STAUGHTONS

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PUBLIC RECORD VERSION
SAHA THAI RESPONSE SEF 254

June 17, 2015

Received on 17 June 2015

Mr Bora Akdeniz
Assistant Director
Anti-Dumping Commission
55 Collins Street
Melbourne Vic 3000

Via email: Bora.akdeniz@adcommission.gov.au

Dear Mr Akdeniz

RESPONSE TO SEF 254

This response to SEF254 is on behalf of Saha Thai Steel Pipe of Thailand (SAHA).

We appreciate this further opportunity to explain why import duties paid on imported HRC used to produce local like goods are a due allowance vide s 269 TAC(8)(c) on the basis that 'taxes' are included in the cost to produce those goods and the domestic prices of those goods.

Taxes, comprising VAT and Import Duties are not included in the cost to produce the Australian exports of like goods and as such the domestic cost and price of like goods need to be adjusted accordingly.

The Commission has no issue with the VAT modifying the domestic sales of like goods.

The Commission has, however, invited SAHA to respond on how the other tax, namely import duties on HRC used in production of domestically sold products modified its domestically sold products prices.

By way of introduction it needs to be stated that the Commission's Verification Team considered it reasonable to have applied a negative adjustment for import duty paid on HRC used as input to produce locally sold GUC and that as a result of that verified finding and adjustment, SAHA's exports to Australia were originally determined to have contained a negligible Dumping Margin of less than 2%.

The Case Management Team subsequently determined the adjustment as not being reasonable and this now resulted in the SEF's preliminary Dumping Duty rate of 5.7%.

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As expressed earlier SAHA now takes this opportunity to explain why the due allowance on Import Duties should be sustained.

Requests

1. The Commission allow the due allowance of Import Duty paid on HRC used to produce domestically sold SAHA GUC. (Confidential Attachments refer)

2. Whilst SAHA does not accept the SEF Dumping Duty Margin of 5.7%, SAHA is supportive of the Commission's intention to apply the ad-valorem rate of any Dumping Duty Margin of 2% and above.

SAHA is seriously opposed to the applicant's urging to have the Commission recommend Measures based on the combination method.

In SAHA's case the product comprises many different price levels based on:

- The finish
- The grade
- The dimension

It would be considered an unjustified protectionist Measure if both an ad-valorem and fixed Dumping Duty Measure were to apply because of the obvious product mix as, for example HDG product can be US$150 more expensive than say Black pipe

More generally, however, it is a matter of general and common knowledge that the two critical input materials for blast furnace produced HRC, namely iron ore and coking coal, are now half the prices they enjoyed during the I.P Global HRC prices have declined by around US$100 per tonne since the I.P.

Given the Commission can take into consideration price movements outside the I.P., and because HRC prices, which can comprise around 90% of the CTM the GUC, have since decreased, it would effectively be an attempt to impose a regulatory price fixing mechanism should the combination method be recommended.

The above mentioned circumstance applies more to the exporter's production cost for domestic sales of GUC than to the Australian importer which is exposed to the counter risk of currency factors.

The Australian Dollar, relative to the US$ has depreciated by around 17% since July 2014 when based on RBA monthly exchange rates.

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Given that most export/import transactions are conducted in the US$ currency, the variability of the Australian currency against the US currency is another reason why only an Ad-valorem rate should be recommended for Dumping Duty rates 2% and above. We also submit that any floor price should be expressed in A$ as is the NIP.

SAHA is totally opposed to ATM's public file document claims dated 25 May, 2015.

3. The Commission is requested to seriously consider the treatment of fully containerised cargo (FCL's) in terms of the export price being determined on an ex-works level. We do not agree that dumping duty can 'only' be imposed at FOB level.

   s 269 TAB defines export price as being, inter alia,

   > "the price paid or payable for the goods by the importer, other than any part of that price that represents a charge in respect of any other matter arising after exportation."

   It is open to the Commission to determine a Dumping Duty finding at the ex-works level and in relation to containerised cargo it is submitted that s 154 of the Act is of relevance.

   s 154 relates to valuation of duty payable and in respect to containerised cargo, it states that the place of export for FCL's stuffed at the exporter's premises is in fact the exporter's place (ex-works).

   For containerised cargo, the determination of normal values should be at ex-works level of sale.

   In the event the Commission maintains its current treatment of SAHA's Import Duty factor, SAHA submits any Dumping Duty determination should be on an ex-works level.

4. In terms of comparing SAHA's Australian sales prices with those of the applicant's, the Commission's attention should also be focused on ATM's domestic sales by its 'agent' [redacted] in relation to claimed price undercutting and causation of 'injury'.

   The [redacted] factor appears to have been ignored when viewing the public record documents relating to the applicant's application by ARRIUM; the Consideration Report; the ATM Visit Report; SEF etc.

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Our concerns relating to the [redacted] factor are outlined further in this response at para 6_________.

5. We request the Commission to give serious consideration to its statement in the SEF at page 42:-

> "Based on the information gathered from the cleansed ACBPS import data base and verified date from ATM, the Commission consider that it is not clear whether the dumped imports from Thailand have caused the Australian Industry Material Injury in the form of reduced sales volumes."

Whilst SAHA strenuously maintains its exports have not been dumped, and therefore non-injurious, the issue of other imports is a critical factor.

Specifically we request the Commission to further consider the following:-

- Competition from sources being "un-dumped" product from countries such as the UAE;
- Competition from countries currently subject to Measures on non-alloy like-goods but which have increased their volume of imports of like-goods containing alloy elements such as 'Boron' being countries including China and Malaysia.

In para 3.5.1 of the SEF, the Commission states that:-

> "ATM had the capacity to manufacture all the products covered in its application with the exception of HDG HSS and RHS between 800mm and 950mm."

That is the real world situation in that in our opinion ATM's claim to be a producer of HDG circular product in the "ordinary course of trade" or on a truly commercial basis, would be deceptive and misleading.

It's also our opinion that ATM is incapable of producing RHS beyond 800mm.

The notation in para 4.1 of the ATM Visit Report that ATM's capacity calculations show that its capacity alone is large enough to supply the entire Australian HSS market, when viewed in the context of demand based on product type, is simply wrong. There is no doubting ATM produces a product entitling it to make this application but the issue is more about what it can actually make.

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ATM claims to base its prices on the Thai imports by adding a domestic price premium but in our opinion it does not produce the same product range.

SAHA has not been subject to Measures from the previous Report No. 177 and nor has SAHA exported any like goods containing alloy elements to Australia.

SAHA is aware of ATM's legally related Onesteel Steel Metal Centre/Distribution (OSMC) offering HDG pipe from the UAE producer, UTP Pipe and also of its parent company's, (Arrium Limited), submission to the recent Parliamentary Select Senate Inquiry on anti-circumvention at which Arrium stated imports of alloy like-goods from China and Malaysia had increased to 3000 – 4000 Tonnes per month. (page 6 public record version of submission). Those countries have measures on non alloy product and the 'alloy' goods obviously compete in the same single Australian market as the Saha product.

Based on our market intelligence those imports of so called Alloy Steel product would essentially be painted RHS, and not galvanised CHS. ATM closed its Acacia Ridge Hot Dipped Galvanising facility in August 20911 and now claims to outsource its galvanising (hot dipped). ATM previously produced around 33k tonnes of HDG pipe in a market segment that then comprised 110k tonnes based on ATM data. ATM's claim that it still 'produces' HDGP is simply at odds with the Commission's statements on this issue including the statement on para 3.5.1 of the SEF.

Our concern also is that the Commission has taken an overly broad view on what constitutes like-goods, especially in respect of HDG circular pipes being a substitute for pre galvanised or the ATM new 'Duragal' version of galvanised pipe etc..

For Example-Hot Dipped Galvanized Pipe is clearly more expensive to produce than Black Pipe but Onesteel Metal Centre was selling 'UTP' Galv Pipe, (UAE) 40 NB, Medium x 6.5m @ $40.30 each piece, and ATM Black Pipe 40 NB, medium x 6.5m @ $41.90 each piece (prices advertised between Feb 23rd and April 10th, 2015).

The other consideration on this instance is if ATM was producing HDGP, then we would expect Onesteel Metal Steel Centre to be selling ATM product rather than product from the UAE.

6. [redacted] Factor.

[redacted],on our understanding is a selling Agent for ATM product to Australian distributors/stockists as evidenced by the confidential documents forwarded separately to this document.

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The documents demonstrate that [redacted]'s **Base** price offer of May 2015 was [redacted], for delivery in August 2015 , including delivery in [redacted] and [redacted] and with [redacted] Day payment terms .

The interest in this price offer is that it would have been made in the knowledge of the May 2015 PAD on securities.

Other documents submitted under confidentiality demonstrate that [redacted]'s September 2014 price offer was [redacted] Base , [redacted] day payment terms and delivery [redacted] and [redacted] .

The documents submitted for the Commission's consideration also link the [redacted] price offers to ATM's product.

ATM has asserted that it bases it's domestic pricing on the Thai market price offer plus a domestic price premium.

By comparison, based on the Commission's verified data from the Australian importer, the derived delivered price of Saha Thai product, being the weighted average per tonne cost data is as follows:

Weighted Average FOB A$ Tonne	
Ocean Freight	
Marine Insurance	
Port Service Charges	
Credit Interest	
Customs Clearance	
Commissions	
Local delivery	
Landed Cost-Into Store	
ADD SGA of -Rounded	
ADD Profit Margin	

Source: Reference stated.

Conclusion: Would appear that [redacted]'s price offer for ATM product was lower than Saha Thai's market price.

.7 **Market Size:**

The Australian market supply has changed from when it was determined to be circa 500k tonnes. ATM, in our opinion, no longer produces 33k tonnes of HDGP and there is no other Australian producer of HDGP with ATM having 'mothballed' its f acility in 2011.

Additionally, as noted by the Commission, ATM closed its 'Kembla' large sized ERW pipe/tube production facility in 2012 and will shortly close its Victorian Somerton facility (Duragal?)

The conclusion is obvious. No local production of certain goods within the product group means, even with declining demand, those goods in question have to be imported. Our claim is also based on the opinion that whilst the issue of like goods is paramount ,not all goods within the product group are considered substitutable.

8 . **NIP Methodology:**

We would like to remind the Commission that when considering the amount of profit for inclusion in the ATM NIP, the 9 month period in year 2008 was, not only for Australia , but Globally, an unprecedented era of demand and resultant record high prices.

The 9 month period of year 2008 therefore,being pre GFC, is not a representative period for applying a profit margin. The NIP is of course a 'black box' figure for our interests but our understanding is that it it is far higher than any NV for Thai exporters.

The unconfirmed information we have on the NIP is that it could be as high as A$1300 FOB.

Regards

M J Howard
Representative
17/6/2015