

By EMAIL

Mr D Seymour
Anti-Dumping Commissioner
Anti-Dumping Commission
1010 La Trobe Street
Docklands VIC 3008

Dear Mr Seymour,

HOT ROLLED STRUCTURAL STEEL SECTIONS FROM JAPAN, KOREA, TAIWAN AND THAILAND - REQUEST FOR REINVESTIGATION UNDER S269ZZL.

Dear Mr Seymour

Hot Rolled Structural Steel Sections from Japan, Korea, Taiwan and Thailand: Further Request For Reinvestigation Under s 269ZZL

Pursuant to s269ZZL of the Customs Act 1901 (as read with s269ZZK(3)(b)(i)), I require that the following findings In Report No. 223 of the Anti-Dumping Commission (ADC) be re-investigated:

- (1) The finding that the claim of a cutting cost adjustment by Siam Yamato Steel Co. Ltd (SYS) should be rejected on the basis of lack of evidence of:
 - the actual cost of cutting for either domestic or export sales;
 - whether there is any quantifiable difference in cost incurred for domestic and export cutting; and
 - whether there is any difference in the production process for domestic and export cutting.
- (2) The alternative finding by the ADC that if the claimed adjustment is a selling price adjustment, it considered the basis for such a claim to be unreasonable. The ADC considered SYS' decision to charge customers differently according to length in one market (domestic) but not in another (export) does not affect fair comparison for normal value purposes.



Australian Government
Anti-Dumping Review Panel

In reinvestigating the above findings I would like you to include consideration of the claim by SYS that the Anti-Dumping Commission (ADC) has erroneously declined to make a cutting cost adjustment to domestic selling prices of the goods under consideration (GUC) in lengths less than 12 metres in the amount charged by SYS to its domestic customers for such additional cutting cost. SYS' claim is based on s269TAC(8) and in particular relates to an adjustment for differences in the "circumstances of the sales" in respect of goods sold on the domestic market and goods exported.

SYS contends that the ADC verified that a charge was made by SYS for domestic purchases of the GUC in lengths less than 12 metres. It was explained by SYS that no such cost was incurred in export sales of lengths less than 12 metres as the GUC were produced at SYS' mill to the lengths required by export customers. Further, domestic sales on the other hand were all produced in 12 and 18 metre lengths at SYS' mill, transferred in these lengths to its distribution centre where an additional cutting cost was incurred for domestic sales of less than 12metres. Domestic customers were charged a specific amount for the additional cutting cost.

In conducting the reinvestigation, I request that you take cognisance of Article 2.4 of the WTO Anti-Dumping Agreement (which is the provision that s269TAC(8) enacts into Australian legislation). In particular, the requirement in Article 2.4 that, "Due allowance shall be made in each case, on its merits, for differences which affect price comparability". In addition to an illustrative list of possible such differences, Article 2.4 also requires allowances for "any other differences which are also **demonstrated** to affect price comparability" (emphasis added).

While there is clearly a burden on the claimant to provide evidence of the claimed adjustment it should also be noted that there is an affirmative information-gathering burden on the investigating authority, that it "shall indicate to the parties in question what information is necessary to ensure a fair comparison and shall not impose an unreasonable burden of proof on those parties".¹

In this regard, and as part of your reinvestigation, please consider:

If the ADC indicated to SYS during the course of the investigation what information or evidence it required to accept the adjustment claimed;

Whether all the evidence required and referred to in Report No. 233 (and repeated above) is necessary to demonstrate an effect on price comparability, or whether it could be considered too burdensome on the claimant;

Whether it was actually verified that domestic sales are all produced in 12 and 18 metre lengths only, at Sys' mill, and then cut further to lengths of less than 12metres at the distribution centre, as contended by SYS;

1. See Article 2.4 of the Anti-Dumping Agreement, last sentence.

Whether there is any evidence relating to the cost of cutting lengths of less than 12 metres (destined for export) at the Mill, and if there is any difference in these cutting costs to cutting costs of lengths of greater than 12 metres (destined for both the domestic market and for export, respectively);

Please also elaborate on why, if the claimed adjustment is a selling price adjustment, the ADC considers the basis for such a claim to be “unreasonable”.

On the basis of the answers to the questions raised, please then reconsider whether the adjustment claimed should be accepted for lengths of less than 12 metres. If so, please investigate the consequences on the dumping margin calculated for SYS.

Please report the result of the reinvestigation by Monday, 4 May 2015.

Thank you for your assistance and co-operation.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Blumberg', with a stylized, cursive script.

Leora Blumberg

Member
Anti-Dumping Review Panel

13 April 2015