

9 September 2015

Mr Roman Maevsky
Case Manager
Operations 2
Anti-Dumping Commission
Level 35, 55 Collins Street
Melbourne Victoria 3000

Public File

Dear Mr Maevsky

Investigation No. 291 – Anti-Circumvention Inquiry on Hollow Structural Sections exported from China, Korea, Malaysia and Taiwan

Introduction

I refer to the Anti-Dumping Commission's ("the Commission") Inquiry No. 291 and recent correspondence placed on the electronic public record. Austube Mills Pty Ltd ("ATM") also seeks to address comments raised by Dalian Steelforce Hi-Tech Co., Ltd ("Dalian Steelforce") and Steelforce Trading Pty Ltd ("Steelforce Trading") in their Exporter/Importer Questionnaire Responses ("EQR"/"IQR") concerning representations by ATM to the Standards Australia Steel Products and Welding Standards Committees regarding hollow structural sections ("HSS") containing boron.

Delay of SEF

ATM would firstly like to convey its disappointment that the Commission has extended the timeframe for the publication of the Statement of Essential Facts ("SEF") to 5 November 2015.

Whilst ATM acknowledges that this inquiry is one of the first Anti-Circumvention inquiries relating to minor modification, there has been no evidence provided by respondents that the minor modification was for any purpose other than to deliberately circumvent measures.

ATM has been seeking resolution of the avoidance and evasion of anti-dumping measures on HSS exported from China, Korea, Malaysia and Taiwan since November 2013. Not only are Australian industry members materially injured by the dumped and subsidised goods, so are other importers and exporters of otherwise sustainable non-dumped goods to the Australian market and the Australian taxpayer by the evasion of duties.

Further untimely delays to the resolution of the circumvention activities of certain exporters and importers impacts the integrity of the Anti-Dumping System.

EQR & IQR submissions

ATM submits that the Commission is well placed to assess the responses by exporters/importers via their EQRs/IQRs. It is noted that:

- Kukje Steel Co., Ltd (“Kukje”) of Korea has indicated that it has not exported any alloy HSS during the investigation period – this should be easily verified by Border Force data.
- Senturion, a reseller of rural steel products appear to have failed to co-operate fully by not providing import documentation. In addition they have provided no evidence to support claims that their market requires an alloyed product or that the products that they are importing have the characteristics that they claim them to have.
- The Dalian Steelforce and Steelforce Trading responses confirm that both entities have conspired to circumvent the measures and avoid paying government duties. Both responses confirm that the modified goods and the HSS goods, which are the subject of the measures, are alike in the following respects, namely:
 - each of the alloyed and non-alloyed good’s general physical characteristics are the same or are similar and both sold to the same Australian/New Zealand Standards irrespective of whether they have alloys or not.

“All HSS is compliant with at least one of the following standards:

- *AS/NZS 1163:2009 Cold-formed structural steel hollow sections;*
- *AS 1074 Steel tubes and tubulars for ordinary service;”¹.*

[Emphasis added]

- They have the same end-uses across all of the industry segments including steel fabrication, the rural sector, residential construction, non-residential construction:

“The ultimate end use of all HSS is wide and varied across many industry segments, including: steel fabrication; rural sector; residential construction; non-residential construction; etc.”² [Emphasis added]

Steelforce Trading further state that it is not market demand that drives what products that sell to the end market, but the availability of feed material.

*“The mix of Alloy HSS and Carbon steel HSS imported into Australia by Steelforce Trading is **determined by Alloy coil availability** to the supplier, Dalian Steelforce.”³ [Emphasis added]*

- they are highly interchangeable as noted by the Steelforce Trading IPR 4.4.1 b) c) d) and Dalian Steelforce EQR 4.3.2 indicates that they don’t even track the difference between the two product groups for markets other than Australia. This is further evidence that

¹ Steelforce Trading IQR 4.4.1 d)

² Steelforce Trading IQR 4.4.1 b), c)

³ Steelforce Trading 4.4.1 e)

the only reason Dalian Steelforce export and Steelforce Trading import alloyed HSS to Australia is to avoid the Australian measures.

“We are unable to accurately identify the volume of Alloy HSS exported to destination markets other than Australia.”⁴

- the finished HSS is manufactured in the same production process whether the feed steel coil incorporates amounts of boron or not.

“Dalian Steelforce’s range of HSS is manufactured utilising electric resistance welding (ERW) technology. ERW HSS is manufactured by cold-forming a sheet of slit coil into a cylindrical shape. Current is then passed between the two edges of the coil to heat the steel to a point at which the edges are forced together to form a bond without the use of welding filler material. This in-line cylindrical length of steel is then formed by rollers into circular, square, rectangular or oval shapes. A protective coating such as paint is applied and the HSS is then cut to length and bundled into packs for export in containers.”⁵

To obtain an increased strength and higher hardness benefit from the legitimate addition of Boron, it would be necessary to subsequently heat treat the product by quench and tempering processes. There are no claims or evidence to suggest that this has occurred.

- the cost of modifying the coil is minimal/immaterial.
- customer preferences for non-alloy or alloyed HSS based on improved performance are not apparent.
- no material has been supplied evidencing a difference in marketing of the non-alloy and alloyed HSS.
- no evidence has been supplied indicating different distribution channels to market have been adopted.
- there was a discernable and dramatic shift in the pattern of trade (i.e. import volumes) to alloyed HSS following the imposition of measures.
- the pricing of the modified alloyed goods is lower than the non-alloyed goods to which the measures were applied in July 2012; and
- the addition of the cheapest form of alloy (i.e. boron) was adopted as a key strategy to secure a change in tariff classification so that the alloyed goods would not attract anti-dumping (and countervailing) measures.

Therefore, it can be concluded that the sole purpose of Dalian Steelforce including alloy in the coil of the raw material used in HSS manufacture, has been to circumvent anti-dumping measures imposed

⁴ Dalian Steelforce EQR 4.3.2

⁵ Dalian Steel EQR 4.4

from July 2012. This practice has been a well-documented means by which producers have circumvented measures dating back to the mid-1990s.

It is disingenuous of Dalian Steelforce (with similar wording from Steelforce Trading) to state that:

*“From Dalian Steelforce’s point of view, these new alternative products (which included alloy HSS) fell outside the parameters of the goods subject to interim duties and as such are not considered to be like goods to **carbon HSS products** subject to duties.”⁶*

When they sell the majority of products to AS/NZS 1163 for which the scope states:

*“This Standard specifies the requirements for cold-formed, electric resistance welded, **carbon steel hollow sections** used for structural purposes.”⁷*

Potential legitimate uses of Alloyed HSS

Apart from stainless steel hollow sections that are already excluded from the measures, ATM is not aware of any evidence that has been provided to the Commission to support that fact that the imports of alloy HSS are not being imported to circumvent measures.

If after publishing the SEF genuine alloyed High Strength tubular products that have a subsequent additional Quench and Tempered heat treatment process (which would preclude them from being compliant with AS/NZS 1163) are identified, ATM proposes that they can be considered case by case and an exemption granted by way of a TCO if valid grounds for an exemption exist.

The Commission will be aware from investigation No. 254 that there have been securities and subsequently measures in place since March 2015 for alloyed and non-alloyed HSS from Thailand. During this time there have been no new requests for tariff concession orders or exemptions from duties.

For the vast majority of alloy HSS imported since the imposition of measures in 2012, the addition of the low-cost element boron to HSS is a strategic decision for commercial purposes only – i.e. the circumvention of measures. No evidence has been provided to the Commission to suggest any material technical benefit and/or other plausible reason for the inclusion of boron in the raw material feed used for the manufacture of HSS.

HSS from Thailand

In recent investigation No. 254, the Parliamentary Secretary has published a notice applying anti-dumping measures to alloyed and non-alloyed HSS. The proposed change to the original notices of the Minister of July 2012 to include alloyed HSS would align the subject goods with those the subject of notices recently published for Investigation No. 254.

Representations to Standards Australia

As referred to in the open comments sections of both the Dalian Steelforce EQR and Steelforce Trading IQR (Section 4.7 and Section 4.5 respectively), ATM is unclear as to what these entities claim are the “inconsistent” representations of the Australian industry.

⁶ Dalian Steelforce EQR 4.2.7. d)

⁷ AS/NZS 1163 : 2009 Clause 1

ATM has been consistent and has shared with the Commission and Border Force on numerous occasions that the addition of boron to HSS as defined in the scope of AS/NZS 1163 has a potentially detrimental effect on the weldability of the HSS. Due to the significant public safety concerns this raises, ATM understands that various Standards Australia committee members representing industry bodies have proposed an amendment to AS/NZS 1163 to limit, if not exclude, the use of boron and other potentially detrimental alloying elements. ATM believes it has been open and transparent with both the Commission and Border Force regarding weldability concerns of boron added HSS.

The addition of the low-cost element boron by Dalian Steel Force and others involves a strategic decision for commercial purposes only – i.e. the circumvention of measures. No evidence has been provided to the Commission to suggest that they have added Boron or any other alloy to develop a new or innovative product that is demand in the Australian market. ATM and others have consistently highlighted that the elevated levels of boron in some steel products is known to increase the risk of weld cracking during fabrication which is typically done for HSS in this instance. The risk is increased if the steel fabricators and end-users are not aware that boron has been added at elevated levels. Steelforce Trading has not indicated that it has made its customers aware of this increased risk (other than providing test certificates when requested).

ATM is concerned that until appropriate testing has been conducted on increased levels of boron in HSS there is a potential public safety risk. The proposed changes to AS/NZS 1163 (which is currently silent on the levels of boron) were being introduced to include limits on the level of boron to align with other national/international structural and HSS standards until the appropriate testing had been completed (and/or welding guidelines updated).

Conclusion

ATM submits that the Commission is not in receipt of any new evidence indicating that the addition of boron in HSS is driven by market demand and technical/market benefit.

ATM requests the Commission to publish the SEF at the earliest opportunity and not delay publication until 5 November 2015 and that it should recommend:

- 1) the wording in the original notice be changed from

“Certain electric resistance welded pipe and tube made of carbon steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include inline galvanised (ILG), pre-galvanised, hot-dipped galvanised (HDG) and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556”

To

Certain electric resistance welded pipe and tube made of steel, comprising circular and non-circular hollow sections in galvanised and non-galvanised finishes, whether or not including alloys. The goods are normally referred to as either CHS (circular hollow sections) or RHS (rectangular or square hollow sections). The goods are collectively referred to as HSS (hollow structural sections). Finish types for the goods include pre-galvanised, hot-dipped galvanised (HDG), and non-galvanised HSS.

Sizes of the goods are, for circular products, those exceeding 21mm up to and including 165.1mm in outside diameter and, for oval, square and rectangular products those with a perimeter up to and including 1277.3mm. Categories of HSS excluded from the goods are conveyor tube; precision RHS with a nominal thickness of less than 1.6mm and air heater tubes to Australian Standard (AS) 2556"

Additionally, an update of the dumping commodities register is required to include the tariff codes 7306.50.0045 and 7306.61.0090. This would be consistent with the description adopted in investigation No. 254 with the modification of description in REP177.

2) That due to the deliberate and prolonged nature of the circumvention behaviour, the SEF should recommend that measures be imposed back to the commencement date of the investigation.

If you have any further questions concerning this letter please do not hesitate to contact either myself on (07) 3909 6130, John O'Connor on (07) 3342 1921 or Matt Condon on (02) 8424 9880.

Yours sincerely



Brett Willcox
Manager – Operations and Support Services