

No. 0310/ 4231



Department of Foreign Trade
Ministry of Commerce
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26 November B.E. 2556 (2013)

Dear Commissioner,

Subject: Initiation of an 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, Thailand wishes to refer to the Consideration Report no. 223 regarding the stated investigation and would like to submit concerns over the proceeding for your consideration as follows:

1. Allegations of Dumping

The DFT considers that it is inconceivable that the applicant, an international company with extensive networks in Asia, including a recycling plant in Thailand, is unable to acquire domestic selling prices for the subjected goods. In this respect, the DFT would like to stress that the domestic market in Thailand for the subject goods is highly transparent and competitive. For this reason, the DFT could only surmise that, because there is no dumping associating to publicly available domestic prices, the applicant is enticed to construct a normal value that demonstrates such alleged dumping characteristic.

Furthermore, the DFT respectfully disagrees with the methodology applied by the applicant for constructing a normal value for the Thai exporter. It is clear that the methodology applied is not in accordance with the Article 2 (2.2) of Agreement on Implementation of Article VI of GATT 1994 (Anti - Dumping Agreement), which requires the constructed value to be based on the cost of production in the country of origin. At the very least, the administrative, selling and general costs along with related financial charges should have been taken from the published profit and loss account of a Thai company operating in the same sector.

The fact that no effort was made to reasonably adjust the costs to reflect bases which existed in Thailand suggests that the constructed value is purportedly inflated.

2. Allegations of injury

There is no reference being made in financial statements of the applicant, covering the period 2011 -2013, that present difficulties as a result of the alleged unfair trade on the domestic market. Moreover, the financial report for 2011 presents a positive performance of the company:

- Sales revenue up by 15 % to \$7,133 million.
- Underling EBIT up by 3 % to \$ 428 million
- Strong underlying operating cash flow of \$ 447 million

Even though it reported a decline in profits of 11 %, this also coincides with the acquisition of Moly-Cop Group, which involves an increase of debt of \$ 1,728 million.

Furthermore, in 2012, the Chairman's Review referred to many difficult external environments and the impact of the exchange on the Australian dollar, but in spite of this the performance of One Steel still remained robust:

"The external environment remained difficult for OneSteel Steel & Recycling with a high Australian dollar, generally weak markets and significant periods of wet weather contributing to a poor profit outcome for these businesses. Notwithstanding the continued difficult external environment, cost and operational improvements helped deliver a positive EBITDA result in the second half in the Manufacturing business; a \$ 57 million turnaround from its first half EBITDA result (excluding the STP advance)." (Source: ASX release 23 August 2012)

With regard to the HRS segment, it stated: *"Across the reinforcing business, sales volume for the period were significantly higher during the year, due mainly to a number of large rebar infrastructure projects..." (Source: Page 26, Arrium Limited Annual Report 2012)*

The same result has also been confirmed by the OneSteel management, for the first six months of 2013, that a further improvement in the Steel businesses is expected despite some weaknesses in the external environments. *(Source: Page 16 Realizing value from growth: Annual Report 2013.)* Therefore, it is seemed to the DFT that the Australian domestic industry is not in an imminent situation to be affected by any intrinsically or extrinsically unfavorable causes.

3. The Causal link between dumped imports and injury

Throughout the period of 2011 - 2013, references have been made to external environments, impacts of the exchange rate, generally weak markets and significant periods of poor weather. A difficult situation as a result of unfair trade practices has never been mentioned. To support the raised statement, the 2013 financial report also stipulates the effects of other factors, rather than unfair trade practices, which have potentials to affect the company's and the sector's performances, as follows:

"The Steel business continued to be challenged during the year by the difficult external environment, including the high Australian dollar and generally weak construction and

manufacturing markets. Domestically, large infrastructure projects in the engineering construction sector continued to support strong demand for steel reinforcing products, but deterioration in commodity prices adversely affected demand from the resource sector (particularly coal, gas and iron ore) as companies reduced maintenance and some project expenditure... (Source: Page 12 Realizing value from growth: Annual Report 2013)

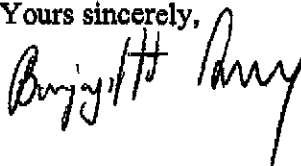
According to Article 3 (3.1 & 3.5) of the Anti - Dumping Agreement, positive evidences must be established to demonstrate a linkage between the alleged dumped imports and the reported injury. The DFT takes a preliminary position that the said casual link has not been materialised and that the alleged injury is likely to be an effect of other known factors rather than of alleged unfair trade practices.

4. Domestic industry primary injury indicators

The DFT declines to comment in details on the alleged injury as presented in the report, because it has not been together linked and evaluated with the case of alleged dumping. However, the report has largely placed an emphasis of injury assessment on the effects on prices and reduction of profits. In this connection, the DFT believes that the Commission should reasonably re-evaluate the effects on prices by adjusting the related costs to reflect the major acquisition and concerned transactions established during the period of 2011-2103. As a result, the reductions of profit as concluded could, then, be proven attributions of costs associated with the stated transactions.

The DFT wishes that the Commission would take the raised issues into consideration and looks forward to hearing a favorable reply in due course.

Yours sincerely,



(Miss. Banjonglitt Angsusingh)
Deputy Director-General
For Director-General

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Anti - Dumping Commissioner
Anti - Dumping Commission
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