



11 July 2014

NON-CONFIDENTIAL

Mr Adam Yacono
Manager
Australian Anti-Dumping Commission
Customs House
1010 La Trobe St
Docklands Vic 3008

Dear Mr Yacono,

**HOT ROLLED STRUCTURAL STEEL SECTIONS FROM JAPAN, KOREA,
TAIWAN AND THAILAND**

As you know we represent Siam Yamoto Steel Co Ltd (“SYS”) to the captioned investigation.

We take issue with the verification team’s approach to the date of sale of SYS’ exports to Australia and its rejection of due allowance claims for cutting cost, level of trade and production cost difference per the Commission’s Verification Report re SYS. Our comments follow.

Date of sale – Section 4.2.6

Contrary to the Commission’s statement in section 4.2.6 of the Verification Report, SYS has provided evidence that the order confirmation finalises the material terms of sale. Included in the sets of documents for the selected Australian export transactions are final order confirmations confirming the dates of sale in the Australian sales spreadsheet and final invoices in relation to those order confirmations. Details of the invoices and the final order confirmations match, proving that the material terms of the export sales to Australia are established by order confirmation and therefore dates of sale are the dates of final order confirmations as reported in the Australian sales spreadsheet. To not accept these dates will be inconsistent with the footnote to Article 2.4 of the Anti-Dumping Agreement.

Cutting cost – Section 8.5.2

The Verification Report acknowledges that in domestic sales of lengths less than 12 metres, domestic customers are required to pay an additional THB ■■■ to meet SYS’ additional cutting cost at the distribution centre.

The verification team’s understanding that the additional cost of cutting domestic sales at lengths less than 12 metres is added to the sale price of domestic product is correct, but they do not appear to understand that there is no such additional cost for exports to Australia at lengths less than 12 metres and therefore no such price inclusion.

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It is clear that the additional amount included in domestic prices of less than 12 metre lengths, which is not included in export prices to Australia of less than 12 metre lengths, effects fair comparison of domestic prices and export prices to Australia of lengths less than 12 metres.

Level of trade – Section 8.4

First I would like to bring to your attention the Commission’s legal and international agreement obligations to make the claimed level of trade adjustment to enable a fair comparison between export price and normal value:

- **Customs Act, Section 269TAC(8)**
Where the normal value of goods exported to Australia is the price paid or payable for like goods and that price and the export price of the goods exported:
 - (a) relate to sales occurring at different times; or*
 - (b) are not in respect of identical goods; or*
 - (c) are modified in different ways by taxes or the terms or circumstances of the sales to which they relate;**that price paid or payable for like goods is to be taken to be such a price adjusted in accordance with directions by the Minister so that those differences would not affect its comparison with that export price.*
- **WTO Anti-Dumping Agreement, Article 2.4**
A fair comparison shall be made between the export price and the normal value. This comparison shall be made at the same level of trade, normally at the ex-factory level, and in respect of sales made at as nearly as possible the same time. Due allowance shall be made in each case, on its merits, for differences which affect price comparability, including differences in conditions and terms of sale, taxation, levels of trade, quantities, physical characteristics, and any other differences which are also demonstrated to affect price comparability.

It is clear from the above provisions that the Commission is obliged to make an adjustment (due allowance) for differences in levels of trade which affect a fair comparison between export price and normal value.

In this case, fair comparison between normal value and export price to Australia is significantly affected by, among other things, the level of trade of SYS’ domestic customers, viz distributors and end-users, and the level of trade of its sole Australian customer, a trader who on-sells to [REDACTED] [Confidential: customer levels]

As demonstrated by evidence provided to the Commission post-verification, in its sales into the domestic market SYS has different price levels for sales to distributors and end-users. It prices its sales [REDACTED] [REDACTED] [Confidential: pricing strategy] It obviously follows that, if there were domestic sales to a trader such as ThyssenKrupp Mannex Pty Ltd (“TKM”) who on-sells to

[Redacted] [Confidential: customer levels], SYS would sell to that trader at [Redacted] [Confidential: pricing strategy]. Also in such circumstance SYS sales and marketing expenses would be significantly lower, as the vast majority of these expenses would be incurred by the trader, just as they are by TKM in exports to Australia. SYS cannot quantify the amount of the price reduction that would apply to sales to such a domestic trader as there is no such sales route in SYS' domestic market for any of its products.

That the level of trade difference between SYS' domestic customers and its sole Australian customer, TKM, affects fair comparison of domestic prices and export prices to Australia is clear from the fact that SYS' sales prices to trader TKM [Redacted]

[Redacted]

[Confidential: pricing strategy]

It is of important note that it is TKM's prices in on-sales to its [Redacted] [Confidential: customer levels] customers that are competitive with the Australian industry's prices, not SYS' prices to TKM.

In the above circumstances it will be a travesty for the dumping status of SYS' exports to Australia to be determined by the comparison of normal values based on prices in domestic sales to distributors and end-users and export prices in sales to a trader who on-sells to [Redacted] [Confidential: customer levels] without a level of trade adjustment. It is obvious that the different level of trade of domestic customers and TKM has a significant impact on the fair comparison of export price and normal value. Therefore to not make a level of trade adjustment will be inconsistent with s 269TAC (8) of the Act and Article 2.4 of the ADA.

The Commission has sufficient information from its verification visit to TKM to quantify a level of trade adjustment based on [Redacted] [Confidential: quantification of claim]

Production cost difference – Section 8.5.1

SYS is in the process of gathering additional evidence demonstrating the difference in the cost of production between domestic grade SS/SM400 and export grade 300 as demonstrated by attachments G-4 and G-5 to SYS' exporter questionnaire response. As explained and demonstrated at verification, the main contributor to the additional cost of production of SS/SM400 is [Redacted]

[Redacted] [Confidential: composition detail]

We request the Commission's reconsideration of its approach to the above matters in its final dumping margin calculation.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Roger Simpson", written in a cursive style.

FOR Roger Simpson