



AUSTRALIAN STEEL INSTITUTE

The Appropriate Officer

Australia-European Union Free Trade Agreement
Europe Division
Department of Foreign Affairs and Trade
RG Casey Building
John McEwen Crescent
Barton ACT 0221

Dear Sir/madam

The Australian Steel Institute (**ASI**) would like to make a brief submission on the European-Australia Free Trade Agreement (**the EU FTA**).

ASI is a 'not for profit' organisation and is the peak industry body in Australia representing the nation's steel and associated industries. Its mission is to 'assist in the profitable growth of the complete Australian steel value chain'.

ASI's membership includes all sectors of the steel industry including manufacturers of steel and steel products, distributors, processors, fabricators, designers, detailers, galvanisers and paint companies, suppliers of services and consumables, constructors and educators.

ASI estimates that Australia's steel industry employs 90,000+ people and has an annual turnover in excess of \$30 billion. The integrated Australian steel channel typically holds in excess of two million tonnes of inventory available through distributors are located in over 300 sites across the country and produced during 2015 4,925,000 tonnes of crude steel, or 0.3% of the world total, compared with 803,830,000 tonnes by China – about half the world's total production.¹

However, it faces a number of challenges, one of which being the need to compete in a world market with an oversupply of product and against competitors from countries that are either state owned or receive high level of state subsidies, as identified by the Australian Anti-Dumping Commission in its recent report on hot plate tolled steel from China, Indonesia, Japan, Korea and Taiwan.²

It is therefore of note that in February 2016 eight European Union Industry Ministers wrote to the European Union recommending that it step up its fight against cheap steel from countries such as Russia and China, warning that the European industry is at 'impending risk of collapse'.³

Similarly, on 22 December 2016 the United States imposed a 256% tariff on various coated flat rolled steel products.⁴

¹ https://www.worldsteel.org/dms/internetDocumentList/steel-stats/2015/Crude-steel-production-Jan-Dec-2015-vs-2014_/document/Crude%20steel%20production%20Jan-Dec%202015%20vs%202014.pdf

² Anti-Dumping Commission Report 198 *Hot Rolled Plate Steel China, Indonesia, Japan Korea and Taiwan* (2013):41

³ <http://im.ft-static.com/content/images/99ddea10-cc4f-11e5-be0b-b7ece4e953a0.pdf>

⁴ <http://enforcement.trade.gov/download/factsheets/factsheet-multiple-corrosion-resistant-steel-products-122215.pdf> See also *US Calls for 256% Tariff on Chinese Steel Imports* IBT News 23 December 2015: <http://www.ibtimes.com/us-calls-256-tariff-chinese-steel-imports-2237808>

It follows that it is important that the terms of the international agreements that Australia enter into do not prejudice the continued sustainability of the Australian steel industry in circumstances where not all international competitors are complying with international norms.

The United Kingdom Government has recently published the *Public Contracts Regulation 2015*, which is accompanied by a policy note relating to the procurement of steel in major projects, reading:⁵

The new PCRs 2015 provide greater clarity and scope to assess the most economically advantageous tender on a cost-effective basis that explicitly includes environmental and/or social criteria where they are linked to the subject matter of the contract and are transparent and non discriminatory.

Where relevant and proportionate, in-scope organisations should take full advantage of these new flexibilities when letting major contracts such as construction, or infrastructure. Environmental criteria could include the carbon footprint of construction materials. Social criteria could include taking into account **the benefits of employment and supply chain activity**, including the protection of the health and safety of staff involved in the production process, the social integration of disadvantaged workers or members of vulnerable groups among the staff performing the contract, such as the long-term unemployed, or training in the skills needed to perform the contract, such as the hiring of apprentices.⁶

As the above guidance illustrates, members of the European Union place a high value on the social elements of its political compact.

ASI therefore has two requests.

Many ASI members, particularly those involved with fabricating steel are by any measure small businesses (SME's).

ASI also notes that, as a general proposition, small business industry programmes are generally not subject to rules contained in Australia's international agreements.

For example, paragraph 2(b) of section 7 of Part 1 to Annex 13 of the Japan-Australia Economic Partnership Agreement does not apply the rules contained in Chapter 17 of the Agreement (which deals with government procurement) with respect to 'any form of preference to benefit small and medium enterprises'.

ASI therefore seeks confirmation that a clause with identical effect will be in the EU FTA.

Secondly, Article 15.1 of the Trans-Tasman Partnership Agreement (**the TPP**) and Article 15.6. of the Australia – US Free Trade Agreement (**USFTA**) deal with government procurement.

⁵ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/473545/PPN_16-15_Procuring_steel_in_major_projects.pdf

⁶ Page 5

However, article 15.13.1.(c) requires tender documentation contain a complete description of:

- (c) all criteria to be considered in the awarding of the contract **and the relative importance of those criteria**

whilst article 15.6.1 merely requires:

- (c) all criteria to be considered in the awarding of the contract.

It may be the case that the tender requirements of some government procurements in some Australian jurisdictions may in certain circumstances wish to place particular emphasis on social criteria in the same manner as the UK.

The drafters of the TPP clearly considered that it was important to make remove any doubt that criteria can be listed in order of relative importance, and not leave this ability to a mere implication of more general text and thus to argument as to whether such an ability actually exists.

ASI accordingly requests that the relevant Article in the European FTA dealing with the content of tender documentation reflects the structure of the TPP, which is, of course, a relatively recent agreement.

We thank the Department for the opportunity to comment and look forward to the finalization of the agreement in the best interests of Australian industry.

If you have any further queries, please do not hesitate to contact the undersigned.

Yours sincerley,



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