

Australian Steel Institute (ASI) – Questions on Notice

Questions raised during the Hearing held on 6th December 2021

1. **Steel Research Hub** (Senator Scarr)

Question: Has any research been done to demonstrate the economic contribution of the Steel Research Hub—for example, trying to work out the value of every government dollar that's been spent on the research hub—so we can have a better understanding of its importance?

Answer: In November 2021, the CSIRO completed a working paper titled *Quantifying Australia's returns to innovation*. The findings from this paper were that in the context of research and development 'for every dollar invested in Australia, there is a \$3.5 return on investment and a 10 per cent average annual return'.

The Steel Research Hub (SRH) outcomes are reported to the Australian Research Council (ARC) as a mandatory requirement of its funding and governance. Whilst this reporting data is not accessible to the public, the ASI is advised by SRH management that the return on investment they reported to the ARC is well in excess of the benchmark reported in the CSIRO findings.

The Director of the SRH has provided a brief summary of actual project outcomes, which is included in the ASI response as a separate two-page document.

2. **Anti-Dumping System** (Senator Patrick)

Question: Methodology for assessment of anti-dumping claims, specifically the basis for the Anti-Dumping Commission (ADC) using either a six per cent profit or a zero per cent profit being used in relation to consideration of dumping?

Answer: The profit margin is used when the ADC is calculating the unsuppressed selling price (USP) for Australian industry in the context of investigating a dumping claim, which is then used to determine the Non-Injurious Price (NIP) from the exporters.

In the case of a zero per cent profit margin being used, the ASI fundamentally objects to the underlying premise that it is reasonable for an Australian business to be expected to compete on the basis of zero profit margin. This is both an unfair basis for competition and also unsustainable from a return on capital perspective. The ASI contends that zero per cent profit should never be used when determining the exporters NIP from the cost to make and sell plus profit calculation for an USP.

The ASI cannot confirm the origin of the zero per cent profit approach but we believe that it may be the ADC itself.

The European Commission uses a minimum six per cent profit approach in their assessment of anti-dumping cases. As best can be determined by the ASI, this approach came from a recommendation that was made as part of an external evaluation of the EU Trade Defence system in 2012. The report is titled as follows:

EVALUATION OF THE EUROPEAN UNION'S TRADE DEFENCE INSTRUMENTS

Contract No. SI2.581682

FINAL EVALUATION STUDY

27 February 2012

In early 2018, the European Parliament proposed changes to their regulation of the European Parliament and of the Council amending Council Regulation (EC) No 1225/2009 on protection against dumped imports from countries not members of the European Community. An excerpt of this is below:

Regulation (EC) 2016/1036 is amended....

Article 6 shall be amended as follows

d. a new paragraph 2c is added

When the injury margin is calculated on the basis of a target price, the target profit used shall be established taking into account factors such as the level of profitability before the increase of imports from the country under investigation, the level of profitability needed to cover full costs and investments, R&D and innovation, and the level of profitability to be expected under normal conditions of competition. Such margin shall in any case be higher than 6 %.

e. a new paragraph 2d is added

When establishing the target price, actual cost of production of the Union industry, which result from Multilateral Environmental Agreements, and protocols thereunder, to which the Union is a party, and of ILO Conventions listed in Annex Ia, shall be duly reflected. Moreover, future costs, which are not covered in paragraph 2c, which result from these agreements and conventions, and which the Union industry will incur during the period of the application of the measure pursuant to Article 11(2), shall be taken into account.

Recommendation: In consideration of the above background and context, the recommendation of the ASI is that the Non-Injurious Price (NIP) Provision should include a level of profit of not less than 6% in circumstances where the NIP is based on a USP calculated by reference to the domestic industry full cost of production plus a level of profit. Higher profit levels may be justified, to be determined on a case-by-case basis.

3. Design of industry innovation funding schemes (Senator Pratt)

Question: What do we need to do to reorganise capital for those downstream manufacturers but also for steel manufacturers that are having difficulty in automation?

Answer: The ASI has undertaken further consultation with our steel product manufacturer members on this question, which resulted in two recommendations being identified. The context to these recommendations is that the majority of steel product manufacturers are small and medium sized enterprises (SMEs), according to the definition of having less than 200 employees. Whilst they often have a long history of manufacturing in Australia, many are now part of global businesses with multi-country operations, that specialise in certain product types. For eligibility purposes, the parent company headcount may preclude their participation. An additional consideration, is that many innovation funding schemes very rightly seek to encourage exports, but there is typically no recognition given to the sovereign capability value of import replacement.

Recommendation 1: For scheme eligibility purposes, particularly where SMEs are the primary focus, consider just the Australian based entity of global businesses.

Recommendation 2: For scheme merit criteria, consider placing equal value on projects that offer import replacement, to those that offer export potential.

4. Design of government procurement guidelines to encourage local participation whilst not being in breach of international trade rules and free trade agreements (Senator Scarr)

Question: Does the ASI have any advice regarding how small and medium enterprises are considered in relation to trade obligations?

Answer: The ASI does not have permission from the NSW Department of Planning, Industry and Environment to share the legal advice provided in the context of the development of the NSW Renewable Energy Sector Board Plan.

The ASI has a general understanding that contained within the overall framework of Australia's international trade law obligations, there are a number of exemptions. These include measures to benefit Australian SMEs by virtue of setting local participation targets.

Questions raised in email received 8th December 2021.

Your submission argued that the recent disruption to global supply chains associated with Covid-19, including recent challenges with international shipping, have highlighted the importance of sovereign capability in the form of fully capable and self-reliant domestic manufacturing value chains. However, you have also argued that any sovereign capability is unlikely to be sustained unless there is an ongoing pipeline of work to ensure a critical mass of demand.

Q. What procurement policies you would like to see adopted by both the federal and state governments?

Answer: The ASI offers six recommendations in regard to procurement policy, the context and justification for which are explained in more detail in the ASI White Paper document (Procurement Policy chapter) that was included with our submission. These are:

Recommendation 1: Government procurement regulatory instruments should make mandatory adherence to the Principles for Procurement and Conformance of Construction Products set out in the APCC document *Procurement of Construction Products – A Guide to Achieving Compliance*.

Recommendation 2: Government procurement documentation should apply a weighting in favour of procurements providing local benefits to the areas in which relevant infrastructure is being constructed. Legislation should permit the declaration of projects of strategic importance, which may specify (amongst other things) a local content requirement.

Recommendation 3: The accreditation concept already applied within the NSW and South Australian procurement policy frameworks should be extended so that:

- All structural steel products should be sourced from mills with Australasian Certification Authority for Reinforcing and Structural Steel (ACRS) third-party certification or equivalent;
- All fabricated products to be obtained from suppliers accredited under the National Structural Steelwork Compliance scheme or equivalent;
- All structural steel and fabricated products should be sourced from businesses accredited under the steel industry's Environmental Sustainability Charter; and
- Steel meeting the standards specified in the newly created Australian Standard 5131 should be used by all Governments when entering into contracts for the construction of all forms of building. This should be a condition imposed by the Commonwealth for any jurisdiction receiving Commonwealth funds for infrastructure projects.

Recommendation 4: Australian governments should model regulations relating to issues such as determining value for money on regulation 67 of the Public Contracts Regulations 2015 (UK).

Recommendation 5: Governments should establish mechanisms to facilitate the confidential reporting of the use of non-compliant product in the construction of government funded infrastructure.

Recommendation 6: The general Australian reservation contained in government procurement chapters of free trade agreements disapplying the agreement to forms of preference to benefit small and medium enterprises should remain policy.

Your submission has also called for the introduction of new mechanisms to permit the confidential reporting of the use of non-compliant products. In addition to that, you've called for Workplace Health and Safety regulations to be modified to better define the link between non-compliant construction products and risk/safety.

Q. Could you expand on what this confidential reporting mechanism might look like, and on the specific problem that this mechanism would be trying to address.

Answer: Launched in September 2018, the Confidential Reporting on Structural Safety – Australasia (CROSS-AUS) is an example of this mechanism. It is a concept that was originated in the UK. Based on reporting techniques developed by NASA for the aviation industry, CROSS-AUS is a confidential reporting scheme that captures and shares lessons learned in the construction industry with the aim of preventing future failures.

The ASI believes that to augment the existence of CROSS-AUS, Australian governments should establish a cell within the relevant Department with principal responsibility for procurement policy to allow 'whistle-blowers' to report the use of non-compliant product in government funded infrastructure in much the same way that reports of malpractice in other areas of administration can be reported.

For this to work, procurement documentation will need to contain provisions that requires suppliers and contractors to provide all reasonable assistance and all relevant documents necessary to determine whether non-compliant product has been used in government funded infrastructure.

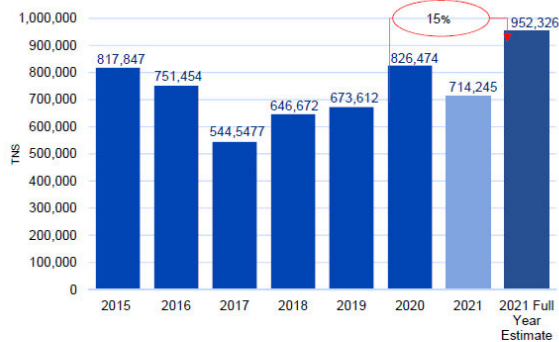
The experience of ASI has been that when structural building failures occur, regardless of the root cause, there is a reluctance by the people associated with the problem to report on the detail of the circumstances. This may be due to concern about reputational damage, professional liability, lack of oversight, ignorance or a range of other causes. By providing a confidential reporting mechanism, the extent of the problem and also the root causes will become more apparent to all concerned.

Q. Do you think offshore steel is more likely to be non-compliant than onshore steel, and if so, are there particular countries where you think imports are particularly likely to have compliance issues?

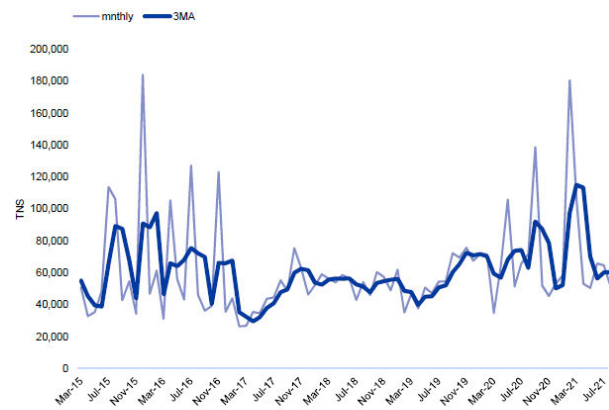
Answer: The ASI does not have the data to provide any commentary in regard to the likelihood of non-compliant product being associated with particular countries.

The ASI is able to provide the following analysis as regards annual trends in volume and country origin of imported fabricated steel. The data, which is sourced from the Australian Bureau of Statistics, indicates a steady increase in the volume of imported fabricated steel, the great majority of which has China as origin source.

Fabricated Goods Imports (Annual, total 7308 category, tonnes)



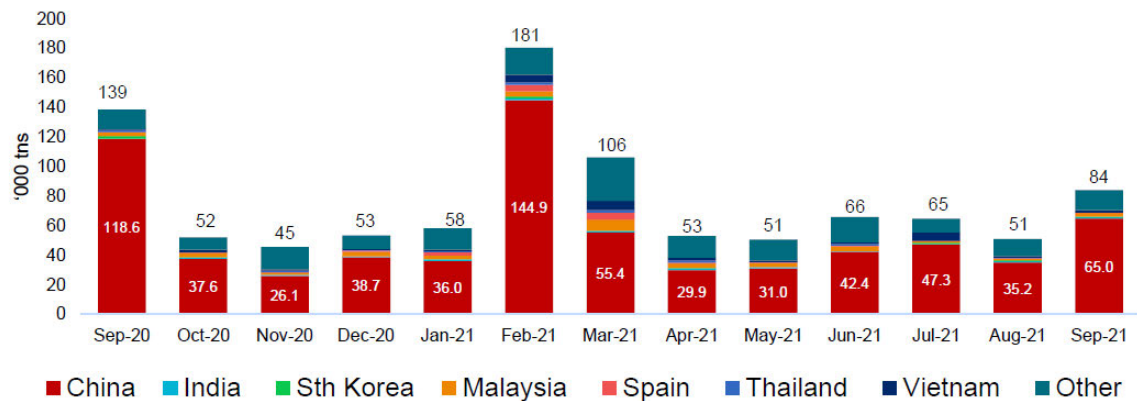
Fabricated Goods Imports (Monthly, total 7308 category, tonnes)



1. Origin source of Fabricated Goods Imports: Chapter 73 Monthly Import Statistics (Australian Bureau of Statistics).

2

Origin source of Fabricated Goods Imports (Monthly 2020/21 data, tonnes)



1. Origin source of Fabricated Goods Imports: Chapter 73 Monthly Import Statistics (Australian Bureau of Statistics).

A key concern with fabricated steelwork that is not sourced locally, is that it is in practice very difficult to ascertain compliance with all relevant Australian Standards. This is because it is not possible to properly inspect some critical aspects of workmanship after its completion e.g., the inspection of weld quality after application of a paint coating or galvanizing process.

For this reason, the ASI strongly recommends that it be mandatory for suppliers of fabricated structural steelwork to be certified as capable of meeting all requirements of AS 5131 via an independent auditing scheme such as Steelwork Compliance Australia.

Your submission contained a significant number of recommendations on how Australia should strengthen its anti-dumping measures. To demonstrate why this is necessary, you used the example of China imposing “variable VAT rebates and export taxes” on its state-owned steelmaking enterprises, effectively distorting Chinese export prices and creating an unfair competitive environment, in which Australian steel-manufacturers are effectively undercut.

Q. Could you share with this Committee what critical reforms which need to happen to strengthen our anti-dumping framework.

Answer: The ASI offers eight recommendations in regard to trade measures, the context and justification for which are explained in more detail in the ASI White Paper document (Trade Measures chapter) that was included with our submission. These are:

Recommendation 1: Streamline the ‘Review of Measures’ and ‘Duty Assessment’ processes to ensure that the correct amount of duty is collected and paid.

Recommendation 2: Streamline the Lesser Duty Rule so that is based on the industry applicant full cost to make and sell and an appropriate level of profit to allow for re-investment.

Recommendation 3: Allow the Australian industry applicant to nominate form of duties to ensure the measures are as effective as possible for their market.

Recommendation 4: Increase the resources of the Commission to improve investigation timelines and accuracy of outcomes. The ASI recommends the appointment of personnel with specific industry experience to assist with the technical aspect of investigations.

Recommendation 5: Extend the period for which dumping securities can be converted to interim dumping duties from four months to six months as permitted under WTO Rules to make measures effective sooner.

Recommendation 6: Review of SME access and assistance arrangements to improve the access and ability of SMEs to utilise Australia’s anti-dumping system.

Recommendation 7: Strengthen the anti-circumvention framework by:

- Modernising the anti-circumvention legislation to clarify that duty absorption applies to the exporter’s behaviour not just that of the importer.
- Modernising the transshipment provisions of the anti-circumvention legislation to align with the intent of the European methodology which allows the measures to be extended to all exporters from a third country, except for those that can verify that they are bona fide exporters.

Recommendation 8: Alter the Customs Act to reinstate Differential duties so that they are more accurate and effective for different models of the goods.

Q. Did you have any views on a suggestion made to this inquiry earlier today, specifically with regards to the Anti-dumping Commission's current formula for calculating when imports become 'non-injurious'? Noting that in Australia, the level of profit used in that calculation can be as low as zero, whereas the European Commission uses a 6% profit in its own calculations for the steel industry.

Answer: Please refer to the response provided earlier in this document to question 2 **Anti-Dumping System**, which we believe covers this question.

A key recommendation from your submission was for the introduction of uniform national legislation to create a 'chain of responsibility' in anyone who manufactures, imports or supplies a building product, to ensure non-conforming building products are not used in buildings.

Q. Could you share with this Committee what you would like to see in that 'chain of responsibility' legislation, and why you think that legislation is critical to the growth of our steel manufacturing industry

Answer: The context and justification for this recommendation is explained in more detail in the Public Safety Chapter of the ASI White Paper document that was included with our submission.

The basis of the recommendation is drawn from the recommendations contained in the *Building Confidence* report produced by Peter Shergold and Bronwyn Weir in February 2018. With regard to implementation of the associated recommendations in specific jurisdictions, Queensland has passed legislation amending its *Building and Construction Commission Act 1991* creating a **chain of responsibility** on those who manufacture, import or supply a building product in an endeavour to ensure non-conforming building products are not incorporated into a building.

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