *ad valorem* basis and recommend a combination duty method with the fixed component based upon an *ad valorem* rate of duty.

2. Like Goods

The Commission has concluded in SEF 223 that OneSteel manufactures goods that have characteristics closely resembling the goods the subject of the application and, therefore, the locally produced goods are like goods. The Commission's verification process with exporters further confirmed that the exporters sold goods on the domestic market that, whilst not identical, possessed characteristics closely resembling the goods exported to Australia.

The Commission has preliminarily accepted (for the purposes of SEF 223) that unless it was able to identify that the exporter's costs for domestic grades (i.e. SS400) and the exported grades (i.e. G300) were different, no adjustment for the additional costs incurred in producing G300 would be applied. OneSteel contests that this approach is neither in accordance with the intention of the 'fair comparison' provisions of s.268TAC(8) nor does it provide a consistent or fair outcome for all exporters due to the varying internal costing systems between them.

¹ OneSteel submission dated 18 June 2014.

As outlined in its letter dated the 3rd of July OneSteel draws to the attention of the Commission that the appropriate course of action that is consistent with the requirements of the 'like goods' provisions within the Customs Act and the Anti-Dumping Agreement (ADA) is to adopt a two stage approach.

The first stage is for the Commission to identify the domestic goods with characteristics that most closely resemble the goods exported to Australia.

The goods exported to Australia are predominantly quoted to the Australian Standard AS/NZ 3679.1 ("G300"). OneSteel has made a number of representations (including recent submissions dated 30 June and 3 July 2014) supporting its claims that the exporters grades that most closely resemble the grade 300 exported to Australia are Grades SM490(A,B and C)

The most recent OneSteel submission dated the 3rd July outlines the evidence that OneSteel has submitted to the Commission to support this assessment include:

- An independent assessment from a subject matter expert that confirms that grades SM490 (A,B,C) more closely resemble G300 than SS400².
- Customs assessment in report 79 stating "Customs found the specifications of the exported grade RL (AS3679.1-300) and domestic grade HK (SM490A) to be very similar, and considers the grade HK(SM490A) is the most appropriate for comparison with the exported grade RL. Customs calculated normal values using domestic sales of only grade HK (SM490A)³.
- A comparison of independent standards that the products are certified to that allows an appropriate assessment of products based on a range of attributes that include Mechanical (yield and tensile strength) and Chemical requirements developed to ensure products meet the functionality requirements for market application(s) to which the given standard pertains.
- A comparison of the scopes of the standards that demonstrates that G300 and SM grades includes welding criteria that SS grades such as SS400 don't. In addition to the information previously supplied on the scope of the JIS standards, attached is the Thai standard that specifically states that SM grades are weldable grades and excludes SS grades from this classification.
- Test certificates of goods exported to Australia as G300 that exceed the minimum requirements of SM490A.
- Reference to the Leong Huat export questionnaire that states that Thai and Taiwanese exporters charge a premium for product produced to AS3679.1 versus SS400.

The second stage of the process is to focus on observed price differences because the statutory objective implicit in s269TAC(8) is for the domestic price and the export price to be compared on a 'fair' basis.

OneSteel has provided evidence that demonstrates that goods sold in the exporters domestic markets to SM490A are sold at a higher price than products produced to SS400. In addition to details of pricing previously supplied along with the submission dated the 3rd July, attached are

² OneSteel submission dated the 30th June 2014

³ Trade Measures Report No 79 - 6 August 2004 p9

details of price extras published [REDACTED]⁴ which show that the extras for SM490A and SM490B are [REDACTED] to [REDACTED] KRW respectively.

Due to the proximity in timing for the publication of SEF 223 and the absence of any comments concerning the independent assessment in SEF 223, OneSteel understands that the Commission may not have taken full account of the independent assessment in SEF 223 nor the details of the submission dated the 3rd of July.

OneSteel requests the Commission to fully consider the independent assessment concerning the acknowledged specification differences between the domestically sold goods in the exporting countries and the goods exported to Australia. It is further requested that the Commission make adjustments to normal values for the exporters (i.e. Tung Ho Steel, TS Steel, SYS and Hyundai Steel) for the price differences that actually exist between the domestic grades and the exported grades to permit a fair comparison of normal values and export prices. It is critical that the exporter's normal values are not understated due to a failure to fairly compare the normal value and export price for all cooperative exporters.

3. Weight tolerances

OneSteel has highlighted with the Commission that it is aware that exporters in the nominated countries produce and sell HRS on their respective domestic markets based upon prevailing International Standards that include tolerance levels that allow for less steel by weight (measured by metric tonne) than goods manufactured and exported to Australia in accordance with AS/NZ 3679.1.

For products such as HRS that are sold as standard lengths, it is common practice to sell based on "theoretical" or "nominal" weight. A consequence of this is that there is a significant financial incentive for capable modern rolling mills to aim to produce to the lower end of the allowable mass tolerances in order to achieve yield efficiencies and still legitimately meet the requirements of a particular standard.

For example in circumstances where an international standard allows producers to roll actual weights up to 4% below the theoretical weight

- for every 100,000 tonnes of product sold, a manufacturer only needs to produce 96,000 tonnes.
- For every million tonnes of product sold there is an opportunity to save up to 40,000t or \$28m based on a sell price of \$700/t.

In an environment where steel sales are depressed and returns are low, it is unlikely that a producer would not aim to produce closer to the minimum tolerances permitted by the relevant standard in order to lower its costs.

The relevance of weight tolerances in a dumping context occurs when there are differences in the allowable mass tolerances between the goods produced domestically and those exported to Australia.

In the case of HRS produced to Asian JIS grades, it is permissible to roll up to 4-5% below the theoretical weights but still sell the product on a theoretical weight basis. Goods exported to Australia are only able to be rolled up to 2.5% lighter in order to still comply with the AS/NZ Standard 3679.1.

⁴ Confidential attachment

For clarity OneSteel is not stating that mills aim to roll at the very bottom of the allowable tolerance, eg -5%, but that if they have well controlled and capable process they may aim to be lower 3% lower to achieve a 3% yield efficiency and not run the risk of rolling below the -5% limit.

OneSteel notes that the Commission has confirmed with JFE Bars and Shapes that it sells based on theoretical weights and that it rolls HRS closer to the lower mass per metre tolerance permitted by its domestic standard. The weight of the goods sold domestically, therefore, are “lighter” than the actual weights of HRS exported to Australia (that comply with AS/NZ 3679.1). To reflect the differences in the costs between the exported goods to Australia and JFE bars and Shapes domestic goods the Commission made an upward adjustment to the normal value.

The exporter visit reports to Hyundai, Tung Ho and SYS confirms that these mills also sell based on the theoretical weights rather than actual weights. Whilst the Hyundai and SYS exporter visit reports state that they do not measure the actual weights they are reported to produce within specific requirements of the standards

-“ that regardless of standards, the factory aims to achieve the standard and thereby comply with the customer’s orders”⁵.

-“it sought to ensure that the product met the required specifications”⁶.

and therefore an upward adjustment based on the differences in the standards of 1.5 to 2.5% is warranted.

4. Domestic Advertising

The Commission has granted due allowance for domestic advertising expenses for Hyundai Steel Company and Tung Ho Steel. The respective verification reports detail little information concerning the nature of the domestic advertising. Advertising for HRS products by the producer is generally not undertaken. Advertising may be undertaken by the producer’s distributor; however, it is unlikely that the producer/exporter would do so.

OneSteel has a number of concerns in relation to a claimed adjustment for advertising, namely:

- how did the producer demonstrate that the advertising related to the goods under consideration on the domestic market;
- to what extent was the Commission satisfied that the advertising did not extend to other steel products on the domestic market;
- how did the producer substantiate the advertising claim;
- the advertising is an expense at the same level of trade as the goods exported top Australia (i.e. it is not for goods sold to end-users); and
- to what extent was the Commission satisfied that the advertising related to the investigation period for HRS sold domestically (i.e. how was the advertising verified?).

Advertising of commodity products including HRS is not common practice within the steel industry. OneSteel requests the Commission to be re-examine the information supplied to the respective verification teams to Hyundai Steel Company and in the audit of the Tung Ho Steel information to be satisfied that the expenses relate to advertising for HRS only.

4. Closing remarks

⁵ HRS – Exporter Visit Report- Hyundai Steel p35

⁶ HRS- Exporter Visit Report – Siam Yamoto Steel Ltd p22

OneSteel endorses the findings contained in SEF 223 that HRS exported to Australia from Japan, Korea, Taiwan and Thailand was at dumped prices and that the dumping caused material injury to the Australian industry producing HRS. The dumping margins determined for the exported goods ranged from 2.20 per cent to 21.04 per cent (with the exception of exports by Feng Hsin Iron and Steel Co Ltd of Taiwan that were *de minimis*).

The dumping margins determined by the Commission (following verification visits and desk audits) are influenced by a range of factors that permit a fair comparison between the normal value and the export price for each exporter. OneSteel has identified a number of key issues that have not been fully substantiated by the Commission and impact directly on the dumping margins determined for the relevant exporter.

OneSteel has demonstrated that the following matters require re-visiting for the purposes of fair comparison between domestic sales used for normal value purposes and the export prices for HRS to Australia, including:

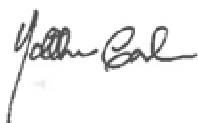
- the selection of the correct grade of HRS that closely resembles the like goods exported to Australia – that is, the appropriate domestic grade is SM490 (A,B or C);
- in the absence of sales of a closely resembling grade, a cost adjustment based upon cost differences between the domestic like good and the exported good (e.g. cost differences between SS400 and SM490 grades);
- the requirement for an upward adjustment to normal value to take account of the “rolling light” practice of the exporters in Korea, and Thailand so that the selling prices for domestic and export sales are on the basis of the same weight; and
- that claimed advertising expenses by Hyundai Steel Company and Tung Ho Steel can be substantiated as relating directly to domestic advertising for HRS sold domestically in the country of export.

OneSteel views the adequate substantiation of these matters as critical to the satisfaction of the fair comparison principles in confirming the correct dumping margins applicable to the exported goods. As it presently stands, it is OneSteel’s view that with the exception of JFE Bars and Shapes of Japan, normal values for all remaining exporters in Korea, Taiwan and Thailand are understated.

Finally, OneSteel requests the Commission to reconsider its proposed recommendation to the Parliamentary Secretary that the duties be applied solely on an *ad valorem* basis. OneSteel has demonstrated that *ad valorem* duties only will likely result in further injury to the Australian industry where export prices fall below AEP’s for the investigation period. It is a critical requirement that the Australian industry not suffer further injury from dumping (through reduced export prices that are not effectively addressed by the measures) and that a combination method be applied (i.e. with the fixed component based upon an *ad valorem* 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



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