



## **ANTI-DUMPING NOTICE NO. 2015/59**

### **Rod in Coils**

### **Exported from the Republic of Indonesia, Taiwan and the Republic of Turkey**

### **Termination of Part of Investigation**

#### ***Customs Act 1901 – Part XVB***

On 10 April 2014, I, Dale Seymour, the Commissioner of the Anti-Dumping Commission (the Commission), initiated an investigation into the alleged dumping of rod in coils (the goods) exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Republic of Turkey (Turkey) following an application lodged by OneSteel Manufacturing Pty Ltd under subsection 269TB(1) of the *Customs Act 1901* (the Act).

The Commission published a notice in *The Australian* on 10 April 2014 notifying of the initiation of the investigation, and issued Anti-Dumping Notice (ADN) No. 2014/27, which contains further details on the investigation, available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

As a result of the Commission's investigation, I am satisfied that:

- in relation to PT Ispat Indo, an exporter of the goods from Indonesia, there has been no dumping of the goods and therefore have decided to terminate the investigation in accordance with subsection 269TDA(1)(b)(i) of the Act so far as it relates to PT Ispat Indo;
- in relation to Habaş Sinai ve Tibbi Gazlar İstihsal Endüstrisi A.Ş (Habaş), an exporter of the goods from Turkey, there has been dumping of the goods however the dumping margin, when worked out under section 269TACB, is less than 2% (and is negligible), and therefore have decided to terminate the investigation in accordance with subsection 269TDA(1)(b)(ii) of the Act so far as it relates to Habaş; and
- pursuant to subsection 269TDA(4) of the Act, the total volume of goods that have been exported to Australia over a reasonable examination period from Turkey that have been dumped is negligible and, therefore, have decided to terminate the investigation so far as it relates to Turkey in accordance with subsection 269TDA(3) of the Act.

In making the decisions to terminate, I have considered the application, submissions from interested parties, the *Statement of Essential Facts No. 240* and *Preliminary Affirmative Determination No. 240*, submissions in response to that report, and other relevant information.

*Termination Report No 240*, which sets out reasons for the termination decisions, including the material findings of fact or law upon which the decisions are based, has been placed

on the Commission's public record, which may be examined at the Commission office by contacting the case manager on the details provided below. Alternatively, the public record is available at [www.adcommission.gov.au](http://www.adcommission.gov.au).

A notice of the decision to terminate part of the investigation was published in *The Australian* newspaper on 14 May 2015.

My final recommendations and report in relation to the investigation in respect of Indonesia and Taiwan was provided to the Parliamentary Secretary to the Minister for Industry and Science on 13 May 2015.

The applicant may request a review of this decision to terminate part of the investigation by lodging an application with the Anti-Dumping Review Panel in the approved form and manner within 30 days of the publication of this notice.

Enquiries about this notice may be directed to the Case Manager on telephone number +61 3 8539 2437, fax number +61 3 8539 2499 (outside Australia), or email at [operations3@adcommission.gov.au](mailto:operations3@adcommission.gov.au).

Dale Seymour  
Commissioner  
Anti-Dumping Commission

13 May 2015





**Australian Government**  
**Anti-Dumping Commission**

**PUBLIC RECORD**

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**CUSTOMS ACT 1901 - PART XVB**

**TERMINATION OF PART OF  
INVESTIGATION**

**TERMINATION REPORT**

**TER 240**

**ALLEGED DUMPING OF ROD IN COILS  
EXPORTED FROM THE REPUBLIC OF INDONESIA, TAIWAN  
AND THE REPUBLIC OF TURKEY**

**13 May 2015**

**TER 240 ROD IN COILS – INDONESIA, TAIWAN AND TURKEY**

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### ABBREVIATIONS

Abbreviation / short form	Full reference
ACBPS	Australian Customs and Border Protection Service
ADN	Anti-Dumping Notice
Arrium	Arrium Ltd
CBSA	Canada Border Services Agency
CTM	Cost to make
CTMS	Cost to make and sell
Diler	Diler Demir Celik Sanayi ve Ticaret A.S.
DFAT	Department of Foreign Affairs and Trade
FOB	Free on board
Habaş	Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş
IDR	Indonesian Rupiah
Indonesia	Republic of Indonesia
Ispat	PT. Ispat Indo
Minister	Minister for Industry and Science
NIP	Non-injurious price
PSNZ	Pacific Steel New Zealand
OneSteel	OneSteel Manufacturing Pty Ltd
REQ	Response to the exporter questionnaire
Sanwa	Sanwa Pty Ltd
SEF	Statement of Essential Facts
Stemcor	Stemcor Australia Pty Ltd
TCO	Tariff Concession Orders
Turkey	The Republic of Turkey
the Act	<i>Customs Act 1901</i>
the Commission	Anti-Dumping Commission
the Commissioner	The Commissioner of the Anti-Dumping Commission
the goods	the goods the subject of the application (also referred to as the goods under consideration or GUC)
the Parliamentary Secretary	Parliamentary Secretary to the Minister for Industry and Science
USA	United States of America
USD	United States Dollar
USITC	United States International Trade Commission
USP	Unsuppressed selling price

### TER 240 ROD IN COILS – INDONESIA, TAIWAN AND TURKEY



## 1 INTRODUCTION AND FINDINGS

### 1.1 Introduction

This report has been prepared in relation to investigation number 240 by the Anti-Dumping Commission (the Commission) into allegations by OneSteel Manufacturing Pty Ltd (OneSteel) that rod in coils exported to Australia from the Republic of Indonesia (Indonesia), Taiwan and the Republic of Turkey (Turkey) at dumped prices have caused material injury to the Australian industry producing like goods.

Specifically, this report (TER 240) sets out the facts on which the Commissioner of the Anti-Dumping Commission (the Commissioner) based the decision to terminate the investigation in respect of PT Ispat Indo (Ispat) of Indonesia, and all exporters of rod in coils from Turkey. The investigation in relation to rod in coils exported to Australia continues and the Commission's final findings and recommendations will be included in a separate report.

### 1.2 The Commission's findings

As a result of the investigation by the Anti-Dumping Commission (the Commission) the Commissioner is satisfied that:

*No dumping during the investigation period*

- rod in coils exported to Australia from Indonesia by Ispat were not at dumped prices;

*Dumping but with a negligible dumping margin*

- rod in coils exported to Australia from Turkey by Habaş Sinai ve Tibbi Gazlar Istihsal Endüstrisi A.Ş (Habaş) were at dumped prices but the dumping margin was negligible;

*Dumping during the investigation period but with a negligible volume*

- rod in coils exported to Australia from Turkey by Diler Demir Celik Sanayi ve Ticaret A.S. (Diler) were at dumped prices, however the volume of dumped goods was negligible; and
- rod in coils exported to Australia from Turkey by all other exporters were at dumped prices, however the volume of dumped goods was negligible.

Accordingly, the Commissioner has decided to terminate, in accordance with the *Customs Act 1901* (the Act)<sup>1</sup>, the following parts of the investigation:

- under subsection 269TDA(1) the dumping investigation so far as it relates to exports by Ispat from Indonesia and Habaş from Turkey; and
- under subsection 269TDA(3) the dumping investigation so far as it relates to all exporters from Turkey<sup>2</sup>.

<sup>1</sup> All legislative references in this report are to the *Customs Act 1901*, unless otherwise stated. The terms *division*, *section* and *subsection* and *paragraph* are used interchangeably in this report as appropriate.

<sup>2</sup> This report has been prepared in respect of rod in coils exported to Australia from Indonesia by Ispat and from Turkey and references to rod in coils exported to Australia from other Indonesian exporters and from Taiwan are only provided when they are relevant to the respective discussion. Details of the Commission findings in respect of rod in coils exported to Australia are provided in the report which combines the statement of essential facts (SEF) and the preliminary affirmative determination (PAD) (SEF 240 and PAD 240) which was placed on the Public Record on 2 March 2015 and is available on the Commission's website at <http://www.adcommission.gov.au>.

## TER 240 ROD IN COILS – INDONESIA, TAIWAN AND TURKEY



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A notice regarding the termination was published in *The Australian* newspaper on 14 May 2015. *Anti-Dumping Notice (ADN) 2015/59* relates to the termination and was published on the Commission's web site at [www.adcommission.gov.au](http://www.adcommission.gov.au) on 13 May 2015.

### 1.3 Application of law to facts

#### 1.3.1 Authority to make decision

Division 2 of Part XVB sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application.

#### 1.3.2 Application

On 24 February 2014, OneSteel lodged an application requesting that the Parliamentary Secretary publish a dumping duty notice in respect of rod in coils exported to Australia from Indonesia, Taiwan and Turkey.

The Commissioner was satisfied that the application was made in the prescribed manner by a person entitled to make the application.<sup>3</sup>

#### 1.3.3 Initiation of investigation

After examining the application, the Commissioner was satisfied that:

- there is an Australian industry in respect of like goods; and
- there appears to be reasonable grounds for the publication of a dumping duty notice in respect of goods the subject of the application, or for the publication of such notices upon the importation into Australia of such goods.<sup>4</sup>

The Commissioner decided not to reject the application, and notice of the initiation of this investigation was published on 10 April 2014.<sup>5</sup>

#### 1.3.4 Statement of essential facts and preliminary affirmative determination

A combined statement of essential facts (SEF 240) and preliminary affirmative determination (PAD 240) for this investigation was placed on the Public Record on 2 March 2015. In preparing SEF 240 and PAD 240 the Commissioner had regard to the application concerned, any submissions concerning publication of the notice that were received by the Commission within 40 days after the date of initiation of the investigation and any other matters considered relevant.

SEF 240 and PAD 240 should be read in conjunction with this report.

SEF 240 and PAD 240 are combined in one report that is available on the Commission's website at <http://www.adcommission.gov.au>.

#### 1.3.5 Submissions received from interested parties

The Commission received numerous submissions from interested parties during the course of the investigation. Each submission has been considered by the Commission.

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<sup>3</sup> Section 269TB

<sup>4</sup> Subsection 269TC(1)

<sup>5</sup> Subsection 269TC(4)

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The submissions received prior to publication of SEF 240 and PAD 240 are listed in **Non-Confidential Attachment 1**.

After the publication of SEF 240 and PAD 240, the Commission received submissions from interested parties which were taken into account in preparing this report. The submissions received after the publication of SEF 240 and PAD 240 are listed in **Non-Confidential Attachment 2**.

Non-confidential versions of all submissions received are available on the public record for this investigation on the Commission's website at <http://www.adcommission.gov.au>.

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## 2 BACKGROUND

### 2.1 Initiation

On 24 February 2014, OneSteel lodged an application for the publication of a dumping duty notice in respect of rod in coils exported to Australia from Indonesia, Taiwan and Turkey.

Following consideration of the application, the Commissioner decided not to reject the application and the Commission initiated an investigation on 10 April 2014. Public notification of initiation of the investigation (public notice) was made in *The Australian* newspaper on that day.

Anti-Dumping Notice (ADN) No. 2014/27 provides further details of the investigation and is available on the Commission's website at <http://www.adcommission.gov.au>.

In respect of the investigation:

- the investigation period for the purpose of assessing dumping is 1 January 2013 to 31 December 2013; and
- the injury analysis period for the purpose of determining whether material injury has been caused to the Australian industry is from 1 January 2010.

### 2.2 Statement of essential facts (SEF) and preliminary affirmative determination (PAD)

#### 2.2.1 Extensions of time for the SEF

The public notice of the initiation advised that the SEF for the investigation would be placed on the public record by 29 July 2014.

On 28 July 2014, the then Parliamentary Secretary granted an extension of 80 days to the date for the publication of the SEF.

On 17 October 2014, the then Parliamentary Secretary approved the Commission's request to further extend the publication date of the SEF by 50 days.

On 16 December 2014, the Parliamentary Secretary approved the Commission's request to further extend the publication date of the SEF by 90 days.

On 15 January, the Minister approved the Commission's request to further extend the publication date of the SEF by 45 days.

ADNs related to respective extensions, which provide reasons for the extensions, are available on the Commission's website.

On 2 March 2015, the Commission published SEF 240 and PAD 240. SEF 240 and PAD 240 are combined in one report that is available on the Commission's website at <http://www.adcommission.gov.au>.

#### 2.2.2 SEF 240

In SEF 240, the Commissioner:

- proposed to recommend to the Parliamentary Secretary that a dumping duty notice be published in respect of rod in coils exported to Australia from Indonesia (excluding Ispat) and Taiwan; and

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- indicated that he would terminate part of the investigation in respect of exports by all exporters from Turkey and by Ispat from Indonesia, subject to submissions received in response to SEF 240.

Interested parties were invited to make submissions to the Commission in response to the SEF within 20 days of it being placed on the public record. The Commissioner was not obliged to have regard to a submission made in response to the SEF received after 23 March 2015, if to do so, in the Commissioner's opinion, would have prevented the timely preparation of the final report.

### 2.2.3 PAD 240 – Indonesia and Taiwan

In PAD 240, the Commissioner made a preliminary affirmative determination that there appeared to be sufficient grounds for the publication of a dumping duty notice in respect of rod in coils exported to Australia from Indonesia (except by Ispat) and Taiwan.

Accordingly, on 2 March 2015, the Commission published ADN 2015/23 and a public notice in *The Australian* newspaper. ADN 2015/23 is available on the Commission's website at <http://www.adcommission.gov.au>.

## 2.3 Final report – Indonesia and Taiwan

### 2.3.1 Extensions of time for the final report

On 8 April 2015, the Parliamentary Secretary approved the Commission's request to extend the issue date of the final report by 20 business days.

The Commissioner will make final recommendations in respect of rod in coils exported from Indonesia and Taiwan in a report to the Parliamentary Secretary which is due on **13 May 2015**.

## 2.4 Submissions received from interested parties

After the publication of SEF 240 and PAD 240, the Commission received submissions from interested stakeholders. These submissions were taken into account in preparing this report. The submissions received after the publication of the SEF 240 and PAD 240 are listed in **Non-Confidential Attachment 2**.

The public record contains non-confidential versions of these submissions, as well as non-confidential versions of the Commission's visit reports and other publicly available documents. The public record is available on the Commission's website at <http://www.adcommission.gov.au>.

Physical copies can be also viewed by request at the Commission's Melbourne office (phone 13 28 46 to make an appointment).

Documents on the public record should be read in conjunction with this report.

## 2.5 Relevant Legislation

Division 2 of Part XVB sets out, among other matters, the procedures to be followed and the matters to be considered by the Commissioner in conducting investigations in relation to the goods covered by an application for the publication of a dumping or countervailing duty notice.

Subsection 269TDA(1) provides:

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*If:*

- (a) *application is made for a dumping duty notice; and*
- (b) *in an investigation, for the purposes of the application, of an exporter to Australia of goods the subject of the application, the Commissioner is satisfied that:*
  - (i) *there has been no dumping by the exporter of any of those goods; or*
  - (ii) *there has been dumping by the exporter of some or all of those goods, but the dumping margin for the exporter, or each such dumping margin, worked out under section 269TACB, when expressed as a percentage of the export price or weighted average of export prices used to establish that dumping margin, is less than 2%;*

*the Commissioner must terminate the investigation so far as it relates to the exporter.*

Subsection 269TDA(3) provides:

*If:*

- (a) *application is made for a dumping duty notice; and*
- (b) *in an investigation for the purposes of the application the Commissioner is satisfied that the total volume of goods the subject of the application:*
  - (i) *that have been, or may be, exported to Australia over a reasonable examination period from a particular country of export; and*
  - (ii) *that have been, or may be, dumped;*

*is negligible;*

*the Commissioner must terminate the investigation so far as it relates to that country.*

The context of these legislative provisions are discussed in relation to the exporters mentioned above in section 5 of this report.

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### 3 THE GOODS AND LIKE GOODS

#### 3.1 The Commission's findings

The Commission has found that locally produced rod in coils is like to the goods the subject of the application (the goods).

#### 3.2 The goods

The goods under consideration are:

*Hot rolled rods in coils of steel, whether or not containing alloys, that have maximum cross sections that are less than 14 mm.*

*The goods covered by this application include all steel rods meeting the above description of the goods regardless of the particular grade or alloy content.*

Goods excluded from this investigation are deformed bar in coils and stainless steel in coils.

#### 3.3 Tariff classification

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

- 7213.91.00 (statistical code 44);
- 7227.90.90 (statistical code 42).

For the tariff subheadings outlined above, the general rate of duty is currently five per cent, however, Indonesia and Turkey are designated DCS countries and Taiwan is designated a DCT<sup>6</sup> country. Rod in coils exported to Australia from DCS and DCT designated countries is free of duty.

The Australian Customs and Border Protection Service (ACPBS) Trade Branch confirmed that rod in coils of non-alloy steel is classified to 7213.91.00 if the cross section is circular as well as less than 14 mm in diameter. Rod in coils of other alloy steel are classified to heading 7227, but the reference to subheading 7227.90.90 excludes certain alloys such as silico-manganese steel and non-circular sections.

Following discussions with the Commission, OneSteel confirmed that the goods under consideration should be entered under the nominated tariff subheadings. However, the Commission notes that the goods under consideration are defined by the description, not the tariff classification.

The Commission has not identified any tariff concession orders applying to the goods.

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<sup>6</sup> 'DCT' and 'DCS' are codes applied to classes of countries and places in relation to which special rates apply as specified in Parts 4 and 5 of Schedule 1 of the *Customs Tariff Act 1995*.



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### 3.4 Like goods

Subsection 269TC(1) requires that the Commissioner must reject an application for a dumping duty notice if, *inter alia*, the Commissioner is not satisfied that there is, or is likely to be established, an Australian industry in respect of like goods.

In making this assessment, the Commissioner must firstly determine that the goods produced by the Australian industry are 'like' to the imported goods. Subsection 269T(1) defines like goods as:

*Goods that are identical in all respects to the goods under consideration or that, although not alike in all respects to the goods under consideration, have characteristics closely resembling those of the goods under consideration.*

An Australian industry can apply for relief from injury caused by dumped or subsidised imports even if the goods it produces are not identical to those imported. The industry must however, produce goods that are 'like' to the imported goods.

Where the locally produced goods and the imported goods are not alike in all respects, the Commissioner assesses whether they have characteristics closely resembling each other against the following considerations:

- physical likeness;
- commercial likeness;
- functional likeness; and
- production likeness.

Based on the verified information, the Commission is satisfied that the Australian industry produces like goods to the goods the subject of the application, as defined in section 269(T) and notes the following:

- Physical likeness:
  - the primary physical characteristics of the goods and locally produced goods are similar;
- Commercial likeness:
  - the goods and locally produced goods are commercially alike as they are sold to common users, and directly compete in the same market;
- Functional likeness:
  - the goods and locally produced goods are functionally alike as they have a similar range of end-uses; and
- Production likeness:
  - the goods and locally produced goods are manufactured in a similar manner.

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## 4 AUSTRALIAN MARKET

### 4.1 The Commission's findings

The Commission has found that the Australian market for rod in coils is supplied by the Australian industry and imports from a number of countries, including Indonesia, Taiwan and Turkey. The Commission estimates the Australian market during the 2013 calendar year to be approximately 540,000 tonnes. The market is supplied by OneSteel and by importers who supply rod in coils to end users.

### 4.2 Background

The key market segments for rod in coils are commercial and residential construction, wire, mining and resource construction, and, to a lesser degree, engineering fabrication and springs.

Rod in coils is a semi-finished intermediate feed material that is largely utilised by the wire manufacturing industry. Wire manufacturers subject the rod in coils product to cold drawing processes which produces wire for use in a variety of applications which include:

- Concrete reinforcing mesh manufacturing (steel in concrete)
- Wire manufacturing (wire rope, springs, nails, fencing)
- Mine mesh manufacturing
- General manufacturing
- Reinforcing ligatures

Rod in coils for the mesh market and general purpose wire is the dominant market sector. The other market sectors include bedding and auto springs, rural and manufacturers' wires, rope and strand products and special purpose wire.

There is a range of grades of steel used to manufacture rod in coils for the market sectors and that factors, such as carbon content and or alloy content may not necessarily determine the sector or end use for that product.

The Commission notes, for example, that low carbon content rod in coils may have alloys added or a separate process used, to produce special purpose rod in coils distinct from what would be typically used in the mesh and wire sector.

### 4.3 Supply arrangements

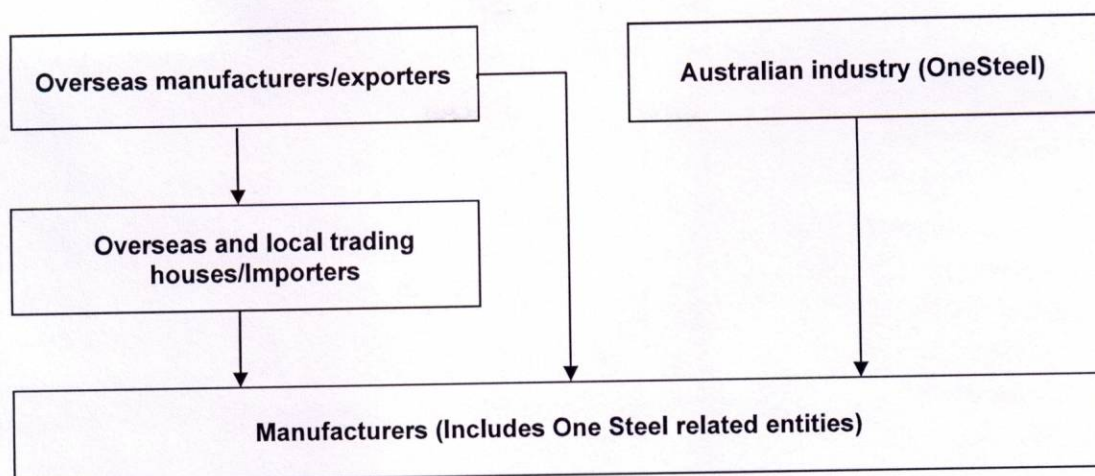
The Australian rod in coils market is supplied by OneSteel and importers who sell direct to end users, end users may also import rod in coils.

The Australian supply chain for rod in coils is shown below.

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### 4.4 Demand variability

Demand variability is driven by the market for mesh wire which comprises four major segments:

- Residential – the housing market where the mesh is used in concrete slabs;
- Non-residential – such as warehouses, office buildings;
- Mines - used to line tunnels in the mines; and
- Engineering – bridges and roads.

The residential market is the main driver of demand for mesh wire and there is seasonal fluctuation at the end of the year as the construction industry closes for the Christmas holiday period.

### 4.5 Market size

The Commission has used information gathered from the Australian industry, exporters, importers and the ACBPS import database to examine the Australian market for rod in coils.

The size of the market for rod in coils from 2010 to 2013 by calendar years is shown in the following chart.

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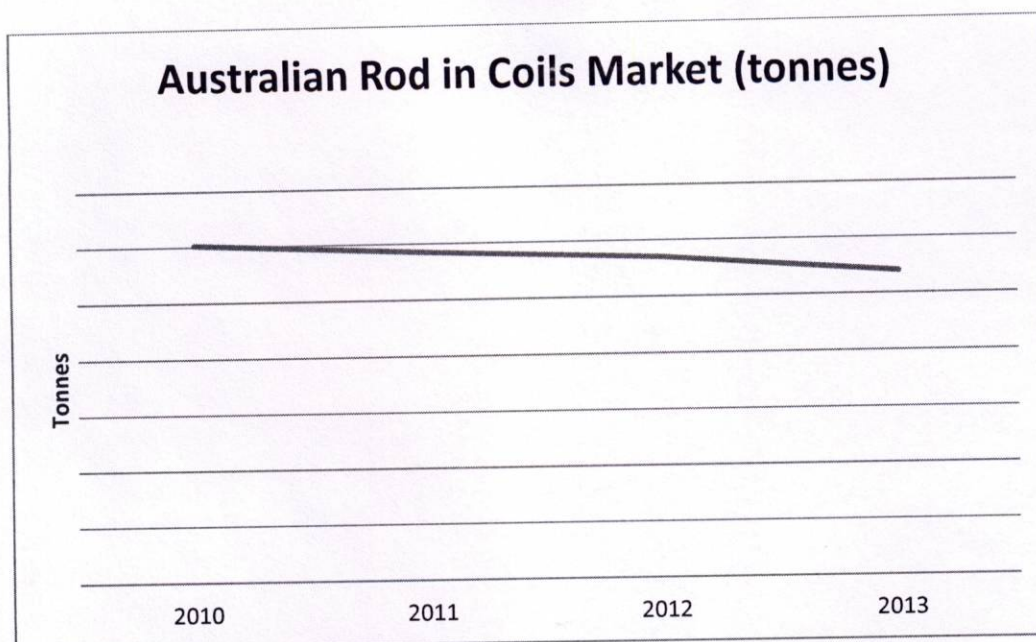


Figure 1 – Rod in coils market 2010 to 2013 (Source: OneSteel and ACBPS Data)

For calendar years 2010 to 2013 the size of the Australian market for rod in coils has declined each year. The Commission has estimated the market for rod in coils was over 600,000 tonnes per year in 2010, and the available data shows the market has declined to approximately 540,000 tonnes in 2013.

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## 5 DUMPING INVESTIGATION

### 5.1 Introduction

Dumping occurs when a product from one country is exported to another country at a price less than its normal value. The export price and normal value of goods are determined under section 269TAB and section 269TAC respectively.

This chapter explains the results of investigations by the Commission into whether rod in coils were exported from Indonesia, Taiwan and Turkey at dumped prices during the investigation period.

### 5.2 The Commission's findings

The Commission found:

*No dumping during the investigation period*

- rod in coils exported to Australia from Indonesia by Ispat were not at dumped prices;

*Dumping but with a negligible dumping margin*

- rod in coils exported to Australia from Turkey by Habaş were at dumped prices but the dumping margin was negligible;

*Dumping during the investigation period but with a negligible volume*

- rod in coils exported to Australia from Turkey by Diler were at dumped prices, however the volume of dumped goods was negligible; and
- rod in coils exported to Australia from Turkey by all other exporters were at dumped prices, however the volume of dumped goods was negligible.

Dumping margins are summarised in the following table:

Country	Exporter / Manufacturer	Dumping margin
Indonesia	Ispat	-0.7%
Turkey	Habaş	0.4%
	Diler	5.8%
	All other exporters	5.8%

Table 1- Dumping margins

### 5.3 Exporters

At the commencement of the investigation, the Commission contacted all exporters of the goods within the relevant tariff subheading as identified in the ACBPS import database. Questionnaires were forwarded to all known exporters from the nominated countries, with a view to investigating their exports.

The Commission received questionnaire responses from Ispat and Habaş that were assessed as being substantially complete.

Diler was requested to provide further information in support of the responses provided in the exporter questionnaire. Diler was advised that if it did not provide the requested information by the due date the Commission may determine export prices and normal values for Diler based on all relevant information, which may include information provided

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in the application submitted by the Australian industry. Diler elected not to supply the additional information requested.

Subsection 269T(1) of the Act provides that an exporter is considered to be an 'uncooperative exporter', where the Commissioner is satisfied that an exporter did not give the Commissioner information the Commissioner considers to be relevant to the investigation, within a period the Commissioner considers to be reasonable.

Based on this, the Commissioner considers Diler to be an uncooperative exporter.

The Commission conducted remote verifications of the requested information with Ispat and Habaş using the Cisco Webex Meeting Centre (Webex). Webex allowed the Commission to replicate the process of an on-site verification including interacting with the verification participants in real time, the exporter's navigation of its financial information systems when substantiating requests for supporting information. The verifications were each conducted over five days, with the Commission providing an agenda to the exporter prior to each day of verification. The Commission is satisfied that this verification process is as thorough as an on-site verification.

The non-confidential verification reports for each of the verified exporters are available at the Commission's website <http://www.adcommission.gov.au/> and provide additional detail to what is discussed in this chapter.<sup>7</sup>

### 5.4 Ispat

#### Export Prices

Export prices for sales of rod in coils to Australia by Ispat were established under subsection 269TAB(1)(a) using the invoiced price from the exporter to the importer less transport and other charges arising after exportation.

Export prices were established at free-on-board (FOB) point.

#### Normal Values

Normal values for exported models were determined under subsection 269TAC(1) based on domestic sales that are arms length transactions of the comparable models in the ordinary course of trade at the same level of trade as export sales.

Normal values were established at an FOB point.

#### Adjustments

To ensure the comparability of normal values to export prices, the Commission considered adjustments were required pursuant to subsection 269TAC(8) of the Act as follows:

Adjustment type	Description
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<sup>7</sup> Verification Reports for Habaş and Ispat at items number 32 and 34 respectively on the public record.

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Domestic inland freight	<b>Deduct</b> the actual domestic inland freight costs
Domestic credit terms	<b>Deduct</b> the actual costs of domestic credit
Domestic bank fees	<b>Deduct</b> the actual costs of domestic bank fees
Export inland freight	<b>Add</b> the actual export inland freight cost
Exporter handling	<b>Add</b> the actual cost of export handling expenses
Export bank fees	<b>Add</b> the actual costs of export bank fees

Table 2 - Summary of adjustments (Ispat)

### Dumping Margin

The Commission compared the weighted average of export prices (at FOB terms) over the whole of the investigation period with the weighted average of corresponding normal values (at FOB terms) over the whole of that period, in accordance with subsection 269TACB(2)(a) of the Act.

The Commission determined that exports from Ispat were not dumped. The dumping margin was **negative 0.7 per cent**.

Refer to **Confidential Attachment 1** for Ispat's dumping calculation spreadsheet.

### **Submissions made in response to SEF 240**

OneSteel and Ispat both provided submissions following the publication of SEF 240. Non-confidential versions of these submissions were placed on the public record. The following issues were raised in these submissions:

#### Indonesian Safeguard Investigation

##### **OneSteel submission**

OneSteel contended that, contrary to the Commission's conclusions at Section 6.5.4 of SEF and PAD No. 240, the available information contained in the Indonesian Safeguards Committee's (the Committee's) *Notification of a Proposal to Impose a Measure* refutes a finding that Ispat recorded domestic sales in the ordinary course of trade for rod in coils during 2013.

OneSteel requested the Commission to reconsider the position it had taken in SEF 240 and PAD 240, with particular reference to the following factors:

*“(i) Similar to an Anti-Dumping Investigation, the “Like Goods” in a Safeguards investigation are specified. In the Indonesian Safeguards investigation, rod in coil is specified by reference to HS Codes that align with the HS codes in Investigation No.240;*

*“(ii) Material injury to an industry and its participants for the goods as verified in respect of a safeguards investigation where it is confirmed that the “applicant” has experienced financial losses for a specified narrow range of goods (i.e. RIC of 5.5mm to 20.0mm) during 2010 to 2013 with a negative trend of 36.0 per cent,*

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and in 2013 suffered a huge financial loss compared to 2012, is directly relevant information to the Commission's investigations into similar goods exported to Australia;

(iii) The Committee's comments extend beyond "the financial performance trend of the two applicants" (which include Ispat as the larger producer of RIC volume) and specifically confirm that "a huge financial loss" was evident in 2013 – the period of investigation in Investigation No. 240;

(iv) This position is further evidenced by the Committee's findings that the Applicants' costs in 2012 and 2013 for the goods were below domestic market selling prices in Indonesia;

(v) The annual report profit result for Ispat in 2013 is at the Group level and is not reflective of the financial performance for the narrower rod in coils business and therefore is irrelevant in supporting a finding of RIC sales in the ordinary course of trade."

OneSteel contended that normal values for Ispat cannot be determined under subsection 269TAC(1) as the Commission cannot be satisfied that sales by the domestic industry participants are in the ordinary course of trade.

### **Ispat submission**

Ispat reaffirmed its position that the information submitted to the Commission was complete and accurate and noted that in its view the remote verification undertaken by the Commission was as rigorous as an in-country verification. Ispat further submitted, in relation to the Indonesian Safeguards Investigation that:

*"...not only was the product investigated of a different scope, in that it included bars, but Ispat was not the only applicant for the safeguards investigation. The findings made by the Indonesian Government were made in relation to the domestic industry as a whole, or in relation to the applicants as a combined unit. Those findings do not relate to Ispat in isolation. While Ispat does not have access to any information regarding the financial losses suffered by other members of the Indonesian industry, it is confident that the findings made by the Indonesian Government were accurate and factually sound for the purposes of that separate investigation. Having said that, these findings cannot affect the Commission's own separate and independent findings."*

### **The Commission's assessment**

In SEF 240, the Commission acknowledged the findings of the Committee, however concluded that the arguments submitted by OneSteel did not of themselves show evidence of an inconsistency between the Committee's findings and the Commission's.

The Commission requested, and received, from Ispat the information Ispat had submitted to the Committee. The Commission was able to reconcile the information supplied by Ispat to the Committee with the verified information Ispat had supplied to the Commission. Importantly, the Commission was able to verify that the information submitted to the Committee by Ispat indicated that Ispat had suffered injury in terms of deteriorating profits over the investigation period, and not that it had suffered losses, as alleged by OneSteel.

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In addition to comparing the information submitted by Ispat to the Committee and the Commission, the Commission undertook an analysis of the financial performance of PT Krakatau Steel (Krakatau), the second applicant in the Indonesian Safeguards investigation. Krakatau's annual reports are available in the public domain at <http://www.krakatausteel.com>. Krakatau is an integrated steel producer with several mills, including a rolling mill capable of producing 450,000 tons of rod in coils per year. An analysis of the Krakatau company accounts for 2013 illustrates that the company had experienced a significant loss of sales and a marked deterioration in its financial performance.

Based on this additional information, the Commission is satisfied that the Commission's findings in regard Ispat are not inconsistent with the findings of the Committee. The Commission is satisfied that the Ispat data as verified is complete and reliable. The Commission performed the appropriate ordinary course of trade analysis on all of Ispat's domestic sales and has excluded any sales that were unprofitable and unrecoverable. Ispat achieved sufficient domestic sales in the ordinary course of trade to establish normal values under subsection 269TAC(1).

### **The impact of the depreciation of the Indonesian Rupiah against the United States Dollar**

#### **OneSteel submission**

As the Commission preliminarily considered in SEF 240 that subsections 269TAF(3) and (4) of the Act may be applicable to the current investigation, OneSteel focussed primarily on the methodology the Commission had detailed in SEF 240 to characterise the movements in the IDR/USD exchange under those provisions. OneSteel's submission did however reassert the basis upon which OneSteel contended that the provisions of subsections 269TAF(3) and (4) should be applied.

OneSteel noted that the Commission's Dumping and Subsidy Manual describes the use of subsections 269TAF(3) and (4) in circumstances where an exporter may have been disadvantaged by an appreciation in currency. OneSteel contended that World Trade Organisation (WTO) jurisprudence in relation to these provisions is not confined only to such circumstances, and the provision may be invoked in the case of domestic currency (relevant to an exporting country) depreciation.

OneSteel specifically referenced Article 2.4.1 of the WTO Anti-Dumping Agreement (ADA), which it has interpreted in the context of the WTO Panel decision in *United States – Anti-Dumping measures on stainless steel plate in coils and stainless steel strip from Korea (Stainless Steel)*.

OneSteel relies on paragraph 6.130 of the decision, which states:

*Even if Article 2.4.1 were not restricted to the issue of the selection of exchange rates, we find nothing in that Article that would prohibit a Member from addressing, through multiple averaging, a situation arising from a currency depreciation. Korea contends, and the United States does not dispute, that the provision of Article 2.4.1 requiring Members to allow exporters sixty days to adjust their export prices to sustained movements in exchange rates applies only in the case of currency appreciation, and not in the case of currency depreciation. Assuming that the parties are correct in this regard, the requirement that a Member take certain actions in the case of currency appreciation does not in our view mean that*

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Members are prohibited from taking any action to address a situation arising from a currency depreciation.<sup>129</sup>

Footnote 129 states:

*The provision relied upon by Korea is the language in Article 2.4.1 stating that, "in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation". Korea is in effect asking us to read this provision to further say that "in an investigation the authorities shall take no actions to address currency depreciations". We can perceive no textual basis to imply such an additional rule into Article 2.4.1.*

OneSteel submitted that in light of the WTO's decision in Stainless Steel, it is entirely open to the Parliamentary Secretary to exercise the discretion available under subsections 269TAF(3) and (4) for the purpose of converting currencies to permit a comparison between the export prices of goods exported to Australia and the corresponding normal values of like goods under subsection 269TAF(1).

OneSteel contended that exercising these discretions "would serve to expose continued injurious dumped export pricing by the exporter that would otherwise be concealed by an advantageous depreciation in the IDR value against the USD".

OneSteel critiqued the methodologies employed by the Commission in SEF 240 in assessing the circumstances where a "short-term fluctuation" or "sustained movement" in respect of currency exist. The Commission's preliminary methodologies were based on that applied by the United States (US) International Trade Commission (USITC), and specified in Policy Bulletin 96-1 (Import Administration Exchange Rate Methodology).

OneSteel contended that the USITC approach is not applicable to Australian policy and law for the following reasons:

- the currency of the USITC practice is unclear and seldom applied;
- the underlying US legislation is narrower than Australian domestic law;
- the US Policy Bulletin cannot be applied so as to "embrace an absurd result"; and
- the methodology contained in the US Policy Bulletin is inconsistent with Australian law and policy.

OneSteel proposed an alternative methodology for identifying a "short-term fluctuation" and "sustained movement", detailed as follows:

1. Calculate the daily USD/IDR cross-rate based on the RBA daily exchange rate data;
2. Calculate a benchmark based on the moving average of the actual (available) daily exchange rates for 90 business days immediately prior to the actual daily exchange rate to be classified, as either "sustained" or "fluctuating";
3. Calculate the variance between the actual daily rate and the benchmark for the investigation period, and for a period of 90 days beyond the end of the investigation period;
4. Does the upward or downward movement of the variance continue for more than one day?

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a. If yes, then does the upward or downward movement in the variance continue for at least 60 days?

i. If yes, then there is a "sustained movement";

ii. If no, then there is a "short-term fluctuation";

b. If no, then there is no "short-term fluctuation".

5. During periods of "short-term fluctuation", the actual daily exchange rates be ignored, and the benchmark rate be substituted as the exchange rate for that day; and

6. During periods of "sustained movement", the actual daily exchange rates be ignored, and the rate of exchange in force on the day of commencement of the sustained movement be substituted for a period of 60 days.

### **Ispat submission**

In relation to the Commission's preliminary currency fluctuation findings contained in SEF 240, Ispat submitted that:

*"...it is with some concern that we note the Commission did not reject OneSteel's position out-of-hand. In essence, OneSteel has attempted to weaponize the "sustained movement" law, in an attempt to increase the chance of a dumping finding where no dumping exists. This is the exact opposite of what the law is intended to do. Section 269TAF is the implementation of Article 2.4.1 of the WTO Anti-Dumping Agreement, which provides in part:*

*Fluctuations in exchange rates shall be ignored and in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation.*

*The provision is based on the idea that exporters should be allowed a period of time in which to revise their export prices in cases where a sustained movement in the exchange rate has occurred. Where this is the case, authorities are required to allow exporters a period – we would call it a "grace period" - of 60 days to adjust their prices. The framers of the ADA accepted that exporters may not be able to respond to sustained movements in the exchange rates quickly, and should not be found to have dumped purely by virtue of the fact that they could not adjust their export prices to keep pace with the movement in the currency.*

*OneSteel has not only made a submission that it is not entitled to make – because it is not an exporter – but has attempted to invert this purpose. On this basis, its argument should not seriously be considered by the Commission."*

### **The Commission's assessment**

As detailed above, SEF 240 detailed the Commission's preliminary approach and findings in relation to subsection 269TAF(3) subsection 269TAF(4) within the context of the specific case circumstances.

In preparing its final report, the Commission has reconsidered its preliminary approach and findings taking into account submissions received in response to SEF 240. The

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Commission's final approach and findings in this report have changed from those presented in SEF 240.

The Commission notes, however, that notwithstanding this change the dumping margin calculations for Ispat are not materially impacted (i.e. there is no variation to the dumping margin for this exporter as detailed in SEF 240).

### 1. Legislative Background

Section 269TAF was inserted into the Act after the conclusion of the ADA, and reflects Article 2.4.1 of the ADA. Article 2.4.1 relates (directly and indirectly) to the fair comparison of export price and normal value when a currency conversion is required. Normally this fair comparison requirement is met by making the currency conversion on the date of sale, or using the rate in a forward exchange cover. However, there are situations involving fluctuations and sustained movements in the exchange rates where care must be exercised to ensure fair comparison for the purpose of determining a dumping margin.

In the context of the Act, subsection 269TAF(1) incorporates the fair comparison principle, and provides that where comparison of export prices and corresponding normal values requires a conversion of currency, that conversion is to be made using the rate of exchange on the date of the transaction or agreement that best establishes the material terms of the sale of the exported goods.

Where currency movements are an issue for the purposes of currency conversion (and therefore fair comparison), subsection 269TAF(3) of the Act states that:

*"If:*

*(a) the comparison referred to in subsection (1) requires the conversion of currencies; and*

*(b) the rate of exchange between those currencies has undergone a short-term fluctuation;*

*the Minister may, for the purpose of that comparison, disregard that fluctuation."*

Subsection 269TAF(4) of the Act states that:

*"If*

*(a) the comparison referred to in subsection (1) requires the conversion of currencies; and*

*(b) the Minister is satisfied that the rate of exchange between those currencies has undergone a sustained movement;*

*the Minister may, by notice published in the Gazette, declare that this subsection applies with effect from a day specified in the notice and, if the Minister does so, the Minister may use the rate of exchange in force on that day for the purposes of that comparison during the period of 60 days starting on that day."*

In the Act, as in the ADA, there is no explicit provision to define what is a fluctuation, or a sustained movement. The Commission's Dumping and Subsidy Manual outlines the Commission's policy approach in relation to these issues as follows:

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*A currency may show steady change, or some fluctuation, over time in the rate of exchange. The notion of a 'sustained movement' suggests something outside of a normal range of fluctuation. There must have been a 'movement', and this 'movement' must have been 'sustained' throughout subsequent periods.*

### **2. Short-term fluctuations under subsection 269TAF(3)**

The Commission has considered the submissions received in response to SEF 240 in relation to "short-term fluctuations" and considers that no information was provided which would warrant overturning these findings.

The Commission does not agree with OneSteel's views that an analysis of the currency movements of the IDR against the USD using the USITC methodology specified in Policy Bulletin 96-1 was not applicable to an Australian legislative and policy setting.

The Commission considers that the model specified in Policy Bulletin 96-1 provides a framework for assessing both short-term fluctuations independently of the underlying legislative and policy landscape. In the absence of an established practice the Commission believes it is reasonable to employ a methodology in use in a comparable jurisdiction for the purposes of conducting its analysis.

The Commission is satisfied that the model employed was reasonable for the purposes of conducting an analysis of currency movements.

The Commission has therefore maintained, for the purposes of this investigation, the position detailed in SEF 240 in regard short term currency fluctuations. The method applied in SEF 240 for determining short-term fluctuations in respect of Ispat is as follows:

- an eight week moving average for the IDR against the USD was established for the investigation period;
- daily actual rates were compared to the 8 week moving average and a daily variance benchmark was established; and
- where the actual daily rate varied from the benchmark rate by more than two and a quarter per cent the actual daily rate was classified as fluctuating.

Where the daily rate was classified as a fluctuation the actual daily rate was set aside in favour of the benchmark rate pursuant to subsection 269TAF(3).

### **3. Sustained movement under subsection 269TAF(4)**

The Commission has considered the submissions received in response to SEF 240 in relation to "sustained movement" and has changed its preliminary approach and findings. The Commission considers that for the purposes of currency conversion to ensure a fair comparison between export price and normal value that a sustained movement should only be considered in the circumstance of appreciation of the rate of exchange between the relevant currencies (i.e. a currency appreciation of the exporter's local currency). The Commission considers that this policy appropriate to address "technical dumping". The Commission does not consider that the sustained movement provisions under subsection 269TAF(4) should be applied in circumstances of depreciation.

#### US approach

The Commission understands that other comparable administrations, principally the US, also apply the sustained movement provision only in the context of a currency

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appreciation of the exporter's local currency. The US applies this provision in the context of appreciation to address "technical dumping". The Commission considers that this approach is reasonable and appropriate.

To demonstrate this issue the Commission has provided a hypothetical example below:

Normal Value (units of local currency)	Rate of exchange (1USD equals)	Export price (set equal to Normal Value to ensure no dumping)	
1000	40	25USD	Exporter has been selling equal to Normal Value before currency changes
1000	50	20USD	devaluation of local currency against dollar
1000	30	33USD	appreciation of local currency against dollar

### *Appreciation:*

When there has been a sustained appreciation of the exporter's currency, the export price, when converted to that currency, decreases and the dumping margin is increased. In the example:

- the exporter had been exporting at 25USD per unit when the exchange rate was 40 units of local currency to the USD;
- the normal value is 1000 units of local currency and at an exchange rate of 40 the exporter had been selling at 25USD and was not dumping;
- if the exchange rate appreciates to 30 units of local currency to the USD, and assuming the normal value remains unchanged at 1000 units of local currency, the exporter will have to adjust its export price *upwards* to 33USD per unit if it wishes to ensure it is not dumping; and
- if the exporter continues selling at 25USD, it enters into dumping.

Where the exporter does not adjust its prices upward in response to an appreciation in the local currency the dumping is considered to be "technical", because it has been brought about solely by the change in the exchange rate.

This example confirms the statement that when an exporter's currency appreciates the dumping margin increases.

### *Depreciation:*

When there has been a sustained depreciation of the exporter's currency, the export price, when converted to that currency, increases and the dumping margin is reduced. In the example:

- the exporter had been exporting at 25USD per unit when the exchange rate was 40 units of local currency to the USD;
- the normal value is 1000 units of local currency and at an exchange rate of 40 the exporter had been selling at 25USD and was not dumping;
- if the exchange rate depreciates to 50 units of local currency to the USD, and assuming the normal value remains unchanged at 1000 units of local currency, the exporter will not be found to be dumping whilst it exports above 20USD per unit; and

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- if the exporter continues selling at USD25 per unit it would still have not been dumping and there is no need to adjust its price to avoid dumping.

This example suggests that an exporter benefits from a depreciation and it does not have to adjust its export price to avoid the dumping finding. The exporter could, if it wished, lower its price to 20USD – and still not be dumping. But if it had continued selling at its old price of 25USD it would also not be dumping.

This is unlike the appreciation situation where the exporter *must* adjust its price (upwards) if it is not to be found dumping.

This example provides context and a rationale to explain the US approach (embedded in legislation) to ensure that the sustained movement provision is only applicable where there has been an appreciation of local currency.

#### **4. WTO Panel – US Anti Dumping Measures on Stainless Steel Plate in Coils and Stainless Steel Sheet And Strip from Korea: WT/DS/179/R December 2000**

One Steel cited the WTO Panel as lending support to its view that the sustained movement provision can apply in the case of currency depreciation.

The Panel examined a number of issues, one of which was '*multiple averaging*'. The main details in regard '*multiple averaging*' were:

- the USA Department of Commerce (DOC) divided the period of investigation into two sub-periods. In its preliminary determinations in both the Sheet and Plate investigations, the DOC had used a single period covering the entire POI to calculate the dumping margin. However, in its final determinations for both investigations, the DOC divided the POI into two sub-periods in order to take into account a "major devaluation" of the won, which occurred in November-December 1997; and
- to do this the DOC calculated a weighted average margin of dumping for each sub-period. Then, when combining the two sub-periods to calculate an overall dumping margin, it treated sub-periods where the average export price was higher than the average normal value as a zero in the final overall calculation<sup>1</sup> (i.e., it treated such a sub-period as having a zero dumping margin). (Para. 6.105)

Korea argued that this use of "multiple averages" violated ADA Articles 2.4, 2.4.1 and 2.4.2.

As such, the issue under consideration was the division of the investigation period into two periods of time, one before the devaluation and one after, and how the DOC had then determined a dumping margin. The issue was not what constituted a sustained movement.

#### Claims under article 2.4.2

In evaluating the claim concerning Article 2.4.2 the Panel concluded that Article 2.4.2 did not preclude multiple averaging, however in this instance DOC did not have sufficient justification for dividing the period into two sub periods. The Panel found DOC's division of the investigation period into two sub periods inconsistent with Article 2.4.2.

#### Claims under article 2.4.1

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In evaluating the claim concerning Article 2.4.1, Korea had argued that this article did not permit an adjustment to account for a depreciation of the exporting country's currency. That is to say, Korea argued that the entirety of article 2.4.1, whether it be fluctuations, or sustained movements, could not apply in the case of a depreciation of a currency.

The Panel rejected the argument that article 2.4.1 was relevant to the issue before it, which was *multiple averaging*. The Panel said multiple averaging is an issue for article 2.4.2.

The Panel goes on to comment at para 6.130 reproduced in full in footnote 1: "*Even if Article 2.4.1 was not restricted.*". Put another way, '*even if Article 2.4.1*' was taken to be applicable to the situation of multiple averaging, the Panel commented that nothing in Article 2.4.1 would prohibit a Member country from addressing a currency depreciation *through multiple averaging*<sup>8</sup>.

OneSteel specifically references footnote 129 which is part of para 6.130:

*The provision relied upon by Korea is the language in Article 2.4.1 stating that, "in an investigation the authorities shall allow exporters at least 60 days to have adjusted their export prices to reflect sustained movements in exchange rates during the period of investigation". Korea is in effect asking us to read this provision to further say that "in an investigation the authorities shall take no actions to address currency depreciations". We can perceive no textual basis to imply such an additional rule into Article 2.4.1.*

The Panel is merely stating in footnote 129 that this is not a valid reason to conclude that in an investigation authorities cannot address currency depreciations under Article 2.4.1. This must however be understood in the context of the issue before the Panel being multiple averaging, which was conducted by the USA DOC in a depreciation situation, not the issue of sustained currency movement of itself.

The panel concluded that the USA's use of multiple averaging periods was not inconsistent with Article 2.4.1.

### 5. The Commission's conclusion

Taking into account all relevant factors (as discussed above), the Commission has concluded that that:

- section 269TAF was put into the Act after the conclusion of the WTO ADA, and reflects Article 2.4.1 of the ADA;
- Article 2.4.1 originated from proposals of authorities such as the USA who wished to see more discipline on exchange rates;
- USA legislation and practice has been to apply the sustained movement provision only when there has been an appreciation of the local currency;

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<sup>8</sup> Para 6.130 reads: 'Even if Article 2.4.1 were not restricted to the issue of the selection of exchange rates, we find nothing in that Article that would prohibit a Member from addressing, through multiple averaging, a situation arising from a currency depreciation. Korea contends, and the United States does not dispute, that the provision of Article 2.4.1 requiring Members to allow exporters sixty days to adjust their export prices to sustained movements in exchange rates applies only in the case of currency appreciation, and not in the case of currency depreciation. Assuming that the parties are correct in this regard, the requirement that a Member take certain actions in the case of currency appreciation does not in our view mean that Members are prohibited from taking any action to address a situation arising from a currency depreciation'.



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- even though Article 2.4.1 contains neutral terminology in regards to appreciation and depreciation of currency, when interpreted against a practical example of currency movement it is clear that the provisions are geared toward the *necessity* of an exporter adjusting prices in the event of a sustained appreciation in order to avoid “technical” dumping, rather than the *option* to adjust prices in the event of a sustained depreciation;
- the WTO Panel cited by OneSteel as supporting its argument must be understood in the context of the issue before it, being multiple averaging, not the issue of a sustained currency movement of itself; and
- as such, subsections 269TAF(4) should only be able to be invoked by exporters in the event of an **appreciation of the exporting country’s currency.**

Notwithstanding this conclusion and approach, the Commission notes that even if a sustained movement was considered to be relevant in the case of depreciation (as preliminary assessed in SEF 240) a sustained movement would not have been found in relation to Ispat. The Commission acknowledges that this assessment was based on the methodology that is utilised by the USA in assessing whether a sustained movement exists, which OneSteel disputes. However given the Commission does not consider that a sustained movement should be considered in the case of depreciation of the local currency, this report does not assess the alternative method proposed by OneSteel for assessing whether a sustained movement exists.

The Commission also notes that regardless of its final policy approach adopted in this case (i.e. that a sustained movement should only be assessed / found where an appreciation of the local currency has occurred) that this has not impacted on the dumping margin assessed for Ispat (i.e. there has been no change from SEF 240).

### Targeted Dumping

#### **OneSteel submission**

OneSteel submitted that Ispat had engaged in ‘targeted dumping’ during the investigation period. OneSteel alleges that Ispat sold the goods to Australia during the investigation period at export prices that differed significantly among different periods of time, specifically from July 2013. OneSteel contends that an analysis of Ispat’s financial information would reveal significant fluctuations in the dumping margins across different parts of the investigation period calculated using the weighted average to weighted average approach. OneSteel further relied upon a statement in SEF 240 (at p. 34) that “relative to Gunung, Ispat benefitted from a difference in the timing of export sales in the context of a depreciating IDR.”

Accordingly, OneSteel requested that the Commission calculate dumping margins for Ispat by comparing the respective export transactions determined in relation to individual transactions during the investigation period with the weighted average of corresponding normal values over that period - that is, applying the weighted average to transaction method to determine dumping margins.

#### **The Commission’s assessment**

Following OneSteel’s submission the Commission undertook additional analysis of the pattern of both Ispat and Gunung’s export sales and normal values over the investigation period.

The Commission observed the following:

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- the bulk of Gunung's export sales occurred prior to the commencement of the depreciation of the IDR in July, while the bulk of Ispat's export sales occurred after the commencement of the depreciation in the IDR;
- export prices for both companies trended downward across each quarter of the investigation period, however Gunung's export prices trended downward at a more accelerated rate;
- normal values for both companies followed the same trend across each quarter of the investigation period;
- the finding that Gunung had exported rod in coils to Australia at dumped prices while Ispat did not is consistent with these trends;
- no evidence was found that Ispat had engaged in export pricing activities over the investigation period that was inconsistent with the pricing activities of Gunung, nor that was indicative of targeted dumping; and
- Ispat utilised the favourable movement in the IDR to reduce export prices (in USD terms) and increase export sales, without exporting at dumped prices.

The Commission finds no evidence to support OneSteel's contention that Ispat engaged in targeted dumping.

### 5.5 Turkey

#### 5.5.1 Habaş

##### Export Prices

Export prices for exports by Habaş were established pursuant to subsection 269TAB(1)(a) of the Act, being the price paid by the importer less transport and other costs arising after exportation.

Export prices were established at an ex-works point.

##### Normal Values

Normal values for exported models were determined under subsection 269TAC(1) based on domestic sales that are arms length transactions of the comparable models in the ordinary course of trade at the same level of trade as export sales.

Normal values were established at an ex-works point.

##### Adjustments

Export prices and normal values were established at an ex-works point. The Commission considered that adjustments were not required pursuant to subsection 269TAC(8) of the Act to ensure the comparability of normal values to export prices.

##### Dumping Margin

The Commission compared the weighted average of export prices (at ex-works terms) over the whole of the investigation period with the weighted average of corresponding normal values (at ex-works terms) over the whole of that period.

The dumping margin for Habaş is **0.4 per cent**.

Refer to **Confidential Attachment 2** for Habaş' dumping calculation spreadsheet.

#### **Submissions made in response to SEF 240 and PAD 240**

##### ***OneSteel submissions***

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OneSteel expressed its concerns about the validity of the Commission's remote verification of Habaş' financial information.

OneSteel further noted that the Commission determined a 5.8% dumping margin for Diler, the second Turkish exporter of rod in coils, and queries whether the Commission undertook appropriate benchmarking of Habaş' data against Diler's for the purposes of testing the reasonableness of the financial information submitted by Habaş.

OneSteel submitted that in accordance with subsection 269TAF(4), the continued sustained movements in the Turkish Lira during the investigation period warrants the substitution of the actual currency with a fixed currency at the beginning of each 60 day period of sustained movement.

### ***Habaş submission***

Habaş affirmed the Commission's findings in SEF 240, and requested the termination of the investigation so far as it relates to Habaş at the soonest possible opportunity.

### ***The Commission's assessment***

As detailed above, the Commission undertook a remote verification of the information submitted by Habaş using Webex. The Commission regards the remote verification undertaken using Webex as being as thorough as an on-site verification, and as such is satisfied that the Habaş data is complete, accurate and reliable.

The Commission did not undertake verification of the financial information submitted by Diler. The Commission requested that Diler provide further information in support of its REQ, however Diler did not provide this additional information. As such the Commission considered Diler to be an uncooperative exporter.

As detailed below, the Commission calculated a dumping margin for Diler using export prices verified with Diler's Australian importer, and a normal value based upon the highest quarterly normal value for Habaş. As such the differential in dumping margins between Habaş and Diler is not indicative of an unreliability of data in relation to Habaş, but rather the manner of calculating the dumping margin for the uncooperative exporter.

The Commission is satisfied that it has undertaken the appropriate ordinary course of trade analysis on all of Habaş' domestic sales and that it has excluded any sales that were unprofitable and unrecoverable. Habaş achieved sufficient domestic sales in the ordinary course of trade to establish normal values under subsection 269TAC(1).

The Commission's position in regard currency movements is detailed in section 5.4 above.

On the basis of the reasoning detailed there, the Commission has not applied subsection 269TAF(4) as requested by OneSteel, however has applied subsection 269TAF(3) as follows:

- an eight week moving average for the Turkish Lira against the USD was established for the investigation period;
- daily actual rates were compared to the 8 week moving average and a daily variance benchmark was established; and
- where the actual daily rate varied from the benchmark rate by more than two and a quarter per cent the actual daily rate was classified as fluctuating.

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Where the daily rate was classified as a fluctuation the actual daily rate was set aside in favour of the benchmark rate pursuant to subsection 269TAF(3).

### 5.5.2 Diler

The Commission requested that Diler provide further information in support of its REQ. Diler was advised that if it did not provide the requested information by the due date the Commission may determine its export prices under subsection 269TAB(3) of the Act, and normal values under subsection 269TAC(6) of the Act. These sections provide for export prices and normal values to be determined using all relevant information where the Commission has not had sufficient information made available to it. Diler did not submit the requested information and as such the Commission considers Diler to be an uncooperative exporter, as detailed in section 5.3 above.

#### Export Prices

The Commission established export prices pursuant to subsection 269TAB(3) of the Act, having regard to all relevant information.

The Commission compared the export prices submitted by Diler in its exporter questionnaire response against the verified purchase prices paid by its Australian importer. The export prices submitted by Diler reconciled, and as such the Commission was satisfied that export prices could be established based on the price paid by the importer less transport and other costs arising after exportation.

Export prices were established at an ex-works point.

#### Normal Values

Normal values were established pursuant to subsection 269TAC(6) of the Act, having regard to all relevant information.

The Commission established normal values for Diler using the highest quarterly normal value determined for Habaş.

Normal values were established at an ex-works point.

#### Adjustments

Export prices and normal values were established at an ex-works point. The Commission considered that adjustments were not required pursuant to subsection 269TAC(8) of the Act to ensure the comparability of normal values to export prices.

#### Dumping Margin

The Commission compared the weighted average of export prices (at ex-works terms) over the whole of the investigation period with the weighted average of corresponding normal values (at ex-works terms) over the whole of that period.

The dumping margin for Diler is **5.8 per cent**.

Refer to **Confidential Attachment 3** for Diler's dumping calculation spreadsheet.

### 5.5.3 Turkey – All Other Exporters

The Commission has established that there were two exporters of rod in coils from Turkey during the investigation period.

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After having regard to all relevant information, export prices for all other exporters were established in accordance with subsection 269TAB(3) of the Act, and normal values in accordance with subsection 269TAC(6) of the Act.

Specifically, the Commission has adopted the dumping margin for Diler as an 'all exporters' rate for exporters from Turkey.

Pursuant to subsection 269TDA(3), the Commissioner must terminate an investigation if satisfied that the total volume of goods that are dumped is a negligible volume.

Subsection 269TDA(4) defines a negligible volume as 3 per cent of the total volume of goods imported into Australia over the investigation period.

As outlined in section 4.5 of this report, the Commission estimated the size of the Australian market.

Based on this information, the Commission is satisfied that, when expressed as a percentage of the total imported volume of the goods, the volume of allegedly dumped goods from Turkey was less than 3 per cent and therefore was negligible.

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**6 CONCLUSION**

Under subsection 269TDA(1) of the Act, if the Commissioner is satisfied that there has been no dumping, or negligible dumping, by the exporter, the Commissioner must terminate the investigation so far as it relates to that exporter.

Therefore, the Commissioner must terminate the dumping investigation so far as it relates to rod in coils exported by Ispat and Habaş.

Under subsection 269TDA(3) of the Act, if the Commissioner is satisfied that there has been negligible volumes of dumping, the Commissioner must terminate the investigation so far as it relates to that country.

Therefore, the Commissioner must terminate the dumping investigation so far as it relates to rod in coils exported by all exporters from Turkey.

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**7 APPENDICES AND ATTACHMENTS**

<b>Confidential Attachment 1</b>	Calculations of export price, normal value and dumping margins - Ispat
<b>Confidential Attachment 2</b>	Calculations of export price, normal value and dumping margins - Habas
<b>Confidential Attachment 3</b>	Calculations of export price, normal value and dumping margins - Diler
<b>Non-Confidential Appendix 1</b>	List of submissions received prior to SEF 240
<b>Non-Confidential Appendix 2</b>	List of submissions received after SEF 240

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Australian Government  
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**NON-CONFIDENTIAL ATTACHMENT 1 – INTERESTED PARTY SUBMISSIONS AND RELEVANT DOCUMENTS RECEIVED PRIOR TO PUBLICATION OF SEF 240 AND PAD 240**

Date Received	Submission from	Submission Title	EPR No.
29 May 2014	OneSteel	Investigation into Rod In Coil exported from Indonesia, Taiwan and Turkey – Exporter Questionnaire Deadline and Preliminary Affirmative	15
4 June 2014	OneSteel	Rod-In-Coil exported from Indonesia, Taiwan and Turkey – Proposed Unsuppressed Selling Price	16
3 June 2014	Van Bael & Bellis on behalf of the Turkish Steel Exporters' Association	Injury Submission	21
4 June 2014	Pacific Steel	Re: Anti-dumping Notice 2014/27	24
17 June 2014	OneSteel	Investigation into Rod In Coil exported from Indonesia, Taiwan and Turkey – Exporter Questionnaire Redactions	25
8 July 2014	OneSteel	Investigation into Rod In Coil exported from Indonesia, Taiwan and Turkey – Submission on behalf of Turkish Steel Exporters' Association of 3 June 2014	31
12 September 2014	OneSteel	Exporter Briefings	34
17 November 2014	Stemcor	Investigation into Wire Rod exported from Indonesia	39
10 December 2014	Quintain	Comments on Visit Report	40
23 December 2014	Gunung	Dumping Investigation – Rod in coils exported from Indonesia	42
2 June 2014	Republic of Turkey Ministry of Economy Directorate General of Exports	Views of Turkey regarding the Anti-Dumping Investigation initiated by Australia against rod in coils imports from Indonesia, Taiwan and Turkey	45
6 Feb 2015	OneSteel	Investigation into Rod in Coil exported from Indonesia, Taiwan and Turkey –	46

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Date Received	Submission from	Submission Title	EPR No.
		Exports from Indonesia	
16 Feb 2015	OneSteel	Investigation into Rod In Coil exported from Indonesia, Taiwan and Turkey – Exporter Verification Report on Habaş Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S	48
24 Feb 2015	OneSteel	Dumping Investigation ADC 240 – Rod in Coils exported from Indonesia, Taiwan and Turkey – PT ISPAT INDO	51
24 Feb 2015	OneSteel	Dumping Investigation ADC 240 – Rod in Coils exported from Indonesia Re: Australian industry response to remote exporter verification report of Pt Gunung Rajapaksi	52

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**NON-CONFIDENTIAL ATTACHMENT 2 – INTERESTED PARTY SUBMISSIONS AND RELEVANT DOCUMENTS RECEIVED AFTER PUBLICATION OF SEF 240 AND PAD 240**

Date Received	Submission from	Submission Title	EPR No.
6 Mar 2015	Gunung	Dumping Investigation– Rod in Coils exported from Indonesia	55
12 Mar 2015	Gunung	Dumping Investigation– Rod in Coils exported from Indonesia	56
23 Mar 2015	Ispat	Statement of Essential Facts 240 - Alleged dumping of rod in coils exported from Indonesia	57
23 Mar 2015	Van Bael & Bellis on behalf of the Turkish Steel Exporters' Association	Submission in response to Statement of Essential Facts 240	58
23 Mar 2015	OneSteel	Hot rolled rod in coils exported from Indonesia, Taiwan and Turkey: Submission in response to SEF and PAD	59
23 Mar 2015	Quintain	Comments on Statement of Essential Facts	60
23 Mar 2015	Gunung	Dumping Investigation– Rod in Coils exported from Indonesia	61
23 Mar 2015	Government of Indonesia Directorate General of Foreign Trade	Report on Statement of Essential Facts 240	62
23 Mar 2015	Habaş	Statement of Essential Facts 240 - Alleged dumping of rod in coils exported from Turkey	63
16 Apr 2015	OneSteel	Dumping Investigation ADC 240 – Rod in Coils exported from Indonesia, Taiwan and Turkey – Submission by PT Gunung Rajapaksi	65
16 Apr 2015	OneSteel	Dumping Investigation ADC 240 – Rod in Coils exported from Indonesia, Taiwan and Turkey – Depreciation of Turkish Lira	66
14 Apr 2015	Letter to Ispat	Request for additional information	67
23 Apr 2015	Ispat	PT Ispat Indo Alleged dumping of rod-in-coil – further information request	68

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