

SUBMISSION

presented on behalf of

**THE TURKISH STEEL EXPORTERS'
ASSOCIATION**

in response to

STATEMENT OF ESSENTIAL FACTS NO. 240

published on 2 March 2015 in the framework of the
investigation initiated by the Commissioner of the Anti-
Dumping Commission

concerning

alleged dumping of rod in coils exported from the Republic
of Indonesia, Taiwan and the Republic of Turkey

20 March 2015

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1. INTRODUCTION

The present submission is filed on behalf of the Turkish Steel Exporters' Association (hereinafter referred to as "ÇİB") in response to the Statement of Essential Facts No. 240 (hereinafter referred to as "SEF") published on 2 March 2015 in the framework of the anti-dumping investigation concerning the alleged dumping of rod in coils exported from the Republic of Indonesia, Taiwan and the Republic of Turkey (hereinafter referred to as "Turkey").

Mr. Dale Seymour, the Commissioner of the Anti-Dumping Commission (hereinafter referred to as "the Commissioner"), based on the findings in the SEF proposed the termination of the investigation so far as it relates to rod in coils exported from Turkey.

On the other hand, the Commissioner was satisfied that the Australian industry producing like goods experienced injury in the form of loss of sales volumes, loss of market share, price depression, price suppression, reduced profits and profitability, and reduced revenues.

We would therefore like to express herein our agreement with the Commissioner's proposal to terminate the investigation so far as it relates to rod in coils exported from Turkey.

Our client reserves the right to submit comments regarding the conclusion that the Australian industry producing like goods did experience any material injury should it prove to be necessary.

2. TERMINATION OF THE INVESTIGATION AGAINST IMPORTS FROM TURKEY IS WELL-FOUNDED

It is submitted that the Commissioner's proposition to terminate the investigation so far as it relates to rod in coils exported from Turkey is correct and legitimate. We agree with the conclusion of the Commissioner that the volume of (allegedly) dumped goods from Turkey is less than three per cent of the total volume and, as such, is negligible when expressed as a percentage of the total imported volume of goods.

The Agreement on Implementation of Article VI of the General Agreement of Tariffs and Trade 1994 (hereinafter referred to as "the Anti-Dumping Agreement") and the applicable case-law unquestionably set forth that the imports which are not sold at

dumped prices must not be taken into account for the purpose of injury determination. Indeed, Article 3.1 of the Anti-Dumping Agreement provides for that:

“A determination of injury for purposes of Article VI of GATT 1994 shall be based on positive evidence and involve an objective examination of both (a) the volume of the dumped imports and the effect of the dumped imports on prices in the domestic market for like products, and (b) the consequent impact of these imports on domestic producers of such products.”

Thus, it is undisputable that the non-dumped imports cannot be taken into consideration for injury determination. In the present case, the Anti-Dumping Commission determined that there were two exporters of rod in coils from Turkey during the investigation period, namely Habaş and Diler. The dumping margin for Habaş has been found to be negative (- 0.3 per cent - page 40 of the SEF), proving that Habaş did not export rod in coils into Australia at dumped prices. Therefore, the rod in coils exported by Habaş cannot be taken into account for purposes of injury determination pursuant to Article 3.1 of the Anti-Dumping Agreement and the established practice of the WTO.

Furthermore, Article 5.8 of the Anti-Dumping Agreement provides that:

“[...] There shall be immediate termination in cases where the authorities determine that ... the volume of dumped imports, actual or potential, or the injury, is negligible. ... The volume of dumped imports shall normally be regarded as negligible if the volume of dumped imports from a particular country is found to account for less than 3 per cent of imports of the like product in the importing Member ...” (emphasis added).

In the light of the foregoing since, as established by the Anti-Dumping Commission, the volume of imports from exporters other than Habaş is less than three per cent of the total import volume from Turkey, pursuant to Article 5.8 of the Anti-Dumping Agreement the volume of imports from Turkey is negligible.

Article 5.8 of the Anti-Dumping Agreement is also reflected in Australian anti-dumping legislation by s.269TDA(4) of the Customs Act 1901, which provides that a “negligible volume” accounts for less than three per cent of the total volume of goods

imported into Australia over the investigation period, and by s.269TDA(3) of the Customs Act 1901, which sets forth that the Commissioner must terminate the investigation, in so far as it relates to the country, if satisfied that the total volume of goods that are dumped is negligible.

In the light of the above considerations, we respectfully request the Commissioner to maintain his proposal to terminate the investigation so far as it relates to rod in coils exported from Turkey since it is in full accordance with Article 5.8 of the Anti-Dumping Agreement and s.269TDA(3) of the Customs Act 1901 and, as such, is well-founded and fully warranted.

3. CONCLUSION

In the light of the above explanations, we respectfully request the Commissioner in making his final report to the Parliamentary Secretary to maintain his proposal to terminate the investigation so far as it relates to rod in coils exported from Turkey.

As already indicated in point 1. above, our client reserves the right to submit comments regarding the conclusion that the Australian industry producing like goods did experience any material injury should it prove to be necessary.