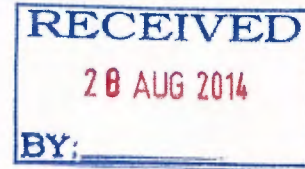


URGENT
No. 0310/2292



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18 August B.E. 2557 (2014)

Dear Commissioner,

Subject: An anti – dumping investigation into alleged dumping of Hot Rolled Structural Steel Section (HRS) originating in the Kingdom of Thailand

The Department of Foreign Trade (DFT), Ministry of Commerce, Kingdom of Thailand wishes to refer to the Statement of Essential Facts No. 223 (SEF 223) and the anti – dumping investigation on Hot Rolled Structural Steel Sections originated from, inter alia, the Kingdom of Thailand. With regard to the investigation and SEF 223, the DFT wishes to draw your attention to the following issues:

1. Alleged Dumping margin and related calculation

1.1 The DFT regrets that the delegation from Anti – Dumping Commission (ADC) was unable to visit the Thai exporting producer (SYS). It is only through an on-site-verification process that a questionnaire response can be adequately assessed in the presence of the staffs responsible for its completion. Although, the DFT understands that the staffs of SYS have visited the Commission, not all those responsible for the completion of the questionnaire were available to visit including key accounting staffs. Taking this into account, the DFT would request the Commission to reassess a number of issues raised by SYS notably related to the 6.3.1.9 of the SEF regarding the cost differences between G300 HRS being less than that to produce SS/SM400.

1.2 The DFT would also respectfully request that a number of other allowances are to be reconsidered to ensure a fair comparison between domestic and export sales and representation of the evidences submitted by SYS. In particular, the DFT is of the view that adjustments for level of trade should be based on price differences prevalent in the domestic market as this is consistent with the requirements of article 2.4 of Agreement on Implementation of Article VI of GATT 1994 (Anti – Dumping Agreement) which refers to price comparability rather than cost differentiation.

1.3 Based on the conventional "Cost to Make and Sell" (CTMS) covering the countries under the investigation, the DFT wishes to express concern at the level of the alleged dumping margin against Thailand and wishes to urge the Commission to reconsider a number of key adjustments requested by the Thai exporter.

2. Consideration of Injuries

2.1 Article 3.4 of the Anti – Dumping Agreement acknowledges that indicators to assess material injury are indecisive. However, the DFT is of the view that the injury alleged by One Steel is limited only to a price effect with no impact on other key indicators such as production, sales volume, stocks, etc. In this respect, the DFT wishes to bring this particular matter to your attention that the alleged consistent price undercutting has not resulted in a decline in domestic sales. On the contrary, the market share of OneSteel had increased in 2013 with domestic sales capturing 70 % of the domestic market.

2.2 The domestic industry claims that the market share is maintained through an import parity price setting system (IPP). However, even this system is applied in practice, the DFT is of the view that the price premium charged by the domestic industry would have some impacts on its existing market share, but there is no evidence to indicate any effects on its volume of domestic sale. In this respect, the DFT respectfully draws your attention to the article 3.1 of the Anti – Dumping Agreement, which states that the consequent impact of the alleged dumped imports on the domestic industry should be thoroughly determined.

2.3 The DFT is also concerned with a finding which indicates a domestic industry, possessing 70 % market share, is unable to be a price leader but instead setting its selling prices based on imports. This apparent weakness has not been sufficiently supported by the findings in the issued SEF. For example, the Commission acknowledges under section 8.9.5 of the report that domestically produced HRS may not be available at "...preferred point in the supply chain". This statement has clearly suggested that the industry possesses significant negotiating power and consolidated position within the domestic market.

2.4 The DFT also notes that as soon as the IPP is accepted, the price effect upon which the alleged injury is based on would inevitable shown as being consistently undercut. This is the result of quality premium added to the domestic price setting system. In this respect, the DFT would request further explanations from the Commission regarding the implication of IPP system in this context as followed:

1) Please share further information on how the IPP system works in establishing prices, for example, in January 2013.

2) The DFT would like to seek further clarification whether the IPP price system based on matching import prices at distributor(s) level and, if it is the case, would like to know the frequency of domestic price revision.

3) The DFT would like to seek further clarification whether the IPP system is based on the matching of import prices of each supplying country alleged to be dumping or it is based on an average price of all exporters.

3. Alleged material injuries

According to the SEF, domestic sales of the subject goods have consistently been sold at losses; and yet section 7.7.1 states the following:

"The Commission noted that over the injury analysis period, return on investment for all products at the Whyalla Steelworks increased, evidencing an improving attractiveness for reinvestment"

From the statement above, the DFT wishes to request the Commission to re-consider the return on investment and its possibility to increase when the alleged price depression has dominated the argument to accentuate the alleged losses. In addition, the DFT also respectfully request the Commission to re - evaluate whether the cost of production of the domestic industry have been inflated by upstream raw material inputs supplied within the Arrium Group.

4. Other issues

4.1 The DFT wishes to seek assurances from the Commission whether the impact of the Australian dollar on exports of the subject goods has been netted out from the CTMS of the domestic industry.

4.2 The DFT notes that the lesser duty is not applicable as pricing is based on the IPP and that the elimination of the alleged dumping is therefore equivalent to a non-injurious selling price. If this is the case, this would confirm that the IPP system applied by the domestic industry is specific to each exporting country and indeed each exporter. The DFT would appreciate if the Commission could kindly explain this further.

Yours sincerely,



(Mrs. Duangporn Rodphaya)
Director-General

Mr. Dale Seymour
Anti - Dumping Commissioner
Anti - Dumping Commission
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