



AUSTRALIAN STEEL INSTITUTE

**Submission to the House Standing Committee on
Agriculture and Industry**

**Inquiry into the circumvention
of anti-dumping laws**



November 2014



House Standing Committee on Agriculture and Industry

PO Box 6021
Parliament House
CANBERRA ACT 2601

Email: agind.reps@aph.gov.au

28 November 2014

Re: ASI submission to Inquiry into Circumvention of Anti-Dumping Laws

Dear Chairman, Secretary and Committee;

Please find attached the Australian Steel Institute's (ASI) comments and suggestions on the Inquiry into the circumvention of Anti-Dumping (AD) Laws.

The ASI is submitting these comments on behalf of its member companies, notwithstanding that some of these companies may also submit their own individual submissions. These members include the full spectrum of companies and individuals involved in the manufacture, distribution, fabrication, design, detailing, education, surface protection and construction of steel as well as suppliers of goods and services to the steel industry.

We welcome the improvements made to the Anti-Dumping system in the past 4 – 5 years largely supported by both sides of Parliament and would hope that further enhancements to the system would again be supported by all.

We would like to confirm our support of this inquiry, as we have seen the circumvention of anti-dumping determinations on the increase and taking place for quite some time. These circumventions show that the current structure and guidelines are ineffective. This circumvention is continuing to hurt our industry today and is a deterrent to companies considering an AD action, especially SME's. A thorough and speedy resolution to this issue is required. Should any legislative changes be required we would hope that these could be expedited and included in any other AD changes being considered by the Government early in 2015.

The local industry is asking no more than for our Government and our legislative frame work, principally our Anti-Dumping system to work as it is intended and support fair trade and the rights of local industry to enable us to grow and further invest in local jobs.

The ASI thanks the Committee for its work and the opportunity to make a submission into this inquiry. We look forward to reviewing the conclusions to the submissions and public comments phase. We are happy to assist the inquiry at any time to ensure that the Australian steel industry is able to operate in a free and fair business environment.

Yours sincerely,

Don McDonald
Chief Executive

Ian Cairns
National Manager – Industry Development

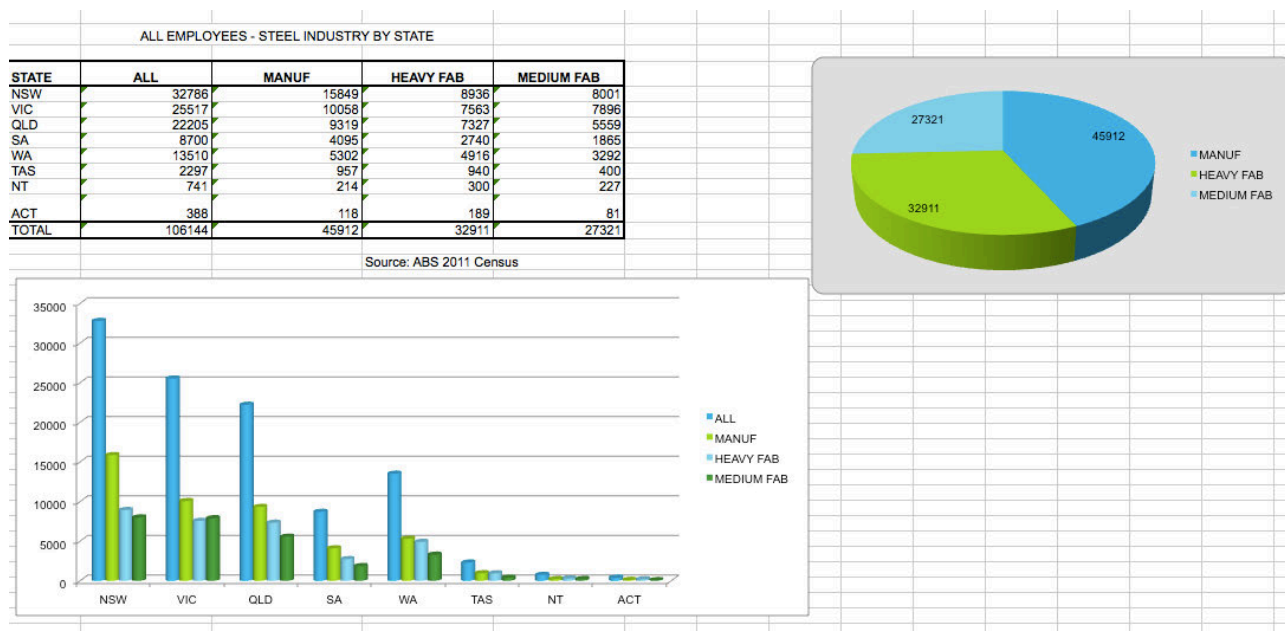
Australian Steel Institute submission

About ASI

Australia's steel industry and service suppliers employ 106,000 people (ABS Census 2011, see charts below) and have an annual turnover in excess of \$27 billion. The Australian Steel Institute (ASI) is the peak industry association representing this important sector of the Australian economy. The ASI provides representation, technical and marketing leadership, advocacy and an independent forum to facilitate steel promotion and industry competitiveness. The ASI's mission is to increase the awareness of the benefits of steel and promote Australian-made steel as the material of choice.

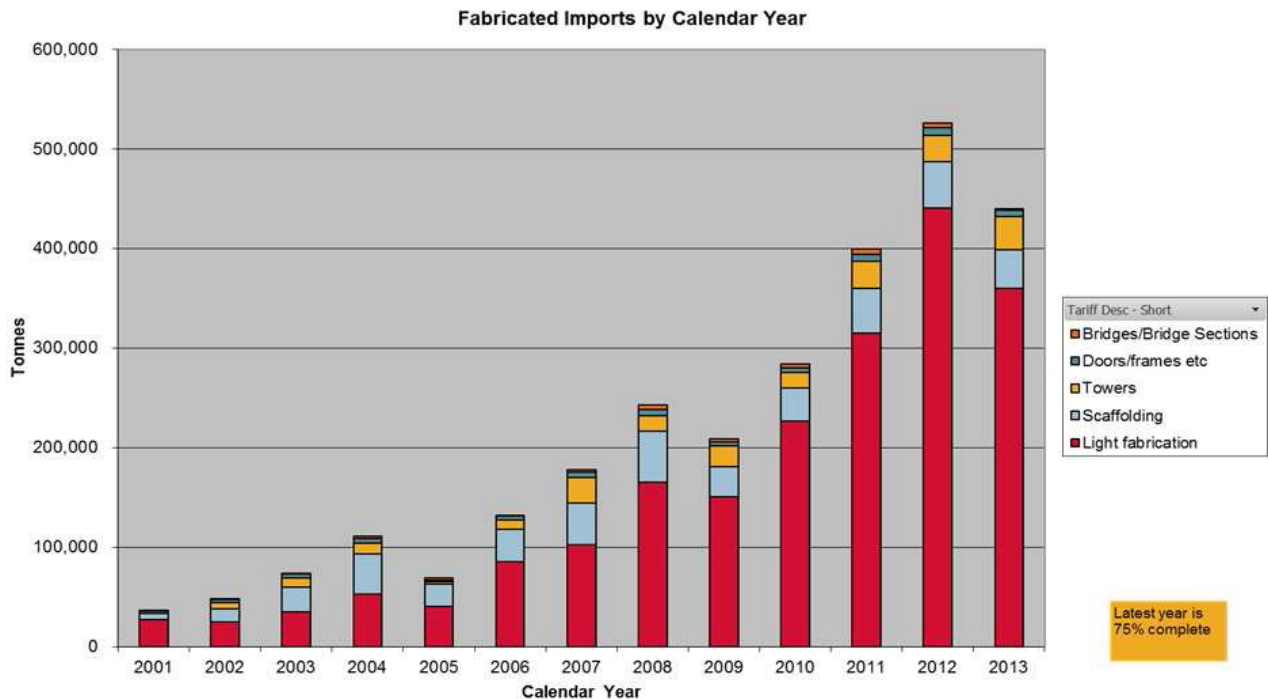
ASI members represent the full spectrum of companies and individuals involved in the manufacture, distribution, roll forming, fabrication, design, detailing, education, surface protection and construction of steel as well as suppliers of goods and services to the industry.

Steel is an important segment of Australia's economy. Our members and the Australian steel industry as a whole will be directly and indirectly affected by the ability of our industry to supply into major projects (resources and infrastructure). Considering this, it would be beneficial to the steel industry and our members for the ASI to have a meaningful and sustained dialogue on this issue.



Background / Introduction

Traditional domestic markets for steel, such as manufacturing, industrial buildings, commercial buildings, automotive, and residential construction remain weak and face considerable growth pressure. We have also seen the imports of raw and fabricated steel (see chart below) increase steadily in the past decade. The scale illustrates a measure of the challenge facing local steel manufacturers in recent years of fabricated steel imports. Imported fabricated steel structures (See Figure below – "Light fabrication") increased from less than 100 000 tonnes/year in 2006 to over 400,000 tonnes/year in 2012. The 2013 data is a year to date total for the first three quarters of the year. Based on this preliminary number, the total level of imports for 2013 is likely on track to exceed 2012 by a significant margin.



Source: ABS / Customs Tariff Data

It is in this environment that the local industry is looking for our Government and our legislative frame work, principally our Anti-Dumping system to work as it is intended and support fair trade and the rights of local industry to enable us to grow and further invest in local jobs.

We would like to reiterate that the ASI and the steel industry in general is in favor of Free Trade, however this trade must be Fair and pass the various WTO, ACCC and AD test on fairness.

Supporting Local Industry is good for Australia:

Supporting local industry and increasing local content is good for Australia and the local economies in which the companies operate. An independent report completed for the Industry Capability Network (ICN) shows that for every \$1m of retained manufacturing business:

- A further \$985,000 of value-added is generated (metal products is the highest VA).
- \$333,900 of tax revenue is generated.
- \$95,000 worth of welfare benefits is saved.
- 10 full-time jobs are created or saved.

It makes obvious sense that a stronger policy framework to encourage this and soften the effect of the 'patchwork' economy should be supported. Government leadership and decisive policy support, in this instance in the Anti-Dumping area is required to encourage participation and ongoing confidence in the current system and in fair trade.

Comments and suggestions relating to the Inquiry into circumvention of anti-dumping laws_

INQUIRIES TERMS OF REFERENCE

The terms of reference provide for the committee to inquire into and report on the following matters:

- the scope, prevalence and impact of circumvention practices by foreign exporters and Australian importers, especially from the perspective of Australian businesses;
- the operation of the anti-circumvention framework since its introduction in June 2013 including its accessibility, use by Australian businesses, recent amendments and effectiveness to date;
- practices that circumvent anti-dumping measures and the models for addressing practices administered by other anti-dumping jurisdictions; and
- areas which require further consideration or development including the effectiveness of anti-dumping measures and the range and scope of circumvention activities.

The ASI has, through its members, seen the blatant and unchecked circumvention of anti-dumping determinations grow in number and complexity over the past 2 years.

We can provide macro examples that our members will provide more detail to in their individual submissions:


1. **Minor Modification of 'like goods':**

An example of this being employed now is where an exporting steel manufacturer will add very small amounts of an element called 'Boron' to the steelmaking process that has the consequence of changing the definition of the steel from a 'carbon' steel, to an 'alloy steel, thereby avoiding dumping duties on the carbon steel product.

An example of the disregard and blatant arrogance shown by some importers prosecuting this practice can be evidenced in the follow excerpt from an imported offer that clearly states that ...*"it is contained ONLY to reduce the tariff rate....."*

The excerpt below from an importer offer in early 2014, shows the blatant disregard for the AD ruling on carbon product and is a clear circumvention of the intended remedy.

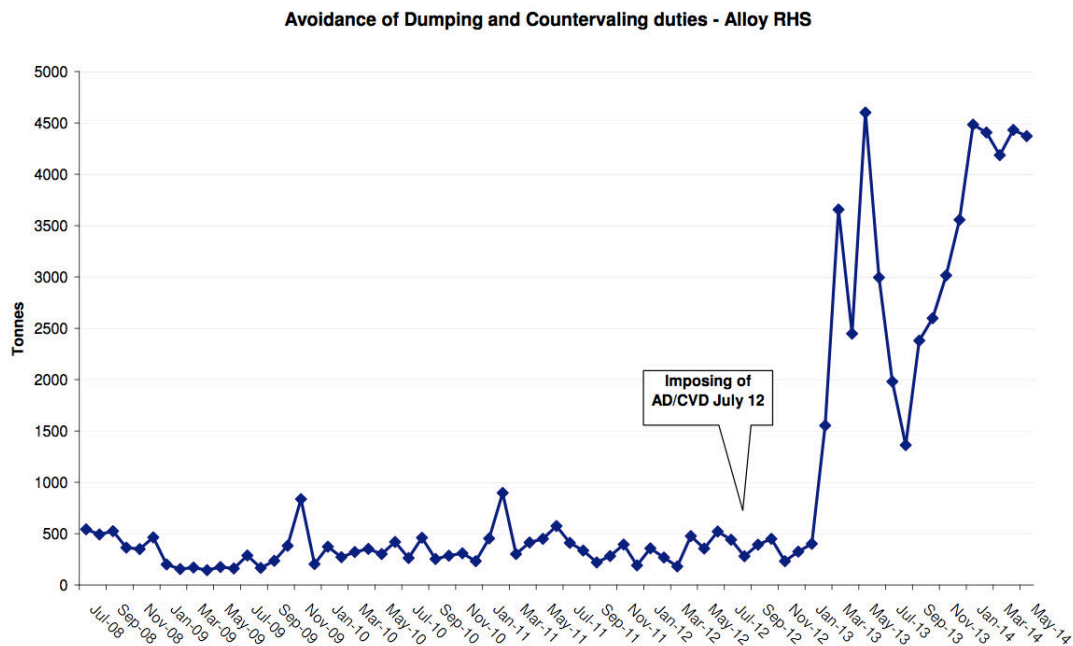
The named exporter Posco Korea has a 9.1% dumping duty imposed on it at the time of offer.



As you may be already aware of, the composition of Boron is not affecting the actually functionality of the galvanised for normal end usage in fact – it is contained for reducing tariff rate. You may take this account when you compare the offers.

A full copy of the offer is available on request. This has example has also been provided to the Customs economic risk unit to investigate avoidance of duties – this was sent on the 19th March this year.

This has been happening in a variety of products from plate, coil (as per example above) and pipe and tube products. As further evidence of this circumvention we can highlight the massive increase in traditional volumes of these so-called 'Alloy products, following the decision to apply duties to the carbon products that they are seeking to substitute, as seen in the charts below.



Source: ABS / Customs Tariff Data

The Graph above shows a 10-fold jump in imports of 'alloy' RHS (Rolled Hollow Section, made by OneSteel) since measures were imposed on the carbon product in July 2012.

- shows an increase on average of imports of alloy RHS pre spike 350 t/month
- since the beginning of spike ave = 3,250 t/month
- additional import tonnes sold in 16 month period was 46,417. This volume is a direct cost to Australian Industry.
- forgone dumping revenue to Government, based on the 10% tariff rate is $(46,417 \times \$100/t) = \$4.6m$.
- WE BOTH MISS OUT ON REVENUE AND JOBS

Further evidence of the circumvention shown by a spike in volume of the so called 'Alloy' product can be seen for Galvanized steel coil, made by BlueScope, in the table below.

ABS IMPORT DATA

7225.92.00.38	Arrival Mth tns					
	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Total
Sth Korea	-	-	99	50	923	1072
Taiwan	1256	869	311	3911	2097	8445

7225.92.00.38	Arrival Mth \$A FOB					
	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Total
Sth Korea			98792	48352	998864	1146007
Taiwan	917397	634790	236142	3227478	1737260	6753067

The ABS import data highlights sharp increases in tonnes from Taiwan and Korea of the “other alloy” tariff code used for declaring galvanized steel with minor modification and clearly used to avoid dumping duties

With only a total of 179 tonnes being imported (from ALL countries) under this code from Jan 2012 to Sept 2013 inclusive (21 months), the rapid increase from October 2013 where Taiwan has sold more than 8,440 tonnes under this tariff code is further evidence of circumvention.

It is clear that the Minister’s Final decision on the galvanized steel dumping case in July 2012 is directly related to the start on volume arriving in the 7225.92 tariff code – due to the lead time lag between a (July) offer to an October arrival in Australia.

It should also be noted that while these recent circumvention examples have highlighted the increase in Boron, other elements such as chrome could also be added to provide the same affect. This would need to be considered with any prosed solutions.

Recommendation:

ASI recommends that the Australian Dumping Commission (ADC) treat goods with minor modifications as ‘alike’ to the goods the subject of measures. The adoption of this approach would ensure that the Anti-Dumping System is able to swiftly address circumvention activities involving the slight modification of goods and that further material injury to the Australian industry is minimized and the integrity of the system is maintained.

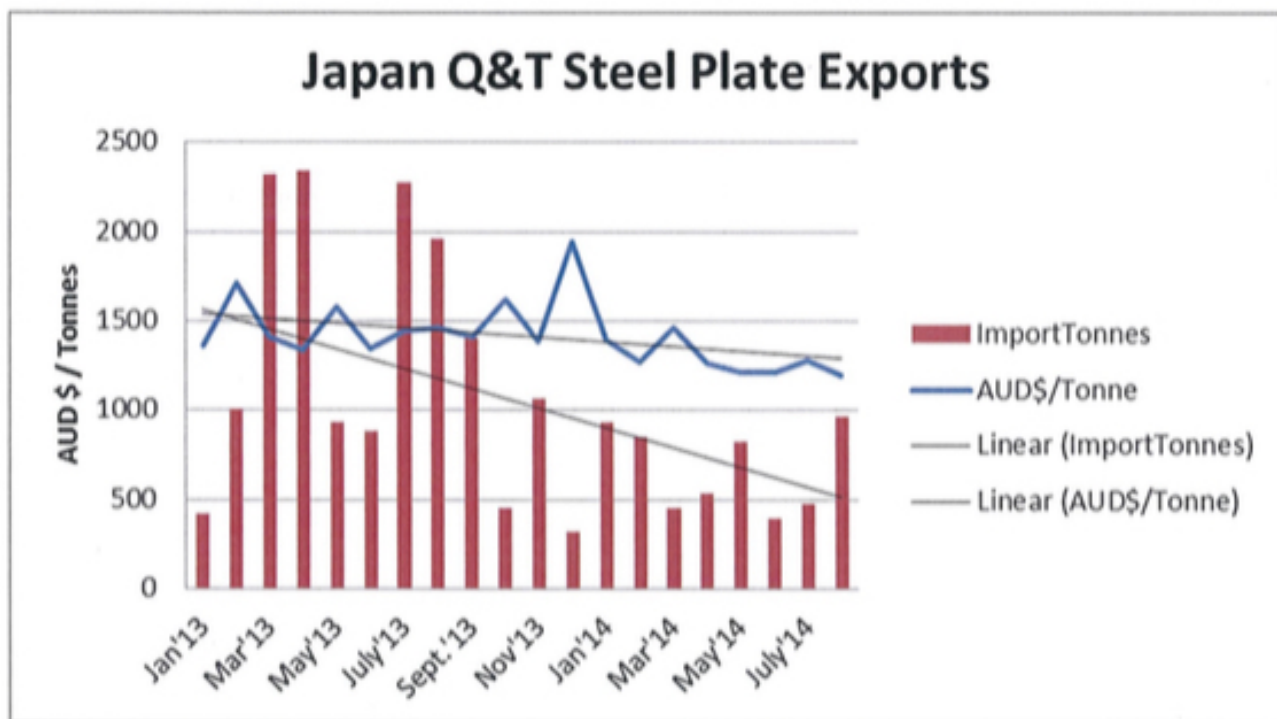
We would also refer you to the submissions of BlueScope and OneSteel for further evidence and commentary on the ‘minor modifications’ issue.

2. Circumvention due to price manipulation / reduction.....ad valorem:

Our members have also been frustrated by the circumvention of duties due to reductions in price. You may think that if an importer reduces his price then we have been successful in damaging them in the marketplace. This is not the case, what actually happens is that the *bona fide* winner of the AD case is damaged, as it has been proved via the AD investigation that they need the imposed pricing level, including full AD duty to alleviate the injury being caused.

A good example of this is in the Quenched and Tempered steel market where Bisalloy Steel won a AD case and had all four of the competitors sited in the case reduce their prices with the nett effect being that when duty was added the price was the same in the marketplace as it was prior to the successful AD investigation. Bisalloy are then put in the same position as prior to the AD investigation of continued injury.

See graph below that shows the price reductions of one of the four exporters who have reduced their import price to compensate for the duty imposed. It should also be pointed out that this was also in a period when the Australian Dollar was falling. Full and further information on this is available from the submission put to the Australian Anti-Dumping Commission by Bisalloy on 23 September, 2014.



Where only ad valorem (or a percentage of the export price) is used there is a high risk that the exporter will simply reduce the price and thereby circumvent the intended proposed measures.

Recommendation:

Utilise a combination of fixed and variable components. This will deter exporters from reducing export prices post the imposition of measures. This method has been used to good effect in the past.

3. Lesser Duty Rule – Policy shortcomings for SME's:

With effect 1 January 2014 the Parliamentary Secretary can exercise discretion to not take account of the lesser duty rule, where the Australian industry comprises two or more SMEs. This new policy initiative pre-supposes that where there is a single SME, there is a risk of exploitation of market power and the lesser duty rule must continue to be considered. A recent example of this was In the Quenched & Tempered Steel Plate market. Bisalloy is the sole producer in the country and accounts for less than 40 per cent share of the market, with imports supplying the majority of the product used in Australia. We feel that an SME who operates alone in a specific market and has less than 60% market share should be provided with more support.

Recommendation:

The ADC and the Parliamentary Secretary should be able to exercise discretion to not apply the lesser duty rule in cases involving two or more SME's, or where the



Australian industry comprises one producer who does not have a dominant market position of greater than 60% of the market.

4. Timelier resolution to AD Cases:

There have been consistent criticisms to ASI by its members of the lengthy timeframes taken to decide AD cases. This is a major factor and deterrent when SME's are considering using the AD system. It also unnecessarily prolongs the injury to Australian industry.

Recommendation:

A review of all timeframes associated with the various processes and milestones of the AD system be reviewed to ensure that we are worlds 'best practice'.

Conclusion:

We would like to thank the Committee for the opportunity to comment on these issues and stand ready to assist in any way we can to ensure that the thoughts and recommendations from the steel industry are looked upon favourably and implemented in a speed manner.

The ASI is trying to encourage more SME's within the steel industry, who believe that they are being 'dumped on' to use the Anti-Dumping system. The recommendations made within this submission and the Governments election commitments on enhanced Anti-Dumping regulations will go a long way to ensuring that SME's have greater confidence in the system.

We look forward to reviewing the Committee's findings and recommendations on this very important issue to the steel industry.

For further information or clarification on this submission please contact:

Ian Cairns
National Manager – Industry Development and Government Relations
Australian Steel Institute

Further information on the ASI can be found using the web link:

www.steel.org.au